

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

FAO No. M-193 of 2011

DATE OF DECISION :- July 13, 2016

Kulwant Kaur

...Appellant

Versus

Resham Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MRS. JUSTICE SNEH PRASHAR

Present:- Mr. Sherry K. Singla, Advocate for the appellant.

M.JEYAPPAUL, J.

1. Heard the submissions made by learned counsel appearing for the appellant.
2. Appellant-wife has challenged the decree of restitution of conjugal rights granted in favour of the respondent under Section 9 of the Hindu Marriage Act by the trial Court.
3. During the pendency of the appeal, appellant expressed her desire to join the respondent-husband in terms of the decree passed under Section 9 of the Hindu Marriage Act. Appellant in fact initiated separate criminal proceedings under Section 125 Cr.P.C. seeking maintenance from the respondent. It was informed to the Court that the respondent in fact absconded in the proceedings under Section 125 Cr.P.C. initiated by the appellant.
4. As it was brought to our notice that the respondent refused to

pay even a pie to the appellant towards maintenance, we directed the respondent to bring a demand draft for a sum of ₹1 lac towards maintenance as ordered by criminal Court in the proceedings under Section 125 Cr.P.C. The respondent did not comply with the directions of this Court, as a result of which the defence of the respondent was struck off by virtue of the order passed by this Court on 4.5.2016.

5. None appeared today for the respondent. Appellant has unambiguously stated that she is prepared to join the respondent. But the respondent has virtually absconded refusing to pay the maintenance as ordered by the criminal Court. The direction issued by this Court to pay maintenance was scrupulously not adhered to by the respondent. No argument was advanced on the side of the respondent as none was present today for the respondent.

6. In the above facts and circumstances, we are of the considered view that respondent is not entitled to a decree of restitution of conjugal rights as he is not prepared to pay maintenance nor has he appeared before this Court to take the wife who agreed to go along with him.

7. In view thereof, the decree of restitution of conjugal rights passed in favour of the respondent stands set aside and the appeal is consequently allowed.

(M. JEYAPPAUL)
JUDGE

(SNEH PRASHAR)
JUDGE

July 13, 2016
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