

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.M-126 of 2014.

Date of Order: 30.09.2015

Rohit Sethi

..Petitioner

Versus

Raini Sethi

..Respondent

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MS. JUSTICE REKHA MITTAL

Present: Mr. D.S.Brar, Advocate,
for the appellant.
Mr. C.M.Munjhal, Advocate,
for the respondent.

RAJIVE BHALLA, J (Oral)

The appellant, challenges judgment dated 20.01.2014, passed by the District Judge, Faridkot, dismissing his petition filed under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the 1955 Act').

Counsel for the appellant-husband, submits that a perusal of the pleadings and the evidence on record reveals that the appellant levelled allegations of cruelty and desertion. The trial court has rejected both sets of allegations, but without a clear and cogent consideration of the pleadings and the evidence. Counsel for the appellant further submits that even a perfunctory perusal of the evidence reveals that the respondent deserted the appellant without any just cause. The appeal may, therefore, be allowed on the ground of desertion and marriage between the parties may be dissolved by grant of a decree of divorce.

Counsel for the respondent states that the respondent vehemently denies the allegations regarding cruelty but has upon a

reconsideration of the pleadings and the evidence, agreed to admit the allegation of desertion.

We have considered the submissions made by counsel for the respondent but in order to rule out any collusion between the parties, directed parties to file their respective affidavits, which are taken on record as Mark "X" and "Y". The affidavit filed by Raini Sethi wife of Rohit Sethi, daughter of Rajan Sachdeva, reads as follows:-

- "1. That I accept the grounds of desertion as taken by appellant in divorce petition.*
- 2. That I will have no objection in case divorce is granted on this ground.*
- 3. That I am ready to accept permanent alimony for past, present and future expenses as fixed by this Hon'ble Court."*

The appellant has also filed an affidavit. A relevant extract from the affidavit particularly with respect to payment of permanent alimony and custody of the minor child of the parties read as follows:-

- "3. That the plaintiff/appellant has already paid Rs.five lacs of which an FDR is made in the name of Kriti Sethi daughter of the appellant and respondent, at State Bank of Patiala, Faridkot KNG School, by the order of this Hon'ble Court. It may be ordered to be modified and made in the name of the defendant/respondent (Raini Sethi) or a demand draft be made in her name. The balance amount of Rs.Fifteen lacs is being paid in court today by way of Bankers Cheque No.292648 dated 28.9.2015 of*

State Bank of Patiala, Faridkot KNG School as it has been settled between the parties that Rs.Twenty Lacs in total is to be paid as permanent alimony for grant of divorce to the plaintiff/appellant by the defendant/respondent.

4. *That the only child of the parties namely Kriti Sethi will remain with the father plaintiff/appellant as settled and the mother defendant/respondent shall not claim her custody in future.*
5. *That the defendant/respondent will not initiate any civil/criminal legal proceedings against the plaintiff/appellant and his family members in any manner after this final settlement.”*

We have heard counsel for the parties, considered the pleadings, the evidence on record, the affidavits filed in Court today, and after interaction with the parties, are of the considered opinion that respondent has admitted the allegation of desertion without any coercion, fraud, collusion or undue influence. An appraisal of the pleadings and the evidence, reveal that the trial court did not consider the plea of desertion with any degree of seriousness. The parties have been living apart since 2006 and as the respondent is unable to put forth any justification for living apart, set aside judgment dated 20.01.2014, insofar as it rejected the plea of desertion. As regards the question of permanent alimony, the respondent, who is present in Court, admits that she has received Rs.20,00,000/- (Twenty lacs) as permanent alimony, i.e. Rs.15,00,000/- by way of demand draft No.292648, dated 28.09.2015, in the name of Raini Sethi, the respondent and Rs.5,00,000/- by way of FDR (A/c No.65225184932, dated 11.02.2015) made in the name of Kriti Sethi

UGS Raini Sethi, minor daughter of the parties. The State Bank of Patiala, Faridkot KNJ School K.N.Jain School, Faridkot, shall modify the FDR from the name of Kriti Sehti UGS Raini Sethi to the name of Raini Sethi.

The respondent shall not claim any amount towards maintenance, permanent alimony or any other similar or such amount. The respondent shall not claim the custody of the minor. The custody of the minor shall remain with the appellant but the appellant will be bound to allow the minor to visit the respondent at her house on the first Saturday of every month between 2.00 PM to 4.00 PM. The parties shall be bound by their respective affidavits.

Liberty is granted to parties to approach this Court in case of any modification regarding visitation rights.

In view of what has been recorded hereinabove, the appeal is allowed, the judgment and decree dated 20.01.2014, passed by the District Judge, Faridkot, is set aside and marriage between the parties is dissolved by grant of a decree of divorce.

Decree sheet be drawn up accordingly.

(RAJIVE BHALLA)
JUDGE

September 30, 2015
nt

(REKHA MITTAL)
JUDGE