

Court:Delhi High Court

Bench: JUSTICE M Jain

Chandhok (Lajwanti) vs Chandhok (O.N.) on 26 August, 1981

Equivalent citations: ILR 1982 Delhi 689, 1981 RLR 619

Law Point:

False and Unnecessary Complaints to Husband's Employer and other Authorities amounts to Cruelty , Divorce Granted.

JUDGEMENT

(1) The Chandhoka were married on 27-2-1944 at Peshawar. In 1947, they migrated to Delhi. One daughter and three sons were born out of the wedlock. After 34 years of marital existence husband O.N.Chandhok filed a petition for divorce on 30-5-1977 on the ground Of desertion and. cruelty. The wife Lajwanti Chandhok pleaded counter cruelty and also alleged that the husband had extra-marital relations with two Sethi girls namely, Satish and Vinod. The learned Additional District Judge found that cruelty on the part of the wife was established. By his order of 21-9-1979 he allowed the application and dissolved the marriage. Aggrieved, the wife has come in appeal. The husband has filed a cross-objection challenging the finding that desertion was not proved.

(2) I have heard arguments. My attempts. at reconciliation and counsel have failed.

(3) The allegation of the husband is that right from the day of marriage, Lajwanti began to treat him with mental and physical cruelty and it had now become unbearable. She is haughty, quarrelsome and aggressive. She used to lose temper on him without any rhyme or reason, used to abuse him very frequently, insult and manhandle him and used to hurl chappals, shoes, glasses and bottles at him. She falsely accused him of immorality. She refused to live with him in the year 1975 after their eldest son Ashok left for Canada. She was provided with a ground floor accommodation and the whole family moved upstairs. but even then, she did not relent rather her acts of cruelty continued to multiply. She injured him once on , and again on 18-5-1976. She started demanding transfer of the house in her name and from May, 1976 started sending all types of signed or unsigned letters or pseudonymous letters to his employers, friends, relatives and officers including the Prime Minister, maligning his character. He moved with the other members of the family to another house in Greater Kailash in June, 1976. Yet, on March 15, 1977 she pelted stones on his car. It had become impossible for him to live with her any more. He told me that he has blood pressure and suffers from heart trouble. Divorce necessary for his very survival.

(4) In her reply, the wife said that until the year 1960, the relations between them were nothing but cordial. Thereafter, the husband took to drinking and womanising and cultivated intimacy with the girls, Satish Sethi and Vinod Sethi. That infuriated her. She became hysteric and objected to his illicit connections with those two girls. She is still prepared to live with him but in the house in which she has been living. The petition suffers from delay and has been made with the motive to divorce her so that he may have free illicit connection with the aforesaid girls.

(5) Apart from all what happened till 1975, it is clear that from : 18-5-1976 onwards she started writing anonymous letters to the Prime Minister, late Shri Sanjay Ganhi, Shri Jag Pravesh, I.G.Police. S.D.M. Lajpatnagar and to his relations. She also lodged. reports against the husband with the police. She addressed a letter (Ex. A4). dated 16-3-1978. to the Vice President of the Distillers Association where the husband is working as its Secretary. She made complaints to Charan Singh and filed a complaint against him under sections 107/150 Criminal Procedure Code . She hurled

stones on him, causing an injury in the forehead. On 26-1-1976. when his brother came to see him the wife banged the door and when he opened the door, she abused him and hit him with kerosene oil pipe. She hurled chappals on him In the presence of his son Ashok and his wife. The husband refuted the allegations that he had kept goondas in the house as tenants and on 18-5-1976 had torn her clothes and gave her a harsh beating.

(6) The wife admitted that the husband kept her in comfort and even financed her trip abroad but the cleavage occurred in 1975 and from 1976 the husband is not living with her. She admitted that she wrote letters against the husband to the Prime Minister, her son Shri Sanjay Gandhi; and Shri Charan Singh under her own signatures and also to Shah Commission. The allegations against her are supported by no less than the oral testimony of her sons Surinder Kumar (AW2) and Raj Kumar (AW3) and the letters of the eldest one Ashok who is abroad. She perhaps has, as she told me, the sympathies of her daughter who is married and lives in U.S.A. She still persists in her accusation that the husband is having illicit connections, with Satish Sethi and Vinod Sethi. Her allegations of counter cruelty cannot be accepted unless she herself wants a divorce, nor does it appear to me to be a case in which the husband can be said to be taking advantage of his own wrong. Whatever have been the position earlier and for whatsoever reason the alleged cruel conduct of the wife was tolerated by the husband, a fresh bout of cruelty began with the spate of complaints to his employers and other authorities which she began to lodge against him in order to defame him. That is a worse type of cruelty that the wife had inflicted upon her husband which he is not prepared to bear with and condone. It is a case in which it was extremely painful to dissolve a marriage after it has lasted for 36 years, but it appears to me that the learned Additional District Judge has done what should be done in the circumstances. At the time of the reconciliation, they gave me the impression that they were married against their wishes and I found that senility has so overtaken them that it was difficult for them to live together. The husband even said that if his marriage was not dissolved and the wife continued to behave in the manner she is doing, his life was no more worth living. He will at least be able to defend the calumny launched by her that it was being pursued not by his wife but by a person who no more enjoyed that status. Divorce will give that advantage.

