
(1987) 02 AP CK 0026
In the Andhra Pradesh High Court
Case No : R.C. No. 190 of 1985

Poodota Gova Shouraiiah

APPELLANT

Vs

Poodota Padmavati

RESPONDENT

Date of Decision : 04-02-1987

Acts Referred:

Divorce Act, 1869 — Section 10

Citation : AIR 1988 AP 191

Hon'ble Judges : K. Bhaskaran, C.J.;Lakshmana Rao, J;Anjaneyulu, J

Bench : Full Bench

Advocate : P. Innayya Reddy, for the Appellant; Party in Person, for the Respondent

Judgement

K. Bhaskaran, C.J.—This reference is under S. 17 of the Indian Divorce Act; and relates to the decree for dissolution of marriage between the petitioner and the respondent granted by the court below on 25-11-1985 in OP.NO. 150 of 1985.

2. The petitioner seeking the dissolution of marriage is the husband; and the respondent, the wife. They professed the Christian religion; and the marriage between them is stated to have been solemnized according to their religious customs and rites on 26-11-1981 within the jurisdiction of the Court below, as evidenced by Ex.A.1, extract from the Register of Marriages. The petitioner as P.W. 1 deposed that two years after his marriage, he noticed a change in the behaviour of the respondent and he began to suspect her character which was not found to be fair. P.W. 2 a neighbour who was examined to corroborate the evidence of P.W. 1, stated in his evidence as follows:

"I know the petitioner and respondent having married in the year 1981. They are my neighbours. They lived together for two years. Padmavathi's character is not good. Although the elders accosted her, she did not correct herself."

3. The learned District Judge, who is expected to peruse the pleadings, discuss the oral and documentary evidence and to ascertain whether a ground for the

grant of a decree for dissolution of marriage has been made out and whether the proceedings had been vitiated by collusion between the parties made a short work of the whole thing and disposed of the matter by a crisp order which reads as follows:

"on a perusal of the evidence of P.W. 1 it is seen that the character of his wife, the respondent herein, is not good and the evidence of P.W. 1 is corroborated with the evidence of P.W. 2 on all material aspects.

Having considered the evidence of P.W. 1 and P.W. 2, besides the contents of Exhibit A-1, I am satisfied that this is a fit case where the marriage of the petitioner with the respondent has to be dissolved."

4. The only ground on which, according to S. 10 of the Indian Divorce Act under which the petition has been filed, a husband could seek divorce is that his wife has, since the solemnisation of the marriage, been guilty of adultery. This ground has to be pleaded and proved. What P.W. 1 and P.W. 2 stated in their oral evidence, we have already noticed. The conspicuous absence of even a whisper about the respondent having been guilty of adultery is the main feature of the oral evidence of P.W. 1 and P.W. 2. Probably, the other shortcomings in the proceedings could have been ignored if in their evidence P.W. 1 and P.W. 2 or at least one of them, had mentioned the words "guilty of adultery" in regard to the conduct of the respondent inasmuch as that is the only ground on which under S. 10 of the Indian Divorce Act the petitioner could have sought the dissolution of the marriage between himself and the respondent.

5. It is rather unfortunate that the learned District Judge thought that because P.W. 1 and P.W. 2 spoke in their oral evidence that the conduct of the respondent was not good a decree for the dissolution of the marriage between the petitioner and the respondent could be granted. Evidently, the learned District Judge did not even take the trouble of reading the Section at least once to know on what ground a husband's petition for dissolution of marriage could be, allowed.

6. The result, therefore, is that we decline to confirm the decree for dissolution of marriage between the petitioner and the respondent passed by the Court below. TN reference is answered as above. No costs.

7. Answer accordingly.