

ITEM NO.102

COURT NO.4

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4759/2007

SURENDER KUMAR

Appellant(s)

VERSUS

SEEMA

Respondent(s)

Date : 10/09/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE PRAFULLA CHANDRA PANT

For Appellant(s) Mr. Tarun Gupta, Adv.
Ms. S. Janani, Adv.

For Respondent(s) Mr. Ranbir Singh Yadav, Adv.
Ms. Anzu K. Yarkey, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Civil Appeal is dismissed in terms of the Signed
Order.

(Rajni Mukhi)
Sr. P.A.

(Usha Sharma)
Court Master

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4759 OF 2007

SURENDER KUMAR

...APPELLANT

VERSUS

SEEMA

...RESPONDENT

O R D E R

This appeal has been preferred by the appellant-Surender Kumar, husband of the respondent against the Judgment dated 25th April, 2006 passed by the Division Bench of the High Court of Punjab and Haryana at Chandigarh in LPA No. 2931 of 2001. By the impugned judgment, the High Court affirmed the finding and the judgment rendered by learned Single Judge in FAO 90-M-1999.

The appellant-Surender Kumar was married with respondent-Seema on 28th January, 1992. They lived as husband and wife for a short period. On account of alleged misconduct of the respondent, they separated. Thereafter, the appellant filed a petition under Section 13 of the Hindu Marriage Act, 1955 for dissolution of marriage on the ground of cruelty. It was alleged that the respondent wife had insulted him and his family members, which necessitated the filing of a divorce petition.

The Trial Court framed six issues:

The first issue was whether the respondent-wife was guilty of the acts of Cruelty? The second issue was whether the

respondent-wife deserted the appellant without any sufficient cause? The first issue was answered in affirmative in favour of the appellant-husband and decree for divorce was passed.

The respondent-wife being aggrieved, challenged the same before the learned Single Judge of the High Court who on appreciation of evidence held that in absence of any specific evidence, it cannot be held that the wife was guilty of acts of cruelty. The decree of divorce was set aside and the appeal preferred by respondent-wife was allowed. The appellant-husband challenged the same before the Division Bench of the High Court. The High Court on appreciation of evidence dismissed the LPA No. 2931 of 2001 by impugned judgment and decree dated 25th April, 2006.

The learned counsel for the appellant cited three specific instances of cruelty committed by the respondent-wife. It was submitted that almost immediately after the marriage the wife committed cruelty and harassed the appellant-husband three times which were brought to the notice of the Trial Court, which accepted the same and granted decree of divorce.

The first allegation is that soon after the marriage which took place on 28th January, 1992, on 30th January, 1992 when some of the friends visited the appellant and the respondent-wife Seema was requested to carry the tea alongwith some eatables to the drawing room, she had erupted like a volcano and abused her sister-in-law i.e. husband's sister as a result of which the husband had to apologies to his friends and had to cut a sorry

figure.

The aforesaid facts were also noticed by the learned Single Judge. Having noticed, the learned Single Judge had observed that the alleged incident had been sought to be proved only by the evidence of Satish Chand Sharma (P.W-3) but no such pleading was made in the petition for divorce. The learned Single Judge was, therefore, of the opinion that aforesaid statement inspired no confidence, particularly when PW-3 had admitted in his cross-examination that he had not seen the respondent or heard her screaming in anger. The court also observed that the best evidence in this case was that of the appellant's sister but as neither she nor any of his relatives had been produced in the Court, and no inference against the wife can be drawn.

The second incident of cruelty alleged to have been committed by respondent-Seema was on 8th February, 1992 when respondent had allegedly called the appellant a 'Jahil' in the presence of his father- Inder Singh (PW-4). On appreciation of evidence, the learned Single Judge found that Inder Singh appeared to be uncertain as to when the incident had happened or what had happened. Moreover, as this incident had allegedly happened in the presence of a large number of persons, some independent witnesses ought to have been produced, in absence of the same, the Court held that it is difficult to believe the story as projected by the appellant.

The appellant has stated third instance of cruelty relating to an incident on 19th March, 1992 i.e. a day after the Holi festival

when respondent-Seema alleged to have slapped the appellant-husband when he had attempted to put colour on her face. The said incident was sought to be proved by the evidence of Mangal Singh (PW-1) and Shamsheer Singh (PW-2). During their cross examination they denied that any such incident had happened in their presence. In that view of the matter, we find that the learned Single Judge was right in reversing the finding of the Trial Court, which was later upheld by the Division Bench by the impugned judgment.

In view of the finding as noticed above, we find no ground to interfere with the impugned judgment dated 25th April, 2006 passed by the High Court in absence of any merit.

The Civil Appeal is dismissed.

.....J.
[SUDHANSU JYOTI MUKHOPADHAYA]

.....J.
[PRAFULLA CHANDRA PANT]

NEW DELHI;
SEPTEMBER 10, 2014