

(2000) 02 MP CK 0072

Madhya Pradesh High Court

Case No: First Appeal No. 228 of 1994

Koshalya Bai

APPELLANT

Vs

Dagdoolal Matre

RESPONDENT

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**Date of Decision:** Feb. 9, 2000**Acts Referred:**

- Hindu Marriage Act, 1955 - Section 13(1)

**Citation:** (2000) 2 DMC 255 : (2000) 2 MPLJ 3**Hon'ble Judges:** Vijay Kumar Agrawal, J**Bench:** Single Bench**Advocate:** R.S. Tiwari, for the Appellant; Ashok Chakravarthy, for the Respondent**Final Decision:** Dismissed

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### Judgement

V.K. Agarwal, J.

This appeal is directed against the judgment and decree dated 11.7.1994 in Civil Suit No. 50-A/92 by Additional District Judge, Harda granting a decree of divorce u/s 13(l)(i-a) of the Hindu Marriage Act, 1955 (hereinafter called as "Act" for short).

The parties admittedly were married according to the Hindu customs on 15.5.1991 at village Bhaura, District Betul. After marriage the appellant/wife resided with respondent/husband for a period of about one month at village Bhaura, Tahsil Shahpet.

The case of the respondent/husband was that after the marriage he discovered that his wife-the appellant was ailing since last many years. The appellant/wife also disclosed to her husband/respondent that her father married her against her wishes with the respondent, so that he could get rid of the worries " about the appellant. The respondent/husband also averred that the appellant/wife used to maltreat him by his family members. She would humiliate and insult the respondent/husband by calling him a patient of tuberculosis. She also abused the respondent/husband and

his close relatives, including his parents. The respondent tried to persuade the appellant not to behave in the above manner, but the appellant/wife persisted in her mis-demeanour. Therefore, a decree for divorce was sought on the ground of cruelty.

The appellant/wife resisted the above application. She has denied that she treated her husband, or the family members with cruelty. She, therefore, prayed that the application for divorce be dismissed.

The learned Trial Court framed an issue as to whether the appellant/wife treated the respondent/husband with cruelty ? The issue was answered in the affirmative and decree for divorce was, therefore, granted.

Learned Counsel for appellant has submitted that the petition for divorce lacks many material particulars and does not disclose as to when the appellant/ wife treated the respondent/husband with cruelty. It was submitted that in the absence of such particulars the evidence led in that regard could not have been believed. It has further been submitted that the evidence led by the husband/respondent herein was not reliable and could not have been accepted.

It has, therefore, to be considered as to whether the finding recorded by the learned Trial Court that the appellant/wife treated the respondent/husband with cruelty is justified and is borne Out by the evidence led by the parties?

The husband/respondent Dagdoolal (A.W. 1) stated that he was married with the appellant/ wife on 15.5.1991, whereafter his wife -the present appellant came to reside with him for a period of one and a half months. She suffered from chronic ailment. She had informed him that she was suffering from epilepsy for the last 10 years. Describing the behaviour of his wife, the respondent/husband Dagdoolal (A.W. 1) further stated that his wife-the appellant would use abusive language and would try to assault him with whatever articles she would get hold of. She would also call him a tuberculosis patient and would also abuse his family-members.

Ramlal (A. W. 2) who is the uncle of respondent/husband has supported the above statement of respondent and has stated that the appellant would always quarrel and used abusive language. Similar is the statement of Radhelal (A.W. 3) and Govind Prasad (AW. 4) as also of Shriram Harne (A.W. 5).

Gopikishan (A.W. 6) has also stated that the appellant/wife would always quarrel with her husband/respondent and would not prepare food for him.

The above statements are mutually corroborative. Radhelal (A. W. 3) and Govind Prasad (A.W. 4) are independent witnesses. Gopikishan (A.W. 6) was the landlord of the appellant and respondent, where they lived while Radhelal (A.W. 3) was their neighbour. There appears to be no reason why these witnesses would speak falsehood. From the above evidence on record, which has been discussed in detail by the learned Trial Court, it is clear that the behaviour of appellant/wife was far

from satisfactory. She was quarrelling with her husband assaulted him and abused not only the husband/respondent, but his family members. He was also humiliated and insulted by the appellant/ wife. The behaviour as above of the appellant, would certainly amount to cruelty.

In the circumstances, the finding recorded by the learned Trial Court that the appellant treated the respondent/husband with cruelty appears to be wholly justified.

It may also be noted that the total period of stay of appellant/wife with the respondent /husband was a period of about a month and the cruelty as above took place during the above period. In the circumstances, even if the particulars of date etc., of various incidents of cruelty having not been given, in the petition, the same would not adversely affect the case of husband/respondent. As already noticed that when the evidence and material placed on record is considered in its broader prospective, it would appear there from that the behaviour of appellant/wife was far from satisfactory and did amount to cruelty to the husband, both mental and physical. In the circumstances, the decree for divorce u/s 13(l)(i-a) of the Act was rightly granted in favour of respondent/husband. No interference therein is called for.

The appeal has no merit and is accordingly dismissed. The parties shall however bear their own costs of this appeal.