
CASE ANALYSIS: SRI BHASKAR DAS V. SMT. RENU DAS (2020 SCC ONLINE GAU 2954)

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CASE DETAILS:

Case Name: Sri Bhaskar Das V. Smt Renu Das.

Case Number: Mat App. 20 of 2019.

Court: The Gauhati High Court (High Court of Assam, Nagaland, Mizoram, and Arunachal)

Citation : 2020 SCC Online Gau 2954.

Bench: Division Bench of Chief Justice Ajai Lamba and Justice Soumitra Saikia.

Appellant : Sri Bhaskar Das

Respondent: Smti. Renu Das

Date of Judgment: 19th June 2020

INTRODUCTION OF THE CASE

The Gauhati High Court's decision in Sri Bhaskar Das V. Smti. Renu Das¹ has drawn both positive and negative responses from various segments of society. Some claim that the Hon'ble High Court has legitimized patriarchal culture because there is no legal provision in India that considers wearing sindoor and Sakha as proof of marriage. The court granted the petitioner's husband, Appellant Bhaskar Das, a divorce after finding that his respondent wife, Smti. Renu

¹ 2020 SCC OnLine Gau 2954 : AIR 2020 Gau 120 : (2020) 212 AIC 542 : (2020) 2 HLR 584 (DB) : (2020) 3 RCR (Civil) 754

Das, refused to wear the ritualistic sindoor and Sakha, which signifies her rejection of marriage and her frequent disputes with her in-laws. Additionally, the Honorable High Court ruled that a man has the right to file for divorce if his wife forbids him from supporting his elderly parents under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

FACTS OF THE CASE

- In Madhuban, the appellant Sri Bhaskar Das works as a contract worker for Brahmaputra Cracker and Polymer Ltd. On February 17, 2012, he wed Smti. Renu Das, the respondent.
- However, a few months into their marriage, Smt. Renu Das begins to demand a separate apartment from the appellant husband, Sri Bhaskar Das. When the respondent started causing arguments in her home, the situation deteriorated rapidly because the appellant was unable to give his wife a separate residence. Finally, in accordance with his wife's wishes, the appellant chose to live apart from his respondent-wife. The respondent wife announced in the month of June 2013 that she would not be able to carry on her marriage to the appellant Bhaskar Das and made the decision to leave her marital residence. The respondent wife reported the appellant and his family to the Digboi Police Station under Section 498(A) of the Indian Penal Code (IPC), with Digboi P.S. Case No. 154/2013. The respondent woman claimed in WS that the appellant husband and his family had illegally demanded dowry in the form of cash and in-kind, and that they had cruelly treated her in order to comply.
- On June 30, 2012, the appellant and his family members threw her out of the appellant's home and sent her to live with her brother in Dibrugarh. She further claimed that she had already filed a case against the appellant and his family at Digboi P.S. under section 498(A) of the IPC.
- The relatives of the appellant requested anticipatory bail in order to pressure her into making concessions and ending the conflict.
- Additionally, the appellant's family members consented to take her back. The appellant then filed a divorce petition (TS(M)9/2014) before the Court of District Judge in Dibrugarh because he could no longer put up with the respondent wife's verbal abuse

of him and his family. Regarding dowry harassment, infidelity, and breach of an agreement in which her husband formed a contract with her to rent the apartment, she filed three lawsuits against the appellant and his family members. The husband, unable to handle the pain, filed a divorce case. The appellant Bhaskar Das' requests were denied by the Family Court because there were no suitable grounds for issuing a divorce judgment, according to the court's ruling.

- The appellant, who was unhappy with the Family Court ruling, appealed it to the Gauhati High Court in Mat App. 20 of 2019. The respondent's review petition, which contested the appeal order, was similarly denied.

ISSUES RAISED BEFORE THE COURT

The following issues were raised for discussion in the case of Sri Bhaskar Das v. Smti. Renu Das², which was determined by a division bench of the Gauhati High Court:

1. Whether the respondent (the wife) subjected the petitioner (the respondent) to cruelty and deserted him?
2. Whether the petitioner qualifies for a divorce decree?

LAWS APPLICABLE

Section 498 A of the IPC, Section 13(1)(i-a) of the Hindu Marriage Act of 1955, The Maintenance and Welfare of Parents and Senior Citizens Act of 2007, and most crucially, the central issue of the Sakha and Sindoor judgments are all covered:-

- **498A. Punishment for subjecting a married woman to cruelty.**³

Husband or relative of husband subjecting her to cruelty- Whoever, being the husband of a woman, subjects such woman cruelty shall be punished with imprisonment for a term which may extend to three years and shall be liable to a fine.

² 2020 SCC OnLine Gau 2954 : AIR 2020 Gau 120 : (2020) 212 AIC 542 : (2020) 2 HLR 584 (DB) : (2020) 3 RCR (Civil) 754

³ Ins. By Criminal Law (Second Amendment) Act,1983(46 of 1983), S.6.

