

Smt. Swati Verma vs Rajan Verma And Ors. on 11 November, 2003

Equivalent citations: AIR2004SC161, II(2003)DMC795, 2003(3)JKJ121[SC], (2004)1SCC123, AIR 2004 SUPREME COURT 161, 2004 (1) SCC 123, 2003 AIR SCW 5841, 2004 (1) ALL CJ 491, (2003) 12 ALLINDCAS 83 (SC), 2003 (9) SCALE 489, 2003 (4) LRI 797, 2003 (3) JKJ 121, 2004 SCC(CRI) 25, 2004 (1) SRJ 487, 2003 (6) SLT 790, (2003) 4 KHCACJ 705 (SC), 2003 (12) ALLINDCAS 83, (2004) 1 JCJR 144 (SC), (2004) 1 ALLMR 45 (SC), (2004) 1 MARRILJ 1, 2004 ALL CJ 1 491, 2004 (1) MARR LJ 1, 2004 FAJ 394, (2003) 4 ALLCRILR 526, (2003) 2 DMC 795, (2003) 8 SUPREME 85, (2003) 4 CURCRIR 326, (2003) 3 CHANDCRIC 212, (2004) 1 HINDULR 203, (2003) 4 CRIMES 476, (2004) 1 EASTCRIC 254, (2004) 27 OCR 204, (2004) 1 PAT LJR 64, (2004) 1 RECCIVR 225, (2004) 1 ICC 601, (2003) 9 SCALE 489, (2004) 1 JLJR 30, (2004) 13 INDLD 220, (2004) 1 CURLJ(CCR) 448, (2004) 1 FAC 52, (2004) 2 BOM CR 493

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Bench: N. Santosh Hegde, B.P. Singh

ORDER

B.P. Singh, J.

1. The petitioner in this transfer petition Swati Verma, was married to respondent No. 1 herein Rajiv Verma, at Delhi on June 30, 2001 according to Hindu rites. It appears that soon after the marriage the petitioner complained of ill treatment by her husband, her mother-in-law, and sister-in-law. On 17.9.2001 she was left at her widowed mother's house by respondent No. 1 whereafter the respondent No. 1 took no care of her, nor were his whereabouts known to the petitioner. The parties thereafter have taken recourse to criminal as well as civil proceedings to which we shall refer hereinafter. The petitioner herein lodged a report at police station NOIDA, Sector-20 on 8th April, 2002 against the respondents herein for offences under Sections 498A, 406 IPC and under Sections 3 and 4 of the Dowry Prohibition Act. The police after investigation has filed chargesheet in the said case and the learned Chief Judicial Magistrate, NOIDA, Gautam Budh Nagar has taken cognizance. The said case is registered as Criminal Case No. 2832 of 2003.

2. The respondents have filed an application under Section 482 of the Code of Criminal Procedure before the High Court of Judicature at Allahabad in Criminal Misc. Application No. 5594 of 2003 for

quashing the said Criminal Case No. 2832 of 2003. It appears from the averments made in the transfer petition filed in this Court that the respondents have also moved the High Court of Judicature at Allahabad in Writ Petition Nos. 1829 of 2003 and 2511 of 2003 seeking stay of arrest in the case arising out of the FIR lodged by the petitioner herein in which interim relief has been granted to the respondents herein by orders dated 23.4.2003 and 14.5.2003.

3. The petitioner has also filed an application before the Additional District and Sessions Judge, Delhi for annulment of marriage by a decree of divorce under the Hindu Marriage Act which has been registered as H.M.A.No. 1108 of 2002 which is pending consideration before the learned Additional District and Sessions Judge. She has also filed an application under Section 24 of the Hindu Marriage Act for maintenance.

4. It appears that after notice was issued in the transfer petition good sense has prevailed and the parties have been able to amicably settle their disputes and have decided to put a quietus to the litigations between the parties. They realise that the marriage has broken down irretrievably and therefore it is in their interest that the marriage be annulled by a decree of divorce and all the disputes be settled between the parties.

