

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

**FAO No. 3948 of 2014 (O&M)
DATE OF DECISION :- April 23, 2015**

Yogesh Prabhakar

...Appellant.

Versus

Monika

...Respondent

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present:- Mr. Yogesh Prabhakar-Appellant in person.

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/No

M.JEYAPPAUL, J.

C.M. No. 8178-CII of 2015

1. The application is filed by petitioner Yogesh Prabhakar-party in person under Order 41 Rule 27 read with Section 151 CPC seeking permission to place on record the additional evidence found appended as Annexure P-1 and P-2.
2. The petitioner-party in person suffered a decree of divorce in the petition under Section 13 of the Hindu Marriage Act,

1955 filed by his wife Monika on the ground of cruelty and desertion. The trial Court directed the petitioner-husband vide order dated 24.1.2013 to pay maintenance of ₹5000/- per month pendente lite from the date of the application filed under Section 24 of the Hindu Marriage Act to respondent-wife, besides litigation expenses of ₹7500/-. In spite of several opportunities afforded to the petitioner, he failed to comply with the orders passed under Section 24 of the Hindu Marriage Act, as a result of which his defence was struck off on 8.10.2013.

3. The trial Court having recorded the evidence of respondent-wife and also having restrained the petitioner to lead any evidence in his defence, as his defence was struck off vide order dated 8.10.2013, granted a decree of divorce in favour of the respondent wife herein.

4. The present appeal has been preferred by the petitioner herein not against the order passed under Section 24 of the Hindu marriage Act by the trial Court or against the order subsequently passed by the trial Court striking off the defence of the petitioner herein.

5. The petitioner party in person having contended that his wife who had an earning capacity had suppressed such a fact sought to place on record the above documents relating to the employment of his wife.

6. Inasmuch as the appeal has been preferred not as

against the order passed under Section 24 of the Act, the question of entertaining the present petition under Order 41 Rule 27 does not arise for consideration. Therefore, the application stands dismissed.

FAO NO. 3948 of 2014

1. Appellant Yogesh Prabhakar aggrieved by the decree of divorce granted in favour of his wife Monika, who filed the petition under Section 13 of the Hindu Marriage Act 1955 on the ground of cruelty and desertion, has preferred the present appeal.

2. The respondent-wife in her petition for divorce has contended that the appellant and his family members raised a demand of dowry. Even at the time of marriage they started taunting and harassing her for bringing inadequate dowry. They also taunted and humiliated the respondent saying that the arrival of the respondent in the family of the appellant was not a good omen for their family as the father of the appellant died just after the marriage. The respondent conceived in the year 2004. The foetus was aborted by force as the appellant did not want the child at that time. In the year 2006 the respondent again conceived but she was not provided with basic amenities and had to remain without food many a times. In the month of December, 2006 the appellant and his family members slapped and thrashed the respondent. A child was born on 24.12.2006 out of the wedlock of the respondent with the appellant but the appellant and his family members never visited the child. The appellant contacted the respondent and started abusing and

threatening her on telephone. The respondent was subjected to mental and physical cruelty, it was further contended.

3. The appellant herein set up a defence in the written statement completely denying the above allegations made in the petition. The respondent never informed the appellant about the health of the child. The appellant has prayed for dismissal of the petition filed by the respondent.

4. On the side of the respondent, she was examined as PW1 and her father Om Parkash was examined as PW2. The appellant was not allowed to lead his evidence as his defence was struck off vide order dated 8.10.2013.

5. The appellant party in person vehemently contended that the respondent who was actually in employment, suppressed the said fact and obtained an order for payment of maintenance pendente lite before the trial Court. He also submitted that the respondent has come out with totally contradictory versions. Further, it is his contention that the respondent has come out with wild allegations which were not established before the trial Court.

6. The respondent had filed a petition under Section 24 of the Hindu Marriage act, 1955 before the trial Court praying for maintenance pendente lite from the appellant herein. The trial Court directed the appellant to pay a sum of ₹5000/- per month towards maintenance pendente lite and a sum of ₹7500/- towards litigation expenses. Despite many opportunities afforded to the appellant, he

did not care to obey the orders of the trial Court. The trial Court has rightly struck off the defence of the appellant vide order dated 8.10.2013 and as a result the appellant was restrained from leading any additional evidence to substantiate his defence. In the absence of any evidence in defence on the side of the appellant, the trial Court has rightly relied upon the evidence adduced on the side of the respondent-wife.

7. The respondent has categorically deposed that the behaviour of the appellant was very rude towards her. He also taunted and harassed her for not bringing adequate dowry. The appellant and his mother also declared that the arrival of the respondent in the family was not a good omen for their family as the father of the appellant died just after the marriage. She also deposed that she was forced to abort a foetus by the appellant in the year 2004, as the appellant did not want a child at that time. In the year 2006 when she conceived again no basic amenities were provided to her. She also spoke about the slaps given to her by the appellant. She was ultimately thrown out of the matrimonial home after heaping abuse.

8. The above evidence of PW1 was completely corroborated by her father who was examined as PW2. Further, the evidence of PW1 and PW2 remained without substantial challenge by the respondent who lost his right to challenge the above evidence by way of defence.

9. In our considered view, the trial Court has rightly decided that respondent-wife is entitled to a decree of divorce on the ground of cruelty and desertion committed by the appellant. Therefore, the appeal stands dismissed.

C.M. No. 11980-CII of 2014

The application stands dismissed as infructuous as the main appeal was finally disposed of today.

**(M. JEYAPPAUL)
JUDGE**

**(RAJ RAHUL GARG)
JUDGE**

April 23, 2015

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