

“CASE STUDY RELATED TO DOMESTIC VOILENCE” TO SAVE THE WORLD FROM VOILENCE

-DEEPIKA VIJAYWARGIA & KHYATI KUMARI¹

VINOD KUMAR SUBBIAH VS. SARASWATHI PALANIAPPAN²

The Bench consisting of Vikramajit Sen and Abhay Manohar Sapre JJ., set aside the judgment delivered by the Madras High Court on 13.03.2013 and granted divorce to the husband against his wife. The Apex Court ruled that abusing in-laws and not allowing them to reside in her matrimonial home amounts to cruelty caused by the wife to her husband, which was held to be a valid ground for divorce U/S.13(1) (ia) of the Hindu Marriage Act,1955.³

The Hon’ble Court observed as under:-

“7 We have carefully considered the matter, and find that we are unable to uphold the conclusions of the High Court. The Appellant had duly pleaded instances of mental cruelty which he proved in evidence and documents. An examination of the divorce petition makes it abundantly clear that various allegations of cruelty were made out and a number of incidents were mentioned therein. Further evidence was submitted during the course of the Trial to substantiate these allegations, which is in keeping with Order VI Rule 2 of the CPC. Furthermore, we find that the Trial Court examined the evidence at great length and came to the reasoned conclusion that the actions of the Respondent amounted to cruelty. If a spouse abuses the other as being born from a prostitute, this cannot be termed as “wear and tear” of family life. Summoning the police on false or flimsy grounds cannot also be similarly viewed. Making it impossible for any close relatives to visit or reside in the matrimonial home would also indubitably result in cruelty to the other spouse. After a cursory discussion of the evidence which

¹ KIIT SCHOOL OF LAW, 4th year, 8th semester

² Vinod Kumar Subbiah v. Saraswathi Palaniappan, (2015) 8 SCC 336.

³ Ibid, note 3, Para. 2 to 6

the Trial Court had discussed threadbare, the High Court was not justified to set aside the conclusions arrived at by the Trial Court without giving substantiated reasons.”⁴

“8 We thus allow these Appeals and set aside the Impugned Order, but desist from imposing costs. The Trial Court’s decision granting dissolution of the marriage between the parties is hereby restored.”⁵

The above judgment brings out the misuse of law by the individuals; there are instances of fake cases being framed against the male partner in order to harass him and his family and thus while opining in such matters should take particular care of the truth and falsity of the offence.

K. Srinivas v. K. Sunita⁶

The Hon’ble Supreme Court of India [Bench consisting of Vikramajit Sen, Prafulla C. Pant JJ.] held that the appellant husband is entitled to divorce because the respondent wife was found to have filed a false criminal complaint under Section 498A of I.P.C. accusing him and her in-laws of cruelty.⁷

In this case the marriage of the parties was celebrated on 11th February, 1989 in Hyderabad according to Hindu rites. A male child was born to the parties on 8th May, 1991. Thereafter, on 29th/30th June, 1995 the Respondent-wife left her matrimonial home on the alleged ground of cruelty. On 14th July, 1995, the Appellant husband filed an original petition praying for divorce on the ground of cruelty as well as of the irretrievable breakdown of their marriage. In retort, the respondent- wife filed a criminal complaint against her husband as well as seven members of his family for offences under Section 307 read with Sections 34, 498A, 384, 324 of the IPC, and Sections 4 and 6 of the Dowry Prohibition Act, 1961. It is pursuant to this complaint that the Appellant Husband and seven of his family members were arrested and incarcerated.

Thereafter, the respondent- wife also filed a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955. On 30th June, 2000, the Learned Vth Additional

⁴ Ibid, note 3, Para.7

⁵ Ibid, note 3, Para.8

⁶ K. Srinivas v. K. Sunita, (2014) 16 SCC 34 (hereinafter SRINIVAS).

⁷ Ibid, note 7, Para.7

Metropolitan Sessions Judge, Mahila Court, Hyderabad, acquitted the Appellant and his family members. Meanwhile, by its Judgment dated 30th December, 1999, the Family Court at Hyderabad, granted divorce to the Appellant on the ground of cruelty as also irretrievable breakdown of marriage by rejecting the respondent's petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955. The Respondent-Wife successfully appealed against the said Judgment in the High Court which in its Order dated 7th November, 2005 set aside the divorce decree. Thereafter, the appellant husband filed a civil appeal in the Supreme Court of India, in 2006.⁸

In this case the Supreme Court of India while allowing dissolution of marriage, observed:

“7 We unequivocally find that the Respondent-Wife had filed a false criminal complaint, and even one such complaint is sufficient to constitute matrimonial cruelty.”⁹

“8 We accordingly dissolve the marriage of the parties.”¹⁰

“5 This, it seems to us, is clearly indicative of the fact that the criminal complaint was a contrived afterthought. We affirm the view of the HC that the criminal complaint was 'ill advised'. Adding thereto is the factor that the High Court had been informed of the acquittal of the Appellant-Husband and members of his family. In these circumstances, the High Court ought to have concluded that the Respondent-Wife knowingly and intentionally filed a false complaint, calculated to embarrass and incarcerate the Appellant and seven members of his family and that such conduct unquestionably constitutes cruelty as postulated in Section 13(1)(I a) of the Hindu Marriage Act”.¹¹

“6 In any event, both the parties were fully aware of this facet of cruelty which was allegedly suffered by the husband.”¹²

“3 Irretrievable breakdown of marriage as a ground for divorce has not found statutory acceptance till date. Under Article 142 of the Constitution, the Supreme Court has plenary powers as to pass such decree or make such order as is necessary for doing complete justice in

⁸ Ibid, note 7, Para.2

⁹ Ibid, note 7, Para.7

¹⁰ Ibid, note 7, Para.8

¹¹ Ibid, note 7, Para.5

¹² Ibid, note 7, Para.6

any case or order pending before it. This power, however, has not been bestowed by our Constitution on any other Court. It is for these reasons that we have confined arguments only to the aspect of whether the filing of a false criminal complaint sufficiently proves matrimonial cruelty as would entitle the injured party to claim dissolution of marriage. It will be relevant to mention that the Law Commission of India in its Reports in 1978 as well as in 2009 has recommended the introduction of irretrievable breakdown of marriage as a ground for dissolution of marriage; the Marriage Laws (Amendment) Bill of 2013 incorporating the ground has even received the assent of the Rajya Sabha. It is, however, highly debatable whether, in the Indian situation, where there is rampant oppression of women, such a ground would at all be expedient. But that controversy will be considered by the Lok Sabha.”¹³

The above mentioned case is an excellent epitome of waste of the machinery in law just to harass the opposite party and this unnecessary litigation should be done away by the judiciary and only those cases where there have been injustices should be entertained but there exists no straight jacket formula to determine the same.

¹³ Ibid, note 7, Para.3