(7) Mr. Nijhawan on behalf of the wife appellant agreed that the quarrel between the parties began in the year 1960 and cohabitation ceased in the year 1974. Yet, he maintained that no case for divorce was made out. He complained that her evidence was closed while the transfer petition was pending and no adjournment was granted. But this grievance is without basis, because she filed no list of witnesses and on every date different witnesses were cited. Even when her revision (C.R. 141/79) was accepted, and the High Court directed to allow her to lead evidence, she did not care to bring the witnesses.

(8) Mr. Nijhawan next pointed out that the learned trial court has erred in taking into consideration the letters of Ashok Kumar because Ashok Kumar was not examined. This argument has no merit because Ashok Kumar could not be brought to the witness box from Canada without an amount of unreasonable delay and expenses. Mr. Nijhawan further urged that the letter of the wife Ex.A-4 of 16-3-1978 to the Distilleries Association in which the husband is employed and the complaint (Ex.A-5) made to the S.D.M. on 2-1-1978 should not be taken into consideration. Mr. Nijhawan stated that these are innocuous documents which the wife was forced to write in order to seek protection. Ex. A-3 was a representation of 12-10-1976 by the people of the Mohalla not signed by her. He stated that there is no satisfactory evidence to prove that anonymous letters were written by the wife and there is further no evidence that the husband was beaten by a pipe or that the brother carried the husband to the hospital. The Judge below has believed these allegations on the basis of the respondent's evidence and I see no reason to differ from his findings. In these documents she alleged that he has engaged men "of bad character and wants to kill her and has begun the business of prostitution. Ex. A-4 and Ex. A-5 were written after the present petition was filed. That all this conduct of the wife amounts to cruel treatment, finds support in the special submission of Mr. Nijhawan that the Sethi girl came to the marriage reception of Ashok and paid Rs. 100.00 and this could not be without any sinister significance and since the husband was a rich man, womanising is a necessary follower of wealth and the charge of the wife cannot be dismissed out of hand. 'This is a stance at once defiant and deprecable. Here is then certainly a case of matrimonial unhappiness and misery caused by an unjustified and improper course of conduct deliberately and consciously

pursued in a determined manner in order to malign, humiliate and wound the husband coupled with physical violence, small, yet serious in consequence. Even if one were to believe that the husband was moving in the company of other women which I believe is not true, I will like to call it an attempt to seek solace and sympathy in a place other than the place where it is his due to find and receive. The real problem is that the wife persisted with callous indifference to the feelings of the husband in her ill-advised campaign of rancour and virulence which coming from a Hindu wife as she claims she is, can be nothing but painful in the extreme.. Her conduct does not consist merely of acts amounting to cruelty, but there is evidence of an-intention of being cruel which cuts more unkindly. Cruelty consists not in the conduct complained of but in its impact, upon the spouse. It is the last straw that breaks the camel's back which must be looked at in the light of earlier history and general picture of married life. I have had an occasion to discuss cruelty in *Parihar v. Parihar*, , but cruelty cannot be found on the basis of law reports, neither on the basis of several acts seen in isolation, nor of any standard behavior but in the light of the total impact on the person of the complaining husband or wife. It is in the totality of the marital relations and factors like age, health, living, culture, status, mind and even money, that cruelty can be found. This applies more pertinently where it is alleged to comprise injurious reproaches, complaints, accusations or taunts." Treatment is with cruelty where the spouse levels charges of immorality based upon, as in this case, suspicion or at best hearsay. It insults and injures.

(9) I am of the view that there was evidence plain and sufficient enough to justify a finding that the life of the husband has been subjected to cruelty and has become unendurable even for a man who has carried on with it right into his sixties. There is limit to endurance. Howsoever, one may wish, society cannot scrap marriage. It is compulsion of creation. It was rather sanctified and hallowed so that couples live in peace, in fear of God and help retain calmness in the community. Yet, it had to devise doors of exit as and when it becomes unreasonably unbearable and converges into sheer bondage. I, therefore, find no ground for altering the decision of the court below. There remained nothing in the marriage except the name. The vows were forgotten. Incantations lost in their spell.

The learned Judge below was right in formally snapping the ties which had ceased to be binding happy or purposeful.

(10) I say amen and dismiss this appeal. The cross-objection need not now be examined and is dismissed hereby. Let me, however, add that it is not easy as the court below did, to absolve the wife of willful desertion. She refuses with astounding obstinacy to go and live in the new matrimonial home and demands of the husband to come and live where she wishes to.

(11) The husband shall bear the costs, throughout.