

Renu Sinha @ Renu Roy Vs Pandey Vivek Nath Roy and Dinesh Prasad Sinha

Court: Jharkhand High Court

Date of Decision: Sept. 21, 2010

Acts Referred: Family Courts Act, 1984 " Section 19
Hindu Marriage Act, 1955 " Section 13(1)

Citation: AIR 2011 Jhar 36

Hon'ble Judges: Sushil Harkauli, J; Dhirubhai Naranbhai Patel, J

Bench: Division Bench

Advocate: Ramit Satender, for the Appellant; Pandey Akhileshwar Nath Roy, for the Respondent

Final Decision: Dismissed

Judgement

1. This appeal has been filed u/s 19 of the Family Courts Act, 1984 against the judgment and decree of divorce dated 17.04.2006 passed by the

Principal Judge, Family Court, Ranchi in Matrimonial Title Suit No. 44 of 1999.

2. Petition for divorce was filed by the husband u/s 13(1)(iii) of the Hindu Marriage Act, 1955 which permits divorce on the ground that the

Respondent has been either (i) incurably of unsound mind, or (ii) has been suffering continuously or intermittently from mental disorder of such a

kind and to such an extent that the Petitioner cannot reasonably be expected to live with the Respondent. The explanation to Section 13(1)(iii)

defines ""mental disorder"" in very wide terms.

3. Factually, the case pleaded by the husband, who resides at Mumbai, in the divorce petition was that he was married to the Respondent-wife on

14.05.1998 by way of arranged marriage. According to the husband soon thereafter he discovered the wife suffering from chronic Schizophrenia

which manifested itself from time to time resulting in disturbing and wild behavior, including violent behavior, not only towards the husband but also

towards her in-laws. According to the husband she was taken for examination to a mental doctor on 16.06.1998 at Ranchi. The name of the

doctor was Dr. Durga Bhagat who was examined as P.W.-1. She was again examined by Dr. M. Jalil, a Psychologist, on 20.07.1998. The said

Dr. M. Jalil was examined as P.W.-2.

4. The wife resisted the medical treatment, refused to take medicines and went to her brother's house.

5. The husband also examined himself as P.W.-3, the owner of medical store as P.W.- 4, the owner of an electronic shop as P.W.-5, his Aunt

(Father's sister) as P.W.-6 and his Uncle as P.W.-7.

6. From the side of the wife her brother Dinesh Prasad Sinha was examined as D.W.-1, who admitted that his sister was examined by Dr. Jalil, the

Psychologist. He also said that she was treated by another doctor, Dr. Shailendra Kumar. However, he denied that his sister took any medicines

but says that she got cured due to the peaceful atmosphere of his house. The Trial Court has found that this statement of D.W. 1 was contradicted

by Dr. M. Jalil, who stated as P.W.-2 that the wife improved due to regular consumption of medicines. The Trial Court also found that the

statement of not requiring any medicines given by the brother D.W.-1 was also in conflict with the evidence of the other brother Akhilesh Prasad

Sinha, D.W.-2 who had stated that the wife had taken medicines for a week. Further D.W.-2 pleaded ignorance about the statement of D.W.-1

that his sister Renu Sinha was treated by Dr. Shailendra Kumar on 2-3 days and the said doctor had prescribed medicines. The wife examined

herself as D.W.-4 and she completely denied her illness and said that false reports of her illness was obtained from the doctors. This statement is in

stark contradiction to the evidence of her own witnesses who are her brothers namely D.W.-1 and D.W.-2.

7. Thus the evidence from the side of the wife is self contradictory and unsustainable.

8. An attempt was made in defence to allege that the wife had lost her mental balance because of ill treatment by her husband. No such radical ill

treatment has been testified from the side of the wife as would create mental imbalance within the short period of one month between the date of

marriage i.e. 14.05.1998 and 16.06.1998 when she was first taken to Dr. Durga Bhagat. Thus it is not possible to believe this story of losing

mental balance because of ill-treatment.

9. In the above backdrop the defence of the allegation about demand of dowry is also not believable.

10. The Trial Court has given detailed and logical reasons for its findings. We are satisfied that the allegation of the husband is correct and the

version of the wife is not correct, and in view of the version of the husband the wife has been suffering from mental disorder which, even if curable,

is of a kind and to an extent that the husband cannot reasonably be expected to live with the wife. Accordingly, we do not find any merit in this

appeal and the same is accordingly dismissed.