

SUPREME COURT OF INDIA

Rajinder Sharma

Vs.

Arpana Sharma

C.A.No.5051-5052 of 2011

(G.S.Singhvi and Asok Kumar Ganguly, JJ.,)

04.07.2011

JUDGMENT

Ashok Kumar Ganguly , J.,

SLP (Civil) No.21438-21439 of 2009

1. Leave granted.
2. These appeals are directed against the judgment and order dated 30.5.2009 passed by the High Court of Punjab and Haryana.
3. By the impugned judgment, the learned Single Judge of the High Court remitted the appeal to the trial Court with a direction to the trial Court to allow the respondent herein to adduce additional evidence and by giving corresponding right to the appellant herein to rebut that evidence.
4. The facts of the case are rather peculiar.
5. A petition under Section 12 of the Hindu Marriage Act for annulment of the marriage was filed by the appellant stating therein that he developed friendly relationship with respondent as they had their business premises adjacent to each other. The case which has been made by the appellant is that respondent requested him to perform a mock marriage with her in order to enable her to avoid the predicament of marrying a boy who has been selected by her parents and who is not of her liking. The case of the appellant is that such a mock marriage took place in the presence of some relatives and some photographs were also taken. Thereafter, the marriage of appellant with another girl was fixed but that could not be solemnized as relations from the side of that girl possibly came to know about the existence of the mock marriage.
6. It may be noted that respondent filed an FIR for commission of an offence under Section 420 IPC against the appellant.

7. Thereafter, the appellant filed a petition under Section 12 of the Hindu Marriage Act, 1955 for declaring the marriage as null and void.

8. The trial Court allowed the appellant's petition for annulment of marriage. Challenging the same, respondent filed an appeal before the High Court and along with that she filed an application for adducing additional evidence under Order 41 Rule 27 of CPC.

9. The High Court instead of deciding the controversy, remitted the matter to the trial Court and directed the trial Court to allow the application of the respondent for adducing additional evidence by giving corresponding right to the appellant to rebut that evidence and also directed the trial Court to decide the matter afresh.

10. It appears that most of the documents which are sought to be adduced by way of adducing evidence are on record. In that view of the matter, the order to remit the matter to the trial Court is not warranted. The High Court, being the first appellate Court, is a Court of both fact and law. Therefore, it will be in the interest of justice for the High Court to decide the controversy in accordance with law.

11. In the facts of the case the order of remand will merely prolong the proceedings between the parties.

12. For the aforesaid reasons, we cannot sustain the order of the High Court, which is set aside. We request the High Court to decide the appeals in accordance with law and as early as possible and definitely by the end of year 2011.

13. With these directions, the appeals are disposed of. There will no order as to costs.