

Punjab-Haryana High Court

Krishan Jeet Singh vs State Of Haryana on 3 October, 2002

Equivalent citations: II (2003) DMC 127

Author: N Singh

Bench: N Singh

JUDGMENT Nirmal Singh, J.

1. The petitioners were charge-sheeted Under Sections 406, 498A, I.P.C. vide order dated 8.2.2000 on the ground that they have harassed and humiliated the complainant for bringing insufficient dowry and for committing criminal breach of trust as dowry articles entrusted to them have been misappropriated.

2. During the pendency of the trial the petitioners filed an application for dropping the proceedings on the ground that the allegation in the FIR is also the subject matter in the divorce petition Under Section 13 of Hindu Marriage Act (hereinafter called 'the Act') before the Additional District Judge, Hissar. The divorce petition was decided on 10.12.1996. The Civil Court in the divorce proceedings has also held that the allegations levelled against the petitioners that they had demanded the dowry and harassed the complainant have been found false. The judgment of the Civil Court is binding upon the Criminal Court. The complainant filed the reply to the application. The learned Chief Judicial Magistrate, Hissar dismissed the application vide order dated 6.8.1998. The petitioners aggrieved by that order filed revision petition before the learned Sessions judge, Hissar and the same was dismissed vide order dated 19.1.2002. Aggrieved by that order, the petitioners have filed the petition Under Section 482, Cr. P.C. for dropping the proceedings and discharging them in FIR No. 354, Police Station Civil Lines, Hissar, Under Sections 406, 498A, Indian Penal Code.

3. Learned Counsel for the respondent contended that on the basis of the judgment passed by Additional District Judge, Hissar dated 10.2.1996, the proceedings against the petitioners are not to be dropped. He contended that in those proceedings there was an issue whether respondent is guilty of the act of cruelty as mentioned in this petition and the additional issue was also framed whether there was any settlement between the parties as indicated in additional plea No. 1, if so, the terms and effect thereof? -OPR. He contended that issue No. 1 was decided in favour of the respondent and the decree of divorce was passed in favour of Shalini on the ground that the respondent is guilty of the act of cruelty.

4. Mr. Ajai Lamba, learned Counsel of the petitioner submitted that the divorce has been allowed in favour of the respondent on the ground that the marriage between the parties is a dead marriage. He contended that the judgment is to be read as a whole and not in isolation. He contended that the learned Additional District Judge in paragraphs 17 and 18 has discussed in detail the act and conduct of both the parties. After discussing the act and conduct of both the parties in paragraph 24, it has been specifically held that the charge of allegations levelled by the respondent against the petitioner with regard to cruelty and demand of dowry are not proved. He contended that in the present case, the allegations against the petitioner are that they have harassed and tortured the complainant on account of demand of dowry. The subject matter in this petition as well as in the divorce petition was the same. The findings recorded by the Civil Court are binding upon the

Criminal Court, therefore, the proceedings are to be dropped.

5. I have heard the learned Counsels for the parties and have perused the record.

6. The sole point which is to be determined in this case is that whether on the basis of the judgment passed by the Additional District Judge, Hissar in a petition filed by Shalini Under Section 13 of the Act the proceedings can be dropped or not.

7. The judgment passed by the learned Additional District Judge, Hissar has been brought on record as Annexure P-2. The relevant portion of the judgment reads as under:

"On the demand of dowry, it was not pleaded by the petitioner in the petition that a specific amount of Rs. one lac or two lacs were demanded from the petitioner by the respondent as has been alleged by her while making statement before this Court. The payment of Rs. 11,000/- by the father of the petitioner to her on March 12, 1991 was also not mentioned by the petitioner in the petition, as has been stated by her while appearing into the witness box as P.W. 1. It was only pleaded by her in her petition that at that time that is March 12, 1991, she was given valuable articles by her parents as was in their custom. By this an inference can be taken without any hesitation that the statement of the petitioner that an amount of Rs. one lac or two lacs was demanded from her by the respondent and an amount of Rs. 11,000/- was paid by her father to her on March 12, 1991 appears to be incorrect. Had it been so, the same would have been found mentioned in the petition because it was an important factor to prove the cruelty by the petitioner on the part of the respondent.

18. It is germane to mention here that the petitioner had stayed at her matrimonial home only on four occasions during her marital life. These are from the date of marriage that is February 18, 1991 till February 21, 1991, from February 22, 1991 to February 25, 1991, from March 12, 1991 to March 14, 1991 and thereafter from June 15, 1991 to June 20, 1991. The total period of the stay of the petitioner at her matrimonial home as per her own version was 13 days in all. It is the case of the petitioner that during her short stay at her matrimonial home, she was given beating, abuses, and harassment on the point of inadequate dowry given to her by her parents and further demand of dowry was made. It is an admitted fact that the parties belong to Hissar. As can be gleaned from the evidence led by the parties, the parties are affluent and belong to families of high strata of society. The father of the petitioner is Deputy Director in Ch. Charan Singh Haryana Agriculture University, Hissar. The real uncle of the petitioner, Sh. Jawant Singh, was a Minister in the State Government. The petitioner herself is educated. The respondent is also running a restaurant in Hissar besides having agricultural land. With this background, this Court is of opinion that in such a short span of 13 days, demand of dowry, as has been alleged by the petitioner, could not have been made by the respondent or his family members. At the risk of repetition, it is being mentioned that had it been so, the figure that is Rs. one lac or two lacs or Rs. 11,000/- must have been referred to in the petition by the petitioner which she did not for the reasons best known to her. This Court is conscious of a fact that in these days when the number of divorce petitions are increasing in our society, this is one of the easiest allegations to level against the husband by the wife. It is easy to level it but it is very difficult to prove the same. It also appears obnoxious that a bride, as the petitioner was, when left her parental home for her permanent home that is her husband's home after the marriage on

February 18, 1991 and stayed there upto February 21, 1991 and during 2-3 days, she was given beating and abuses by the respondent and his family members because it is in the rarest of rare cases that such bad treatment would be given to the bride by the bridegroom or his family members, particularly having considered the background of the families, as has been indicated above."

8. The learned Additional District Judge has given a clear finding that the charges of cruelty have not been proved. The learned Additional District Judge has allowed the divorce on the ground that the marriage between the parties is a dead marriage. The marriage was solemnised in February, 1991 and they remained together only for 13 days. Under these circumstances the divorce was allowed.

9. A perusal of the judgment of the Additional District Judge, Hissar shows that the allegation of cruelty levelled by the complainant against the petitioners has been disbelieved and it is settled principle of law that the judgment rendered, by the Civil Court is binding on the Criminal Court. Reliance can be placed upon Karamchand Ganga Parshad and Anr. v. Union of India and Ors., AIR 1971 SC 1244; Rajesh Kumar and Ors. v. The State of Haryana and Anr., II (1990), DMC 404=1990 (2) RCR 513; and Krishan Lal v. Devender Kumari, II (1991) DMC 498=1991 (1) RCR (Criminal) 319 (P&H).

10. There is no specific allegation in the complaint regarding the entrustment of dowry articles as to whom the articles were given. When there is no specific allegation, the charge cannot prove.

11. For the reasons mentioned above, the petition is accepted and the order dated 6.8.1998 dismissing the application for dropping the proceeding is set aside. The petitioners stand discharged.