

SUPREME COURT OF INDIA

J. L. Nanda

Vs.

Veena Nanda

C.A.No.3946 of 1987

(Ranganath Misra and G. L. Oza, JJ.)

11.12.1987

JUDGEMENT

OZA, J.:-

1. Leave granted.

2. This appeal arises out of SLP (Civil) No. 14149/83 filed by the petitioner husband against the judgment of High Court of Delhi in Letters Patent Appeal No. 141 of 1982 decided on 22-7-1983.* The present appellant husband filed a petition in the trial court for decree of divorce on the ground of cruelty and desertion. The trial court granted the decree of divorce but on appeal by the respondent wife learned single Judge of High Court of Delhi reversed the decision and dismissed the petition filed by the appellant husband. It is against this that a Letters Patent Appeal under clause 10 of the Letters Patent was filed before the High Court wherein it was heard by a Division Bench of the High Court and the appeal filed by the appellant was dismissed. It is against this that the present special leave petition was filed.

* Reported in (1983) 2 DMC 135.

3. Considering the circumstances of the case and the age of the parties we issued notice and also directed the parties to appear before us in chambers and in spite of our best efforts it is unfortunate that no reconciliation was possible.

4. It is one of those unfortunate cases where the husband and wife are of mature age, not only that, but they have a grown up son who is maturing into a lawyer as he is studying in law and unfortunately even these circumstances were not able to bring about an amicable settlement in the matter.

5. The parties to these proceedings were married at Delhi in accordance with the Hindu customs on February 7, 1961. It seems that there was disagreement and disharmony from the very beginning. A male child, however, was born of this wedlock on Aug. 30, 1964. The parties by and large lived together till February, 1971. They have lived separately ever since except for a short duration in the middle of 1975 when they were together. The main allegation of the appellant was that from the very beginning the respondent wife did not like to live in the joint family and she used to behave in a peculiar manner, always created ugly scenes, indulged in quarrels and taunting and ultimately forced the appellant to shift to a government allotted quarter and live separately away from other members of the family but according to him even then her behaviour continued to be the same and it was also alleged that because of her behaviour ultimately the appellant suffered a nervous breakdown and had to be admitted in the Willingdon Hospital New Delhi for about 45 days.

6. The Division Bench of the High Court came to the conclusion that from perusal of all the facts alleged it appears that there may have been a few incidents prior to the birth of the child on August 30, 1964 but after that there was no such incident pleaded or proved till 1966 except for the allegation that the wife got the pregnancy terminated sometime in 1966 against the wishes of the appellant and on this basis the learned Judges of the Division Bench came to the conclusion that the early part before August, 1964 probably was a period of inexperience and lack of adjustment between the husband and wife but ultimately after the birth of the son in 1964 there appears to be nothing serious and in this view of the matter the learned Judge came to the conclusion that between 1963 and 1968 there appears to be no incident or problem which really deserves consideration. A small matter about her describing herself Mrs. Veena Vohra instead of Mrs. Veena Nanda the learned Judges have considered and have accepted the explanation of the wife as plausible. The learned Judges of the Division Bench have considered all the circumstances and have also referred to the correspondence and the letters wherein regrets have been expressed in some matters by the respondent. Considering all these facts, the Division Bench came to the conclusion that although it is unfortunate that they have not been keeping good relations but it could not be said to be a case of cruelty entitling the appellant to a decree for divorce.

7. Having heard learned counsel for the parties and also having heard the parties themselves we come to the same conclusion as was reached by the learned Judges of the Division Bench of the High Court while disposing of the appeal filed by the appellant against the judgment of the learned single Judge. It is no doubt an unfortunate state of affairs but it could not be held that the respondent was behaving with the appellant in a manner which could be termed as cruelty which would entitle the appellant to a decree for divorce. Sometimes the temperament of the parties may not be conducive to each other which may result in petty quarrels and troubles although it was contended by the appellant that he had to suffer various ailments on account of this kind of behaviour meted out to him by the wife; but it could not be held on the basis of any material that ailment of the appellant was the direct result of her (respondent's) conduct. The Division Bench therefore was right in coming to the conclusion that there is no material to come to the conclusion that the respondent treated the appellant with such cruelty as would entitle him to a decree for divorce. In view of the facts and circumstances, therefore, the appeal is devoid of merit. It is therefore dismissed. The judgment of the High Court of Delhi is maintained. In the circumstances of the case respondent shall be entitled to costs of this appeal. The counsel's fee is quantified at Rs. 3,000/-.

Appeal dismissed.