

In the High Court of Punjab and Haryana at Chandigarh

**FAO No. M-138 of 2014
Date of Decision: 22.9.2015**

Manmohan Singh

---Appellant

versus

Harpreet Kaur

---Respondent

**Coram: Hon'ble Mr. Justice Rajive Bhalla
Hon'ble Mrs. Justice Rekha Mittal**

**Present: Mr. Mohd. Salim, Advocate
for the appellant**

**Mr.G.S.Dhaliwal, Advocate
for the respondent**

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

Rekha Mittal, J.

The present appeal has been directed against the judgment and decree dated 22.1.2014 passed by the Additional District Judge, Patiala (for short- “trial court”) whereby the petition filed by Manmohan Singh (appellant herein) for grant of a decree of divorce under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as “HMA”) has been dismissed.

Present litigation is the result of three months' marital association of the parties who performed their marriage on 7.3.2011

according to Sikh rites at Jalandhar and are living separately since 20.6.2011. No child was born out of this wedlock. The appellant-husband has prayed for a decree of divorce on the ground of cruelty. The main allegations set out in the petition are that the respondent is a divorcee and was earlier married at Moga. Her parents did not show any decree of divorce passed by the court dissolving earlier marriage of the respondent. From the very beginning of the marriage, the respondent started compelling the appellant to live separately from his parents or to live at Jalandhar in her parental house. When the appellant refused to accept her demand, she started quarelling with him and his other family members on petty matters. She refused to prepare and serve tea and food to the guests and friends of the appellant. She used to insult, hurt and humiliate the appellant by calling bad names. The respondent, her parents and relatives made false complaints against the appellant to the police and Punjab State Human Rights Commission at Chandigarh. The respondent is a quarrelsome lady and treated the appellant with cruelty. She lived in the house of the appellant till 19.6.2011 and thereafter did not resume cohabitation.

The respondent filed the written statement and, in turn, denied all the allegations on the basis whereof, the appellant has sought to plead cruelty on her part. It is, inter alia, averred that documents with regard to divorce of the respondent with her earlier husband were handed over to the appellant before he gave his consent for marriage with the respondent. The answering respondent was maltreated and was given beatings due to demand of dowry despite the fact that sufficient dowry was given at the time of marriage. She was locked in a room and was got liberated with the

intervention of her parental family members and local police to whom information was given by the answering respondent through her mobile phone. The police recorded statements of the parties wherein the appellant and his family members admitted their fault and apologized not to commit any act of cruelty in future. The medical report and the order passed by the Human Rights Forum clearly shows that it was the appellant and his family members who had treated the respondent with cruelty. The appellant is trying to take benefit of his own wrong which is not permissible under law.

The appellant filed replication re-asserting his stand set up in the petition while controverting the averments raised in the written statement.

The controversy between the parties led to framing of following issues by the learned trial Court:-

1. Whether the respondent has treated the petitioner with cruelty? OPP
2. Relief.

The trial court permitted the parties to lead evidence in support of their respective claims. The appellant-husband appeared in the witness box and examined his father Baldev Singh PW-2 and Joginder Singh PW-3. To rebut the evidence, the respondent appeared as her own witness.

The learned trial court after hearing counsel for the parties and bestowing its thoughtful consideration to the evidence on record, determined the aforesaid issue against the appellant-husband and as a consequence, the petition was dismissed.

Feeling dissatisfied with the verdict of the learned trial court,

present appeal has been preferred by appellant-Manmohan Singh.

Counsel for the appellant has submitted that the respondent did not prove to be an obedient wife during her short stay in the matrimonial home. She persistently insulted and humiliated the appellant-husband. She wanted the appellant-husband to live separate from his parents or to live in her parental house at Jalandhar and on his refusal to accept her unwarranted demand, the husband had to face lot of mental agony due to mis-conduct of the respondent who had been quarelling with the appellant and his family members on petty matters and had even gone to the extent of refusing to prepare tea and meals for the guests and friends of the appellant. Above all, the respondent and her family members made complaints to the police and Punjab State Human Rights Commission levelling false allegations against the appellant and his family members. In addition, it is submitted that as the respondent has been staying away from the matrimonial home since three months after marriage and thus denying the appellant of his conjugal rights, she is guilty of treating the appellant with cruelty.

Counsel for the respondent, on the other hand, would submit that the appellant is a guilty spouse and cannot be allowed to take advantage of his own wrong. The learned trial court, on a detailed consideration of the allegations set up in the petition, when examined in the light of evidence on record, has categorically held that the appellant has failed to substantiate his plea that the respondent is guilty of bestowing cruelty towards the appellant which can form the basis for grant of decree of divorce. The appellant filed petition under Section 9 of the HMA seeking restitution of conjugal rights but for the reasons best known, the said petition was withdrawn. The

respondent made a complaint to the police and to the Punjab State Human Rights Commission in regard to physical and mental torture caused to her and in those proceedings, compromise (Ex. R-1) was effected between the parties wherein the appellant and his family members confessed their guilt and agreed to treat the respondent properly. It was also recited in the compromise that the respondent had gone to her parental house for a week with the consent of her in laws family members but thereafter, the appellant and his family members never made any effort for bringing her back to the matrimonial home. The very fact that the appellant withdrew the petition filed under Section 9 of the HMA speaks volumes that the appellant himself is guilty for separate living of the parties since June 2011.

We have heard counsel for the parties and perused the records.

The word 'cruelty' has not been defined in the HMA. Cruelty, no doubt, can be mental or physical or both. Cruelty is the cumulative effect of the conduct of a person which adversely affect the other. A plain reading of the allegations set up in the petition would make it apparent that there is no allegation worth consideration that the respondent-wife treated the appellant-husband with cruelty. The learned trial court in para 13 of the judgment has dealt with each of the allegations in minute details and arrived at a conclusion that the appellant had failed to substantiate any of the allegations raised in the petition. There is no dispute that the respondent or her family members made complaints to the police and to the Punjab State Human Rights Commission with regard to an occurrence which allegedly took place on 19.6.2011. As per allegations, the respondent was beaten up by the appellant and she was locked in the house. Concededly,

dispute between the parties was settled with intervention of the local police and the settlement dated 20.6.2011 was reduced into writing. The said writing (Ex. R-1) is proved on record. A reading of contents of Ex. R-1 speaks a lot in favour of the respondent and against the appellant. The appellant and his parents agreed not to give beatings to the respondent nor taunt her for dowry articles. It was also agreed that Baldev Singh father-in-law of the respondent would not forcibly take her salary and the respondent may voluntarily give her salary to her in laws parents. It was further agreed that the respondent would go to her parental home for one week with the consent of her in laws family members.

The compromise deed dated 20.6.2011 goes a long way to falsify plea of the appellant that the respondent is guilty of treating him with cruelty or depriving him of his conjugal rights by staying away from the matrimonial home since 20.6.2011. The appellant has failed to adduce any satisfactory much less cogent and convincing evidence to prove any attempt on his part to bring his wife back to the matrimonial home. Admittedly, the appellant filed a petition under Section 9 of the HMA seeking restitution of conjugal rights which was duly replied by the respondent but the same was later withdrawn for the reasons best known to the appellant. The conduct of the wife that had been complained of appears to be neither grave nor weighty to constitute cruelty for grant of decree of divorce. Any normal bear and tear of family life, in our considered opinion, can never be the foundation for dissolving marital ties. In this view of the matter, we do not find any error much less illegality in the judgment passed

by the learned trial court.

For the reasons aforesaid, finding no merit, the appeal is dismissed leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

(Rajive Bhalla)
Judge

22.9.2015

PARAMJIT