

Ranjit Singh versus Surinder Kaur

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO-M No. 126-M of 2004 (O&M)
Date of decision: 31.08.2015.**

Ranjit Singh

.....Appellant.

Versus

Surinder Kaur

.....Respondent.

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MS. JUSTICE NAVITA SINGH**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the digest?

Argued by: Mr. M.L. Saggar, Senior Advocate, with
Mr. Gaurav Grover, Advocate, for the appellant.

None for the respondent.

NAVITA SINGH, J.

The respondent has not been appearing for the last six hearings consecutively. It was ordered on the last date that if no one appeared for the respondent today, the appeal would be disposed of in accordance with law.

2. We have heard counsel for the appellant in terms of the last order as respondent did not bother to appear even today.

3. A petition under Section 13 of the Hindu Marriage Act, 1955 (Act for short) was filed by appellant – Ranjit Singh, which was dismissed vide judgment and decree dated 27.04.2004 by the Additional District Judge, Fast Track Court, Rupnagar. The appellant put up a challenge to the said decree in this appeal.

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4. The averments made by the appellant in the petition were that the marriage between the parties was solemnized on 22.03.1992 and two children were born to them. When the first child Tarandeep Kaur was born, customary gifts were given by the family of the appellant to the respondent and new born, but the respondent and her brother were not satisfied. Similarly, when the second child Gagandeep Singh was born, the family of the appellant and his family again gave customary gifts to the respondent, but she was not satisfied. She was adamant that she should be given a gold set. The appellant declined the request, as he could not afford such an expensive gift.

5. At the time of marriage, the respondent was serving as Librarian in the Education Department in District Faridkot and later on, she was transferred to Balachaur on repeated requests made by the appellant. She was asked to bring her service book etc. by the appellant, but she concealed the record from him. When the marriage was fixed, the respondent had shown photocopy of her matriculation certificate to the appellant in which her date of birth was given as 16.10.1966, but the appellant later on came to know that she was born on 16.05.1962. The age of the respondent was intentionally concealed. In the service record, date of birth of the respondent was entered as 16.05.1962. When confronted with the cheating, the respondent and her family members became furious and insulted the appellant in the presence of relatives.

6. In the matrimonial home, the respondent created a scene on different occasions on flimsy grounds and wanted the appellant to live

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separately either at Mohali or Chandigarh. The appellant, however, did not agree.

7. The appellant hoped that the respondent would understand and improve her behaviour and in that hope, he took a separate accommodation on rent in October, 1994, where the respondent lived with him up to April, 1996. However, even when the couple was living separately from the family of the appellant, the respondent continued to misbehave with the appellant in the presence of his subordinates, friends, relatives and others. She provided meals to him reluctantly and at times refused to serve tea etc. to his colleagues or other staff members visiting their house. Ultimately, in April, 1996, the respondent parted company with the appellant leaving the daughter behind. The child was taken by the appellant to the house of his parents in Ropar where she was admitted in a school. The respondent did not bother to meet her daughter while she was living with her brother in Mohali. After deserting the appellant, she made a complaint before the police against the appellant and his family members alleging that they had links with terrorists. They were called to the police station and an inquiry was conducted which led to a conclusion that the allegations made in the letter written by the respondent were false.

8. When the appellant was promoted, he held Akhand Path in a Gurudwara, but the respondent did not join the function. In April, 1998, the appellant was away to his place of posting in Garhshankar and in his absence, the respondent without the consent and knowledge of the appellant or his parents, took the daughter away and she also took the valuables from

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the house of the appellant.

9. All requests made by the appellant to the respondent for joining him fell of deaf ears. Left with no choice, the appellant filed a petition for divorce. In the Lok Adalat, the matter was settled and the parties started residing together. The respondent, however, did not mend her ways, but lived with the appellant after persuasion by mediators from time to time. The respondent deserted the appellant in the second week of May, 2000.

10. After deserting the appellant in May, 2000, the respondent did not join him at any time and even did not attend the marriage of appellant's brother, which was in June, 2001. She had been personally invited by the appellant and his family as she was the eldest daughter-in-law, but she refused to join the marriage.

11. The respondent put forth her side of the story in the written statement. Not denying the marriage and birth of the children, she denied all other averments mentioned in the petition. It was denied that gifts were given to her by the appellant and his family when the children were born. The allegation regarding concealment of date of birth was denied stating that the allegations were levelled only to harass the respondent. However, no reply was given to the averments that photocopy of the matriculation certificate had been shown in which date of birth of the respondent was 16.10.1966.

