Landmark Case Report: A Chinese Woman Successfully Claimed Damages for Sexual Right Infringement

Description

The world is changing and evolving all the time. Something that was unthinkable in the past may happen now. China, as a conservative society in contrast to western societies, has been getting liberal over time, as reflected in legislation and judicial practice.



Sexual Rights of Women

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Introduction

A woman won a land-mark case against her lover, who claimed he was single but was actually married. The court supported the woman's claims, entered the judgement, and ordered a compensatory sum of RMB 150,000 (or close to USD 25,000) per her claim as it found that the man's significant fault of deceiving made the woman wrongly dispose of her sexual rights, which led to her pregnancy, subsequent abortion, and metal suffering. The lawyer in this case believes that this is a serious warning for any person who was thinking of deceiving their lover.

Overview of the Case

Ding Yu (pseudonym) and Li met on a dating website. Li's profile information stated that he was single. During their one-year relationship, Li always claimed that he was divorced. Ding Yu cohabited with Li on the premise of marriage and got pregnant and then later aborted her pregnancy. When Ding Yu found out that Li was not divorced, she was mentally traumatized and sued him in the Chaoyang District Court in Beijing, where she requested Li to extend a formal apology and compensate her for medical expenses and serious mental distress of more than RMB 300,000 yuan.

Court Commentary

After trial, based on the chat records, photos, abortion medical records and other evidence submitted by Ding Yu, a chain of evidence could be established to prove that Li took the initiative to get to know Ding Yu, and repeatedly invited her to live together. Through self-commitment and the coordination of relatives and friends, Li maliciously concealed the fact that he was married for a long time, and the plaintiff suffered a mental blow after learning the truth. Therefore, the court accepted the facts stated by the plaintiff.

Li's behavior is obviously contrary to *social morality, public order and good customs*, and it also violates honesty, credibility and moral standards, and should be identified as a subjective fault. Li's behavior infringed on Ding Yu's sexual rights under the personality right and should bear the tort liability. "The defendant's wrongdoing directly misled the plaintiff's to dispose of her sexual rights," said Sun Qi, the presiding judge.

The court ordered Li to compensate Ding Yu for RMB 150,000 yuan of consolation money for mental trauma, and extend a formal apology. The content of the apology letter must be reviewed by the court. If it is not fulfilled within the given time, the court will publish the main content of the judgment in the newspapers and periodicals, and the publication fee shall be borne by Li.

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Judge's Interpretation

According to Sun Qi, the presiding judge of this case, the concept of "sexual rights" is not clearly proposed in Civil Code of the People's Republic of China. However, in foreign countries and in Taiwan China, it is clearly stated that citizens have the "right to chastity." For example, in the provisions of the Taiwan Civil Law, it is to the effect that "the fraudulent form goes against a woman's will and has a sexual relationship with her, the infringer will be liable for the tort." He believes that the significance of the verdict in this case lies in the fact that "under the circumstances that sexual behaviors are gradually tolerated by society, illegal and deceitful sexual behaviors are not tolerated by the law."

Sun Qi believes that this case is typical of the so-called cheating behavior in society, but it is difficult to encounter in judicial practice. The defendant's unethical behavior also publicly released marriage information through the website, with a wide range of audience and strong negative influence.

Regarding the amount of the judgment, Judge Sun Qi said that the general mental anguish compensation is mainly aimed at the compensation for the mental violation of inviolability and integrity of person and health right under the personality right. The peculiarity of this case is that the injury is defined as "sexual rights". Therefore, the purpose of making this amount after comprehensive consideration is to punish the defendant and serve as a warning to the society.

Our Comments

With the rapid development of instant communication tools, people's online and offline activities are becoming more and more frequent. It is not uncommon for married people to pretend to be unmarried to deceive women into cohabitation to have sex, which often leads to pregnancy. Women mistakenly

dispose of their “sexual rights” under the deceitful behavior and became depressed due to some men cheating in the name of love. In the past, courts are not ready to award any compensation to the victimized women on the ground that it is more an area of personal freedom and law shall not intervene.

But there is a clear victim in such frauds, and justice shall not be absent. This case, the very first one we have ever heard of, is good token of social progress in favor of women. It is our advice that the victims in such frauds shall not take extreme personal actions to rectify the wrongs but to seek justice through the law.

On the other hand, it shall be noted that the parameters for finding facts meriting award of damages to women. It would be impossible if the man in this case was single but only lied about his financial conditions or family backgrounds.

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