

Madhya Pradesh High Court

Krishnabai vs Punamchand on 12 January, 1967

Equivalent citations: AIR 1967 MP 200

Author: Surajbhan

Bench: T Naik, Surajbhan

JUDGMENT Surajbhan, J.

1. This is an appeal by Krishnabai, wife of Punamchand, respondent, against the judgment and decree of 18-1-1965, passed by the learned District Judge, Khandwa, under Section 10 of the Hindu Marriage Act.

2. Respondent Punamchand, husband of the appellant, filed a petition under Section 10 of the Hindu Marriage Act for judicial separation alleging that the appellant is the legally married wife of the respondent and they have one daughter, aged about 4 years, from their legal wedlock. After the marriage, the appellant lived for 4 to 6 months with the respondent; she was quarrelling with her parents-in-law and had developed illicit intimacy with one Lallusingh of Harsud with the result that the respondent filed a petition under Section 13 of the Hindu Marriage Act on 29-6-1960 for dissolution of the marriage. It was registered as Civil Suit No. 13-A of 1960 in the Court of the Additional District Judge, Khandwa, but a compromise was effected between the parties, and the appellant returned to her husband's house to live as a dutiful wife.

3. According to the respondent, her quarrels with her parents-in-law continued as usual and on 2-3-1962, she left the marital house to live with her parents, declaring that she was not to return. It is also alleged that in spite of several requests, the appellant did not return since then, and therefore, the respondent prayed for judicial separation.

4. The appellant admitted that she is the legally married wife of the respondent and also that a compromise was effected between them in Civil Suit No. 13-A of 1960, but resisted the suit inter alia on the ground that she was not leading an immoral life and had no illicit connection with anybody. She has also admitted that she had gone to her parent's house on 2-3-1962 but alleged that when she went back to the house of the respondent, an attempt was made by her parents-in-law to poison her and it was on that account that she left the house. She has further stated that she is ready and willing to live with her husband provided he lives separate from his parents.

5. The learned District Judge framed 8 issues in the case on the pleadings of the parties and came to the conclusion that it is not established by the evidence on record that the parents-in-law of the appellant tried to poison her or the father-in-law was in any way misbehaving with the appellant. He also concluded that there are no valid reasons for the appellant to stay away from her marital home. He decreed the suit of the respondent and passed a decree for judicial separation with costs.

6. Shri Khirwadkar, the learned counsel for the appellant, has taken us through the evidence on record and contended that the learned District Judge erred that the appellant had left her marital house without the consent of the respondent and she had no valid reasons for the same. He has also urged that the appellant is still willing and ready to live with her husband provided he lives separate

from his parents.

7. Now the only question for consideration is, whether this is a reasonable offer, and whether the appellant had reasonable cause or excuse to live separately and deprive the respondent of the marital bliss.

8. It is quite clear from the evidence on record that the appellant has not been able to prove that the father of the respondent had in any way misbehaved with the appellant. This fact that the father-in-law used to drink and collect goondas is also not substantiated. It is also equally clear that the appellant left the house on 2-3-1962 with the intention not to return. Now her offer that she would only live with her husband if he lives separately from his parents is an offer which is not conciliatory but hedged in with an unreasonable qualification or condition. It is to be borne in mind that the respondent is the only son of his parents. There is no ground shown whatsoever that why should he live separately from his parents and this condition being an unreasonable one which is sought to be imposed not in good faith, and leaving the house on 2-3-1962 thus amounts to desertion within the meaning of Section 10 of the Hindu Marriage Act, and it was without a reasonable cause or consent of her husband.

9. With this state of the case, we are of the view that the learned District Judge was correct in decreeing the suit of the respondent, and to this appeal fails and is dismissed with costs. Counsel's fee, according to the schedule, If certified.