

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

**FAO No. M-313 of 2012
DATE OF DECISION :- July 08, 2015**

Sukhwinder Singh

...Appellant.

Versus

Kamaljit Kaur

...Respondent

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present:- Mr. S.S. Rangi, Advocate for the appellant.

Mr. Rajbir Singh, Advocate for the respondent.

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? **Yes**

M.JEYAPPAUL, J.

1. This is an appeal preferred by husband Sukhwinder Singh aggrieved by the dismissal of the petition filed under Section 13 of the Hindu Marriage Act, 1955 praying for dissolution of marriage by passing a decree of divorce.

2. It is the contention of the appellant/petitioner that he solemnised marriage with the respondent Kamaljit Kaur on 11.10.1998 at Mohali as per Sikh rites and ceremonies. The first

child born out of the wedlock expired. Now the couple were blessed with two children out of the wedlock. The petitioner has alleged that the respondent is quarrel some. She is also deaf and as a result of which she has made the life of the petitioner a burning hell. She is unable to cook or to do any domestic work. Whenever the respondent was asked to do the same, she raised hue and cry and used to call her parents, who treated the petitioner in a rude and cruel manner. The petitioner himself has been cooking food and washing clothes. On the day of Diwali (10.11.2007) the petitioner's parents and brothers came along with their maternal uncles and talked to the younger brother of the petitioner and gave merciless beatings to him during the absence of the petitioner. The respondent always threatened to commit suicide and to involve all the members of the family of the petitioner in a false criminal case. She also made an attempt to commit suicide by taking poison. Luckily, she was saved by the doctors. The respondent used to leave the house of the petitioner without his consent. The respondent even manhandled the petitioner several times. The respondent who left the matrimonial house on the next day of Diwali in the year 2007 never turned up. Therefore, the petitioner has sought the relief of decree of divorce on the grounds of cruelty and desertion.

3. The respondent resisted the plea for divorce made by the petitioner on the ground that the petitioner had not approached the Court with clean hands. He started demanding a sum of ₹1 lakh from

her parents. The petitioner and her family members started misbehaving and maltreating her. They also gave beatings on the next day of Diwali in the year 2007. The respondent would also assert that she is well versed in house hold work and had been performing her marital duties from the years 1998-2007. She prayed for dismissal of the petition of divorce.

4. On the side of the petitioner four witnesses were examined and on the side of the respondent, five witnesses were examined.

5. The trial Court having adverted to the evidence on record, rejected the claim for divorce on the ground of cruelty and desertion.

6. Let us first take up the ground of cruelty set up by the appellant to support his plea of divorce. The appellant has contended in the petition that the respondent was not well versed with the house hold work. The learned counsel appearing for the respondent referring to the evidence of PW4 Bhupinder Singh, the friend of the appellant, would submit that his admission during the course of cross-examination disproves such a plea.

7. On a perusal of the evidence of PW4 Bhupinder Singh it is found that he has admitted that the respondent was well versed in house hold work. In fact, she had been preparing food and washing clothes during her stay in the matrimonial home from the years 1998-2007.

8. The above admission made by PW4 Bhupinder Singh who was examined by the appellant to support his case completely belies the stand of the appellant that his wife was not well versed with the house hold work and that she was incapable of preparing food.

9. Even assuming for the sake of arguments that the respondent was not well versed with house hold work and was not capable of preparing food and washing clothes, she had to be trained during the course of matrimonial life. Further, there is nothing wrong for the husband to take up those tasks at home during his leisure time. In the medieval time, one can say that those house hold works were to be performed only by the wife and not by the husband. It appears that such an idea in the mind of the husband had added strain in the matrimonial life.

10. It was submitted by the counsel appearing for the appellant that the respondent made an attempt to commit suicide and she also threatened that she would implicate all the family members of the appellant in a false criminal case.

11. It is to be noted that the appellant has specifically contended in his petition that the respondent who attempted to commit suicide was saved only at the intervention of medical treatment. The fact remains that there is no record, leave alone medical evidence, to establish that the respondent made an attempt to commit suicide. When such an attempt to commit suicide as

alleged against the respondent was not established, it can be safely concluded that such an allegation does not have any semblance of truth. It is the admitted case of both the parties that there was some quarrel during the festival of Diwali in the year 2007. The appellant would contend that the respondent brought in her parents, her brothers and her maternal uncles who gave severe beatings to the brother of the appellant. In the absence of any medical evidence, such a bald allegation cannot be relied upon by the Court of law. To top it all, the brother of the appellant who allegedly received beatings was not examined before the Court to speak about the occurrence.

12. The appellant miserably failed to establish that the respondent committed cruelty which caused mental agony and physical torture to him. Therefore, it is held that the appellant is not entitled to divorce on the ground of cruelty.

13. Coming to the other ground of desertion set up by the appellant, it is the admitted position that there was some quarrel between the spouses during Diwali festival in the year 2007. We have already held based on the evidence on record that the appellant failed to establish that his brother was beaten up by the relatives of the respondent in the quarrel that took place during Diwali festival in the year 2007 by examining his brother or by producing some medical evidence.

14. Merely because the wife has left the matrimonial home, the Court of law cannot conclude that the wife has committed

desertion. If the wife could explain the reason for her departure from the matrimonial home, her absence in the matrimonial home cannot be construed as a desertion.

15. The appellant as well as his friend PW4 Bhupinder Singh have categorically admitted that the appellant never took any steps to get back his wife to the matrimonial home. On account of some quarrel that erupted in the house of the matrimonial home, the respondent has left the house of the appellant. Absence of any efforts on the part of the appellant to take back his wife would go to show that the respondent chose to remain in the parental house as a result of some untoward incident that took place in the matrimonial house. In view of the above, we are of the view that the absence of the respondent from the matrimonial home is explainable.

16. For all these reasons, we find that there is no merit in the appeal. Therefore, appeal stands dismissed.

**(M. JEYAPPAUL)
JUDGE**

**(RAJ RAHUL GARG)
JUDGE**

July 08, 2015

p.singh