

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5054 OF 2011
(Arising out of SLP (C) No.17485 OF 2008)

Pallavi Bhardwah

..Appellant (s)

- Versus -

Pratap Chauhan

..Respondent (s)

J U D G M E N T

GANGULY, J.

1. Leave granted.

2. Heard learned counsel for the parties and
carefully perused the record.

3. This appeal is from a judgment and order dated 25.4.2008 passed by the Division Bench of the High Court in First Appeal No.328/2008. The Division Bench of the High Court in the impugned judgment disposed of the First Appeal with certain directions relating to so-called matrimonial dispute between the parties.

4. The case is based on very peculiar facts. The grievances of the appellant are that there is no marriage between him and the respondent but the respondent in order to defame her in society filed a suit for restitution for conjugal rights, inter alia, on the ground that marriage between them took place on 28th October, 2007. It is an admitted position that there is no valid document evidencing marriage. Nor is there any acceptable evidence of marriage. The Principal Judge, Family Court, Meerut in his judgment and order dated 01.04.2008 has elaborately discussed the facts.

Since the facts have been very elaborately discussed in the judgment of the Family Court, the same need not be repeated here. The Family Court came to a finding that the attempt of the husband is to blackmail the appellant herein and the respondent husband had already married Smt. Seema, D/o Shri Jeet Singh, R/o 263 Begum Bagh, Meerut and a daughter was born in connection with the said marriage and was studying in school. In the background of those facts the Principal Judge, Family Court, Meerut held since there is no marriage there is no question of restitution. The Family Court, therefore, dismissed the said petition with cost of Rs.2 lacs.

5. From the said judgment, an appeal was filed before the High Court in which the Division Bench of the High Court has taken very peculiar stand in proceeding by trying for conciliation. The High Court has noted that the appellant girl has

categorically denied the existence of marriage and the existence of joint account in a bank. The High Court has not recorded anywhere about the validity of the marriage. Even then the High Court strangely enough explored the possibility of a settlement between the parties. The High Court without coming to any finding about the validity of marriage and after recording that the validity of marriage was always denied by the appellant gave certain directions which are wholly inconsistent with the facts of the case. Since no marriage has been established, directions given by the High Court are wholly inappropriate.

JUDGMENT

6. Therefore, the order of the High Court is set aside and we restore the judgment of the Family Court with cost of Rs.2 lacs to be paid by the respondent within 3 months in favour of Supreme Court Mediation Centre, New Delhi.

7.The appeal is thus allowed with costs of Rs.2
lacs as aforesaid.

.....J.
(G.S. SINGHVI)

.....J.
(ASOK KUMAR GANGULY)

New Delhi
July 04, 2011