Explanation.-For the purpose of this section," cruelty "means-

(a). any willful conduct which is of such a nature as it likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b). harassment of the woman such harassment is with regard to forcing her to any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

The primary goal of section 498-A of the IPC is to safeguard a woman who is being harassed by her husband or his family members. Chapter XXA of the I.P.C. defines Matrimonial Cruelty as a cognizable, non-bailable, and non-compoundable offense.

The Indian judiciary has been using this clause to protect all women from various forms of maltreatment in their husbands' laws.

- **13(1)(i-a). Petition for divorce, Hindu Marriage Act of 1955:⁴**

(i) Any marriage solemnized whether before or after the commencement of the Act, may on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party.

(i-a) has, after the solemnization of the marriage, treated the petitioner with cruelty.

In the case of Sri Bhaskar das v. Smti. Renu das, the Hindu Marriage Act of 1955's Section 13(1)(ia) was used to grant the divorce on the grounds of "cruelty."

"Behavior that causes physical or emotional anguish to others and makes them suffer, especially intentionally," is the definition of "cruelty." as terrible mental acts.

- **The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.**

The Court also stated that according to The Maintenance and Welfare of Parent Senior Citizens

⁴ Section 13(1)(i-a) of the Hindu Marriage Act,1955.

Act, 2007 it is compulsory to look after the old parents.

2 (d) parents means father or mother whether biological, adoptive or step-father or step-mother, as the case may be, whether or not the father or mother is a senior citizen

- **The provisions for Sindoor and Sakha are not discussed in the Hindu Marriage Act of 1955.**

The Chief Justice Ajai Lamba and Justice Soumitra Saikia benches shed light on the statement made by the respondent's wife Smti. Renu Das in front of the magistrate where she explicitly stated that she was not wearing sindoor and sakha because she does not regard appellant Sri Bhaskar Das as her husband and that wearing sindoor and sakha is not required for Hindu married women.

ANALYSIS OF THE CASE

CONTENTIONS:

By Appellant:

The respondent's behavior toward the appellant and his family became harsh after the appellant and respondent had been married for one month, according to the evidence the appellant introduced as PW1. He continued by saying that although a medical examination shows him to be in perfect health, the respondent's medical records reveal a problem that prevents her from becoming pregnant. He argued that the respondent refused to wear "sakha" and "sindoor" in June and stated that she did not want to live with the appellant. He further argued that the appellant's family members would not visit them or otherwise have a relationship with them, and that the respondent had forced the appellant to sign a written agreement

By Respondent:

She argued that the appellant was medically unfit since she was infertile. The Respondent claimed in her testimony as DW1 that the appellant family had physically and mentally mistreated her, demanded dowry, and refused to provide her with basic requirements of life, prompting her brother to take her to her parents' house. As a result, she filed a case (Bhaskar Das case) under Section 498(A) of the IPC at Digboi PS Case (Bhaskar Das case) No. 159/2013

against the appellant and his family.

PROCEEDINGS:

- In her main testimony, the respondent acknowledged a deal she had made with the appellant in which she committed to live separately from her. The petitioner refused to abide by the conditions of the agreement while out on pre-arrest bail, according to the respondent, who claimed that this constituted fraud against the petitioner. She upheld the evidence she presented in her main evidence during her cross. She acknowledged that three cases had been brought against the appellant. It is also clear from her cross-examination that she had unequivocally indicated that she would only divorce the appellant if he either moved in with her in Dibrugarh or complied with her requests, which included paying her money.
- According to the testimony of the respondent, the appellant's stepmother, sister-in-law, brother, and two sisters brutally mistreated her. She claimed that she had been subjected to physical and mental abuse and wanted various types of money and property as dowry. She was denied all of the requirements, so her brother filled the gap. She was asked to bring money on several occasions when she was told to return home

HELD:

The respondent's evidence that she had experienced mistreatment was accepted by the Family Court. He based his argument on the testimony of DW2, the respondent's cousin, who testified that she had experienced multiple instances of mistreatment and had been sent to her house.

The court denied the husband's request for a divorce because it determined there was no cruelty toward the appellant and his family.

JUDGEMENT OVERTURNED

RATIO OF THE COURT:

The Family Court addressed both problems concurrently, dismissed the lawsuit, and denied the husband's request for a divorce decision. The court has noted that the appellant husband presented his testimony as PW1 and that his main point of testimony was that the respondent

wife's behavior had become contentious toward the appellant and other family members after only a few short months of marriage. The wife of the respondent began to accuse the appellant husband of being medically unfit. She was unable to become pregnant as a result of the appellant husband. The respondent, according to the appellant, constantly fights and refuses to help out around the house. The appellant also claimed that in the June, the respondent wife said she did not want to live with the appellant husband and forbade herself from wearing the "sakha" and "sindoor" which are the sign of married women. According to Hindu tradition, a woman who has entered into marriage in accordance with Hindu ceremonies and customs—something the respondent did not dispute in her testimony—will be assumed to be single if she refuses to wear "sakha and sindoor" or if she rejects the marriage to the appellant.

