

(1988) 03 DEL CK 0011
In the Delhi High Court
Case No : Matrimonial Ref. 2 of 1987

Major Sapru Mathews

APPELLANT

Vs

Mrs. Shanta Mathews and Another

RESPONDENT

Date of Decision : 18-03-1988

Acts Referred:

Citation : (1988) 03 DEL CK 0011

Hon'ble Judges : S.S. Chadha, C.J;Sunanda Bhandare, J;Gian Chand Jain, J

Bench : Full Bench

Advocate : Perty-in-Person, for the Appellant; Nemo, for the Respondent

Judgement

1. The Petitioner (husband) filed a petition for dissolution of marriage u/s 10 of the Indian Divorce Act, 1869, on the ground that his wife, Respondent No. 1 has, since the solemnization thereof, been guilty of [B. adultery.]

2. The petition was entrusted to the Court of Ms. Sharda Aggarwal, Addiltional District Judge, Delhi. The notice of the petition was served upon the wife I and the co-Respondent, through registered post and both of them failed to ap ;I pear in spite of service. They were proceeded ex parte. The Petitioner appeared as his own witness in support of the allegations made in his petition, Respondent No. 1 the wife of the Petitioner, left the matrimonial home in August, 1980. It is deposed that he came to know that she had a love affair with Respondent No. 2 and that both of them used to live in adultery as they started living together in Calicut since 1982. The Petitioner has placed on record a certificate dated 8th April, 1986, Ex.P.2, certifying that Smt. Shanta Mathew wife of Mr. Paul Mathew was admitted in P.V.S. Hospital (P) Ltd., for safe confinement and had delivered a female baby on the 7th March, 1984, at 9,30 p.m. It is thus clear that she started living with Respondent No. 2 in adultery and a daughter was born to Respondent Nos. 1 and 2.

3. The learned Addl. District Judge appreciated the oral and documentary evidence on the record and came to the conclusion that Respondent No. 1 has

been living in adultery with Respondent No. 2 since 1980 and the said act has not been condoned by the Petitioner. She has also come to the conclusion that the Petitioner has not filed the petition in connivance with anyone of them.

4. The learned Addl. District Judge granted the decree nisi and dissolved the marriage by an ex parte decree of divorce u/s 10 of the Indian Divorce Act.

5. We have reappraised the entire evidence, oral as well as documentary, on the record. We are satisfied with the propriety and legality of the findings recorded by the learned Addl. District Judge. We make the decree nisi absolute.

6. There is a clerical mistake in the decree nisi drawn by the Additional District Judge. In the heading of the decree in place of words "Hindu Marriage Act" it should be "Indian Divorce Act". The decree may be corrected accordingly.

7. There will be no order as to costs.