12. In para-wise reply to the petition, it was mostly written that the allegations in the corresponding para of the petition were specifically denied. However, no defence was set up. At one place, it was mentioned

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that the respondent remained a dutiful wife and did not desert the appellant. She was rather deserted by the appellant. After beating her, she was turned out along with the children.

13. By way of evidence, statement of Madan Lal from Shivalik Public School, Ropar, was recorded as PW1, that of the appellant as PW2 and Karamjit Singh as PW3. Father of the appellant, namely, Harcharan Singh appeared as PW4. Principal of Holy Oak School, Mohali, was examined as PW5, Kulwant Singh as PW6 and Mukhtiar Singh as PW7. The respondent appeared as RW1 and examined her brother Jaswant Singh as RW2, Ranjit Singh, Ex-Sarpanch of village Sandhari Majra, as RW3 and one Sukhdev Singh as RW4.

14. The only witness regarding cruelty other than the appellant was his father Harcharan Singh. No such conduct on the part of the respondent was proved which could be said to be so cruel to make it impossible for the appellant to live with his wife. The affidavit of the appellant was a reproduction of his petition. Making general allegations that the respondent insulted the appellant or reluctantly provided him food, were not enough to successfully plead a case for dissolving the marriage. The appellant stated in his cross-examination that he had got the certificate showing the actual date of birth of the respondent from the school record, but nothing was pleaded or said in evidence as to how he came to know that the date of birth at the time of settling the marriage was wrongly given and why the occasion arose for first seeing the certificate in the school record.

15. Even otherwise, whatever case regarding cruelty the appellant

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wanted to project, would be razed because he condoned all previous acts of cruelty when the compromise in the Lok Adalat happened and the parties started living together. No cruelty later in point of time to that was pleaded. It was stated that in April, 2000, the female child was got admitted in Shivalik Public School, Ropar, but in the first week of May, 2000, the respondent without knowledge of the appellant and/or his family withdrew Tarandeep Kaur from that school and got her admitted in a school in Mohali. Since 30.05.2000 the respondent did not join the company of the appellant and they did not reside together ever since.

16. The ground of cruelty would, thus, not be available to the appellant for seeking divorce.

17. So far as the desertion is concerned, the appellant categorically stated that the respondent had deserted him in May, 2000, whereas the respondent could not show that she had lived with the appellant at any time after that. She admitted in her cross-examination that the daughter of the parties was admitted in Shivalik Public School, Ropar, and she had withdrawn her name from that school and got her admitted in Zam Public School at Mohali. The name of the school was changed to Holy Oak Public School. This was done in May, 2000, as was alleged by the appellant. She, however, cleverly evaded to make any mention of withdrawing from the society of the appellant on 30.05.2000. When this was suggested to her, she replied in the negative. Not even a whisper was made in the cross-examination of the appellant putting to him that the respondent had not deserted him in May, 2000. It is rather evident from the cross-examination

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of the respondent that she had taken her daughter out from the school at Ropar and admitted her in Mohali and also admitted that since May, 2000, when she admitted her daughter in Mohali, she herself was residing in Mohali. Desertion was, therefore, proved. The respondent just for the sake of taking a defence alleged that she had been turned out of her matrimonial home with the children after being beaten up.

18. The cross-examination of the respondent would also reveal that she was not living with the appellant and was not even in touch because she was not aware as to when her husband was promoted as Block Development and Panchayat Officer and admitted that she had not attended the Bhog of Akhand Path relating to the promotion of her husband. She spoke that she did not know when the marriage of her husband's brother Inderjit Singh was performed and she had not participated in the same. She also did not know that her mother-in-law remained admitted in PGI, Chandigarh. She also admitted her signatures on certain documents, i.e. list of articles showing the things taken by her, but she tried to show that those articles were returned after compromise. From the tenor of cross-examination of the respondent, it can be inferred that she admitted having left the company of her husband and had no reasonable explanation for that. It may also not out of place to mention here that the respondent showed total lack of interest in defending the present appeal as she appeared after notice and made a request for grant of interim maintenance, which was allowed. However, thereafter, no one appeared for her for six hearings prior to today. She is evidently not bothered about the result in the appeal.

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19. Since the appellant was able to prove that the respondent had deserted him without any reason, much less sufficient, he is entitled to a decree of divorce.

20. In view of the facts given above, the appeal is accepted. The decree under challenge is, therefore, reversed. The petition filed by the appellant under Section 13 of the Act is allowed granting a decree of divorce in his favour.

(RAJIVE BHALLA)
JUDGE

(NAVITA SINGH)
JUDGE

31.08.2015
Ramesh