

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

**FAO No. 4993 of 2015
Date of Decision: 03.08.2015**

Monika Chaudhary

...Appellant

vs.

Amit Kumar

...Respondent

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.**

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters?
3. Whether the judgment should be reported in the Digest?

Argued by: Mr. Rakesh Gupta, Advocate for the appellant.

Raj Rahul Garg, J.

By way of this appeal Monika Chaudhary-wife assailed the judgment and decree dated 14.07.2015, rendered by Dr. Abdul Majid, (Additional District & Sessions Judge), District Judge (Family Court), Ambala; whereby petition filed under Section 12 of the Hindu Marriage Act seeking annulment of her marriage with Amit Kumar son of Amar Singh was dismissed with costs.

Appellant-wife sought the annulment of her marriage which was solemnized with Amit Kumar on 27.07.2012 at Nahan (Himachal Pradesh) in the office of Pandit Ganesh Nath Sharma, on the ground that the marriage

was without any ceremony and even there was no *Havan Kund* and no relatives of the parties were present; that the said marriage was performed without her consent and by playing fraud and force upon her; that she was allured by the respondent-husband who hatched the conspiracy and took her signatures on some blank papers under threat to eliminate her parents and further that respondent-husband projected himself a Civil Engineer whereas he is a matriculate. On the other hand, appellant is B.A., B.Ed. It is also the plea of the appellant that they lived as husband wife but respondent took her to Police Line to seek police protection. Even he called one advocate from Nahan and obtained her signatures on blank papers and register. Thereafter, he caused her physical and mental cruelty and took her consent under threat and pressure. The respondent got her admitted in an institute at Jagadhri, from where she called her mother and could free herself from the clutches of the respondent.

On the other hand, it is the case of the respondent-husband that appellant-Monika Chaudhary married with him as per Hindu rites and ceremonies without any threat or pressure as the parties were in love with each other for the last several years. The marriage was duly consummated at Nahan and thereafter they shifted to Yamuna Nagar. As parents of both the parties were against this marriage, so they filed protection petition in the court at Yamuna Nagar and sought police protection. When petitioner-Monika Chaudhary was pregnant, her parents forcibly took her illegally from the coaching institute without informing him and in conspiracy with her family members, got the pregnancy aborted. For which he filed a complaint against them in the court at Yamuna Nagar. The respondent also filed a petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of

conjugal rights, at Yamuna Nagar. It was pleaded that the marriage was performed by Pandit Ganesh Nath Sharma. The respondent denied each allegation levelled against him. Petitioner had married to him out of her free will. The petition has been got filed by the parents of the petitioner under pressure. From the very beginning, petitioner knew that respondent had studied upto 10+2. After the marriage, they resided at Nahan for about a week as husband-wife. Thereafter, they came to Yamuna Nagar. On these grounds, dismissal of the petition was prayed for by the respondent.

On the pleadings of the parties, following issues were framed:

- 1. Whether the petitioner is entitled for decree of nullity of marriage under Section 12 of the Hindu Marriage Act on the grounds taken in the petition? OPP*
- 2. Whether the petition is not maintainable? OPR*
- 3. Relief.*

After taking oral as well documentary evidence of both the parties and hearing both the sides, the learned trial court decided the case against the appellant-Monika Chaudhary.

Aggrieved by the aforesaid judgment of the learned trial court, the appellant-wife came up in appeal before this Court. As per the case of both the parties, they got married on 27.07.2012 at Nahan in the office of Pandit Ganesh Nath Sharma. Mainly, the appellant-petitioner has sought the annulment of the marriage on the ground that the marriage was without her consent. In fact, her consent was obtained under threat and pressure. It is nowhere pleaded, not proved, as to what kind of threat was given to her at the time of performance of marriage. The argument of learned counsel for the appellant-petitioner that the threat given was to the effect that otherwise

he would eliminate the parents of the appellant is not sustainable as after the marriage appellant-petitioner stayed with respondent as husband-wife at different places. The appellant-petitioner as PW-1, during the course of cross examination (as mentioned in the impugned judgment), stated that they stayed at Nahan for 2/3 days. From there they had gone to Laksar and stayed there for one and half month. She took admission in an institute situated near Bus Stand, Jagadhri for IELTS course and took coaching for 4 days only. She also deposed that they lived at Yamuna Nagar for about a month or twenty days. Thus, during this period, she did not take any step to disclose the people coming in her contact that respondent has played fraud upon her or that her marriage is a forcible affair and that she never wanted to live with him. Above all, appellant-petitioner emphatically denied having filed any protection petition or affidavit in the court. She also denied that her statement was recorded in the court at Yamuna Nagar on 04.10.2012 in the protection petition. She also denied that her parents, brothers and maternal uncles also made statements before the court on 13.10.2012. However, ultimately, she admitted certified copies of affidavit Ex. R1; joint statement Ex. R2; order dated 04.10.2012 Ex. R3; statement of maternal uncles Ex. R4; joint statement of her parents and brothers Ex. R5; her joint statement along with respondent Ex. R6.

Thus, with these documentary evidence on file, coupled with statement of respondent-Amit Kumar RW-1, Shiv Kumar, Record Keeper who brought the summoned record of protection petition to the court and further with the statement of RW-3 Sh. S.S. Rampur, Advocate, District Court, Jagadhri; it stands proved on the file that appellant-petitioner as well her husband respondent-Amit Kumar filed protection petition in the court at

Jagadhri in which police protection was allowed to them. At that time, the parents, uncles of petitioner were also present. Their statements were also recorded. Even the statement of appellant-wife was also recorded in the court. At that time, she could well disclose the factum of marriage without consent or under threat or pressure to the court. Rather she suffered statement in the court to the effect that she and respondent had performed the marriage against the wishes of their parents. They also have apprehension of their lives. They may be provided police protection. With this evidence on the file, it cannot be said that the appellant-petitioner did not give consent to this marriage or that her consent was obtained under pressure or threat.

The next argument of learned counsel for the appellant that the essential ceremonies of the marriage was not performed at the relevant time or that there was no *Havan Kund* etc., is also not sustainable as there is specific mention that the marriage of the parties took place in the office of Pandit Ganesh Nath Sharma. Appellant-petitioner did not examine him as witness. Otherwise also, there is no material on the file to show that the essential ceremonies of the marriage had not taken place at the relevant time or that there was no *Havan Kund*. Simple oral averment is not enough to discard the documentary evidence available on the file. In fact, appellant-petitioner herself admitted the factum of her marriage with the respondent and further that the marriage was duly consummated and further that she stayed with respondent at Nahan, Laksar and Jagadhri. As such there is not even an iota of evidence, available on record, so as to show that the consent of appellant-petitioner was obtained by force or by fraud as to the nature of ceremony or as to any material fact or circumstance concerning the

respondent.

No other point was urged before us.

For the reasons mentioned above, finding no merit in this appeal, we do not find it a fit case for issuance of notice of motion to other side. As such, this petition is dismissed.

(M. Jeyapaul)
Judge

(Raj Rahul Garg)
Judge

03.08.2015.
Waseem