Therefore, it is evident from the foregoing that the appellant has a basis for the decree of dissolution of marriage to be granted on the basis specified in Section 13(1)(i-a) of the Hindu Marriage Act, 1955. The appellant's argument, which argues for a divorce on the basis of cruelty, can be shown. It is impossible to accept that the husband has not experienced cruelty, given the accusations made by the respondent wife against the appellant husband.

DECISION OF THE COURT (overturned previous judgment)

The division bench of the Gauhati High Court, consisting of Chief Justice Ajai Lamba and Justice Soumitra Saikia, rendered its decision on June 19, 2020. The court ruled that the District Judge's Court of Dibrugarh's verdict from December 15th will be overturned and a divorce decree will be obtained. Certain pieces of evidence were not adequately considered throughout the court's deliberations. The arrangement between the respondent and the appellant, which required the appellant to lodge the respondent apart from the matrimonial home and away from his family, was not contested by the respondent. In his testimony, the appellant stated that the respondent had stopped wearing "sakha" and "sindoor." According to Hindu custom, a woman who has entered into marriage in accordance with Hindu rituals and customs—which the respondent has not refuted in her testimony—will be assumed to be unmarried if she refuses to wear "sakha and sindoor" or if she refuses to acknowledge the marriage with the appellant.

Such an unequivocal stance by the respondent indicates her clear determination that she will not continue her relationship with the appellant as a couple. It may be interpreted as harassment if the respondent forces the appellant-husband to stay married to the respondent-wife in these

situations. In these circumstances, forcing the appellant-husband to remain married to the respondent-wife may be seen as harassment against the appellant and his family on the part of the respondent.

During the hearing, it was claimed at the bar that the criminal proceedings brought against the appellant under Section 498(A) of the IPC as a result of the filing of Digboi P.S. Case No. 159/2013 had been dismissed because the informant, i.e. the respondent, was not pursuing the said action. As a result, the claim that the responder was treated cruelly was not proven. According to the Supreme Court, such actions as filing criminal charges based on unproven allegations against the spouse and/or the husband's family members are cruel.

The Hon'ble Supreme Court recently ruled in *Rani Narasimha Sastri vs. Rani Suneela Rani*, 2019 SCC Online SC 1595⁵, that filing criminal charges against the husband and other family members that are later dismissed or rejected by the Family Court is sufficient to be interpreted as an act of cruelty by the wife.

According to section 13(1)(i-a) of the Hindu Marriage Act of 1955, the appellant brought a claim for the granting of the decree of dissolution of marriage on the grounds of cruelty. The court took into account the fact that the appellant and respondent have been living separately since June 30, 2013, and determined that there is no longer any hope for the marriage because there is no marital harmony. It is required by the "Maintenance and Welfare of Parents and Senior Citizens Act, 2007" that parents and senior citizens be maintained. In the instance of *Bhaskar Das*, the appellant claimed that PW2 (the widowed stepmother), who is elderly, has no personal source of income. It is clear that the family court entirely disregarded the pieces of evidence in which the appellant claimed that the respondent had made the decision to forego all domestic chores and his mother's legal obligations. She also requested a residence apart from the marital residence.

Such elements are sufficient to infer the built-in cruelty the appellant and his family have experienced.

The District Judge of Dibrugarh's contested family court ruling from December 15, 2018, is overturned, and a divorce order is given pursuant to petition (M) 20/2019. The court stated that

⁵ *Rani Narasimha Sastri vs. Rani Suneela Rani*, 2019 SCC Online SC 1595,

the woman may request further alimony in accordance with the terms of the Hindu Marriage Act, 1956, taking into account the fact that the appellant is now paying maintenance in the amount of Rs 3,000.

CONCLUSION

Sakha Sindoor, a decision from the 21st Century, reverses our progress by 100 years. A Hindu married lady is undoubtedly expected to wear bangles, sakha, sindoor, and mangalsutra in accordance with customs, tradition, etc.; yet, her trust is unaffected by this. As we still live in a patriarchal society, the development will take some time. Girls and women need to practice patience throughout this time. A review petition that was submitted in opposition to the contentious judgment was likewise rejected. The provisions for sakha and sindoor are not covered by the Hindu Marriage Act of 1955. All of these things ought to be up to the woman's discretion. The judgment violates the right to equality and is biased.

Although it is a fairly simple path to follow, society as a whole must be careful not to pave the way for cruelty when divorces are granted due to temperamental incompatibility. It is important to recognise that as society's dynamic needs and requirements change over time, so will the relevance of customs and traditions. At the same time, however, it will be dangerous to ignore those who maintain their essence in their way of life. The legal theory of cruelty has also changed in its application over time, so until and unless the applicability of customs and traditions on civil law is entirely eliminated through a uniform civil code, the courts are required to take cognizance of all relevant facts. However, we must be vigilant that we as a society preserve the sanctity of marriage as an institution while upholding our constitutional values.