5. A Deed of Compromise dated November 2, 2003 has been filed before this Court which is signed by the petitioner as well as respondent No. 1 and witnessed by two witnesses. The compromise records the fact that the respondent No. 1 herein has returned to the petitioner all the articles constituting her Stridhan as detailed in Annexure 'A' to the Compromise Deed. Respondent No. 1 has also agreed to pay a sum of Rs. 6,00,000/- (Rupees six lakh only) to the petitioner by bank drafts towards settlement of her claim for maintenance, past and future and her remaining articles and Stridhan. The particulars of eight demand drafts totaling Rs. 6,00,000/- have been mentioned in Annexure 'B' to the Compromise Deed which have already been handed over to counsel for respondent No. 1 in Court on 5.11.2003, which we record. They have also agreed that they shall file before this Court a petition for divorce by mutual consent under Section 13(B) of the Hindu Marriage Act. The parties have undertaken that they shall adhere to the terms of the Compromise Deed and shall not litigate in future and that after signing of the Deed of Compromise both the parties shall be left with no claim of any manner whatsoever against each other. They have also agreed that the cases mentioned in the Deed of Compromise be disposed of by this Court.

6. Pursuant to the Compromise Deed an application has been filed before this Court under Section 13(B) of the Hindu Marriage Act and under Article 142 of the Constitution praying that this Court may exercise its extra ordinary jurisdiction under Article 142 of the Constitution and dissolve the marriage by a decree of divorce by mutual consent under Section 13(B) of the Hindu Marriage Act, 1955 as amended by the Marriage Laws (Amendment) Act, 1976. The petitioner and respondent No. 1 have stated in the said application that their marriage has broken down irretrievably and there is no chance of their living together, and therefore they have mutually agreed that the marriage should be dissolved. It is further declared that mutual consent has not been obtained by force, fraud or inducement.

7. Having perused the records placed before us we are satisfied that the marriage between the parties has broken down irretrievably and with a view to restore good relationship and to put a quietus to all litigations between the parties and not to leave any room for future litigation, so that they may live peacefully hereafter, and on the request of the parties, in exercise of the power vested in this Court under Article 142 of the Constitution of India, we allow the application for divorce by mutual consent filed before us under Section 13(B) of Hindu Marriage Act and declare that the marriage solemnized between the consenting parties on 13th June, 2001 at Delhi is hereby dissolved, and they are granted a decree of divorce by mutual consent.

8. In the facts and circumstances of the case and in view of the fact that the parties have prayed before this Court for the final disposal and all cases pending between the parties, we direct that all the cases shall stand disposed of in the following manner:- Criminal Case No. 2832 of 2003 under Section 498-A, 406 IPC and Sections 3 and 4 of Dowry Prohibition Act pending in the Court of Chief Judicial Magistrate, NOIDA, Gautam Budh Nagar, (U.P.) is quashed. Accordingly, Writ Petition Nos. 1829 of 2003 and 2511 of 2003 and Criminal Misc. Application No. 5594 of 2003 arising out of the said Criminal Case No. 2832 of 2003 pending before the High Court of Judicature at Allahabad become anfractuous. H.M.A. case No. 1108/2002 pending in the Court of Additional District Judge, Delhi praying for a decree of divorce also becomes anfractuous in view of the decree of divorce granted by this Court under Section 13(B) of the Hindu Marriage Act. Criminal Writ No. 1067/2003 pending before the Hon'ble High Court of Delhi has also been rendered anfractuous in view of the compromise entered into between the parties recorded by this Court the Courts concerned shall, if necessary, pass appropriate orders in the light of this order.

9. Transfer Petition stands disposed of in the above terms. The Compromise Deed dated November 2, 2003 affirmed by the parties and filed in this Court shall form part of this Order.