

Landmark Judgement

Case Analysis: Dr. Nirmal Singh Panesar v. Mrs. Paramjit Kaur Panesar @ Ajinder Kaur Panesar, (2023) | It's Not Always Desirable to Have an Irretrievable Marital Breakdown

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DR. NIRMAL SINGH PANESAR VS MRS. PARAMJIT KAUR PANESAR AJINDER KAUR PANESAR,

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The Analysis of the Case: The case of Dr. Nirmal Singh Panesar v. Mrs. Paramjit Kaur Panesar@ Ajinder Kaur Panesar (2023) centers on a decision made by the highest court that denied the appellant a divorce under Article 142, claiming an irretrievably shattered marriage as justification. The court determined that the respondent would be adversely impacted by such a divorce, which would not be in the best interests of justice.

Case Title: Dr. Nirmal Singh Panesar v. Mrs. Paramjit Kaur Panesar@ Ajinder Kaur Panesar

Court: Supreme Court

Citation: Civil Appeal No. 2045 of 2011

Judges: A bench of Justice Aniruddha Bose and Justice Bela M Trivedi

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Date of Judgment: October 10th, 2023

The Case's Factual Background

The 82-year-old wife, Paramjit Kaur Panesar, refused to move to Chennai with her husband when he was deployed there by the Indian Air Force in 1984. As a result, Nirmal filed for divorce in 1996 on the grounds of cruelty and desertion. The district court granted the divorce in 2000, but Paramjit appealed the decision, which was later overturned.

In this instance, the respondent, Mrs. Paramjit Kaur Panesar, stated that she would like to take care of her 89-year-old husband, Dr. Panesar. She also mentioned how much she disliked the term "**divorcee**." Together, the couple has three kids. Taking into account the respondent's emotional state, the High Court reversed the District Court's divorce decree and found against the issuance of a divorce based on irreparable breakdown, claiming that such an action would not include a complete dispensation of justice for the involved parties.

An 80-year-old man's 27th plea for a divorce from his 60-year-old wife was denied by India's highest court. Just one out of every 100 marriages in India results in divorce. This is mostly because unhappy spouses are pressured by family and society to remain together. The divorce must be approved by the court, which is rare unless there is evidence of severe abuse, violence, or money demands.

The case's issues it necessary to invoke Article 142 of the Indian Constitution to end a marriage when it has irretrievably failed, even if the Hindu Marriage Act of 1955 does not accept this as a reason for divorce?

The Case's Relevant Law

The Court made it clear that it could end a marriage unilaterally in accordance with **Article 142** of the Indian Constitution, regardless of whether one of the spouses disagreed. The court declared categorically that it had the discretionary power to carefully and intelligently decide such matters in compliance with Article 142 of the constitution.

It did, however, issue a warning that caution must be exercised. **The woman is in her early 80s, while the husband is currently in his late 80s. After taking** into account the respondent's claims that she did not want a divorce because she wanted to stay married and was extremely old, the Supreme Court dismissed and rejected the divorce case, respecting the wife's desires.

Decision on the Case

As a result, the parties went to the Hon'ble Supreme Court, which decided not to grant the divorce request and upheld Dr. Nirmal Singh Panesar and Mrs. Paramjit Kaur Panesar's marriage. The court recognized that a marriage may be irreversibly deteriorating, but it also emphasized the need for careful consideration and the necessity to proceed cautiously when filing for divorce on the basis of "irretrievable breakdown of marriage." The Court emphasized how important marriage is to Indian society and how sacred it is. According to the court, there must be total conviction and contentment over the marriage's inability to function, its emotional stagnation, and its irreversibility. It is crucial to be certain that the marriage has ended and cannot be reconciled.

The Court emphasized that divorce should only be granted in extraordinary situations in accordance with Article 142 of the Indian Constitution. The phrase "grounds of irretrievable breakdown of marriage" was also criticized for being overly rigid. **The Hindu Marriage Act of 1955** does not allow for divorce on the grounds of "irretrievable breakdown of marriage" in India, which has sparked a discussion over the dissolution of marriages when they reach such a stage.

The case of **Shilpa Shailesh v. Varun Sreenivasan** provides an example of a recent decision by a Constitution Bench that was cited by the Supreme Court in the current case. It emphasizes the importance of exercising discretion under **Article 142** with care and caution to guarantee the administration of thorough and fair justice. In order to achieve fair results for all parties, the Court claimed its authority to deviate from standard divorce procedures and laws. In this case, the wife's wish to continue providing financial assistance for her husband and her refusal to accept the title of "**divorced woman**" led to the overturning of the divorce decree.

Given that marriage is regarded in Indian society as a holy, spiritual, and sacred tie, this was evident in the Court's decision. Despite the fact that divorce rates are rising, the ruling stated that marriage is more significant than ever in Indian society. The Court stated that marriage is subject to both legal and social standards because so many other kinds of relationships are predicated on and depend on marriage. As a result, the sanctity of marriage and its significance should be upheld rather than being broken up as a mere contract; it is a sacred union and should therefore be protected up until the point at which either party or both parties are harmful to one another.

"At this point in her life, the responder (wife) is still prepared and eager to care for her husband and does not want to leave him alone. She has also stated that she does not want to pass away with the stigma associated with being a "divorcee" woman. The bench stated in its ruling, "In modern society, it might not be a stigma, but here we are concerned with the respondent's own sentiment."

Despite her husband's rage, the judges recognized the wife's commitment to her marriage and her wish to raise her children. In this case, the court decided that the woman should not have a divorce. The Court decided that ending the marriage under Article 142 on the grounds that it had irretrievably broken down would be unjust to the wife. It's important to remember that every couple's situation and feelings are different while thinking about divorce.

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