
(1983) 05 DEL CK 0020
In the Delhi High Court
Case No : First Appeal No. 8 of 1983

Fraveen Kumari

APPELLANT

Vs

Man Mohan Kumar

RESPONDENT

Date of Decision : 26-05-1983

Acts Referred:

Citation : AIR 1984 Delhi 139 : (1983) 5 DRJ 297 : (1983) RLR 704

Hon'ble Judges : M.L. Jain, J

Bench : Single Bench

Advocate : P.N. Kumar and S.K. Bhatia, for the Appellant;

Judgement

M.L. Jain, J.

(1) The parties were married on 18-1-1979. A petition was filed by the husband on 15-9-1980 against the wife for annulment of marriage u/s 5(1)(c); and Section 11 of the Hindu Marriage Act, 1955, on the ground that the wife suffered recurrent attacks of epilepsy and this fact was concealed from the husband and his consent was obtained by fraud. The learned Addl. District Judge found that the allegation of the husband was correct and annulled the marriage by his order dated 4-12-1982. Hence, this appeal.

(2) Barely nine/ten days after the marriage Dr. M.L. Arora had referred here by his letter dated 27-2-1979 for treatment to G.B. Pant Hospital. From the record brought by Dr. S.R. Jairam of the said Hospital, it was disclosed that Dr. Barua had examined her on 1-3-1979 and found that she was suffering from epilepsy. She also produced one witness Dr. M.N. Passy of the Hindu Rao Hospital, who was a Senior Physician. He examined her on 20-9-1982. He found her to be suffering from epilepsy and she was under his treatment as indoor patient from 7-1-1980 to 15-1-1983. Though he stated that it was a curable disease, all the same, the Doctors on either side have said that she was suffering from epilepsy. The crucial question is whether at the time of solemnisation of marriage she was suffering from fits of epilepsy. The husband deposed that she suffered an attack

of epilepsy at about 3.30 p.m. soon after she was brought to the matrimonial home after the marriage. Her parents came to see her and again she got the fits. Subsequently, he took her for treatment. It was confirmed that she was suffering from epilepsy. It was urged on behalf of the wife that Dr. Barua was available, but was not produced. As a matter of fact, whether Dr. Barua rejoined the hospital came to be known only when Dr. Jairam was examined in court. I do not think that the appearance of Dr. Barua would have made any difference.

(3) It was contended on behalf of the appellant, as it was done in the lower court, that the engagement lasted one year and there was no such disease during that period. After marriage she was mal-treated on account of insufficiency of dowry and that made her epileptic. This allegation is not true because it was soon after she entered the matrimonial home that she was attacked by epilepsy and by then there was no occasion for demanding dowry or ill-treatment. That she suffered from epilepsy during the period of engagement appears to have been concealed from the husband and the mere fact that the engagement lasted for a year is no proof that the disease of epilepsy could have been discovered by the husband, or that he knew about it and yet consented to the marriage.

(4) I, Therefore, see no reason to disturb the findings arrived at by the learned court below and the relief granted by it and dismiss the appeal. No costs.