
(1953) 11 PAT CK 0024

In the Patna High Court

Case No : Matrimonial Reference No. 4 of 1948

Manoranjan Rachana

APPELLANT

Vs

Mrs. Ambalika Rachana and Another

RESPONDENT

Date of Decision : 30-11-1953

Acts Referred:

Divorce Act, 1869 — Section 10, 17

Citation : AIR 1954 Patna 302 : (1954) 2 BLJR 9

Hon'ble Judges : Narayan, J;Jamuar, J;Das, J

Bench : Full Bench

Judgement

1. This case has come before this Court u/s 17, Divorce Act. The short facts are these. The petitioner, who was the husband in this case, was an Indian Christian and resided at Purulia within the jurisdiction of this Court. On 25-2-1941 he lawfully married the respondent, Mrs. Ambalika Rachana, at the Methodist Church at Bankura. The marriage was consummated and sometime in 1942 the petitioner joined military service and left for Jullunder. While in military service, the petitioner came to know that his wife had left his mother's protection and was living with the co-respondent, one Sheikh Nabi.

In March, 1947, the petitioner came back and learnt that the respondent was living in adultery with Sheikh Nabi. The petitioner, gave evidence to the effect that on 10-4-1947, he found his wife living with Sheikh Nabi and on 1-5-1947, he found his wife and the co-respondent lying on the same bed. The learned District Judge of Purulia accepted the evidence of the petitioning husband and held that the respondent was guilty of adultery with Sheikh Nabi. He passed a decree nisi in favour of the petitioning husband. The learned District Judge further found that there was neither connivance nor collusion between the parties.

2. More than six months have now passed from the passing of the decree nisi. In spite of no-tices, none of the parties has appeared and no application for confirmation of the decree nisi has been made to this Court by the petitioning

husband. The question whether an application is necessary in a case of this nature was considered by a Full Bench of this Court in -- "Gallimore v. Gallimore" AIR 193S Pat. 15 (A). It was there held that the jurisdiction of the High Court to confirm the decree in a divorce action arises immediately upon a reference made by the district court and to complete the jurisdiction it was not necessary that there should be any personal appearance of the petitioner before the High Court.

3. We are satisfied that the learned District Judge was right in his view that the respondent was guilty of adultery with the co-respondent, and the petitioning husband was entitled to ask for a dissolution of the marriage on that ground. We are also satisfied that the learned District Judge was right in his view that there was neither collusion nor connivance between the parties.

4. We accordingly confirm the decree nisi and declare that the marriage between the petitioner Manoranjan Rachana and Mrs. Ambalika Rachana do now stand dissolved.