

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**FAO-M-283-2012 (O&M).  
Date of Decision: 20.09.2016.**

Gurinderjit Singh

....Appellant.

VERSUS

Gurpreet Kaur

....Respondent.

\*\*\*

**CORAM : HON'BLE MR. JUSTICE M. JEYAPPAUL  
HON'BLE MRS. JUSTICE SNEH PRASHAR**

**Present:** Mr. B.S. Bhalla, Advocate for the appellant.

Mr. R.S. Sekhon, Advocate for the respondent.

\*\*\*\*

**SNEH PRASHAR, J.**

This appeal is directed against the judgment dated 11.10.2012 passed by learned Additional District Judge, Ferozepur, vide which the petition under Section 13 of the Hindu Marriage Act, 1955 (for short, "the Act of 1955") for dissolution of his marriage with respondent-Gurpreet Kaur by a decree of divorce, filed by the appellant-husband, was dismissed.

Precisely, the averments of the appellant (petitioner) were that his marriage with the respondent-wife was solemnized on 22.03.1995 according to Sikh rites i.e. by way of 'Anand Karaj' ceremony at village Kasuana, Tehsil Zira, District Ferozepur. After marriage, they lived together as husband and wife and out of the wedlock two sons, elder Gursimran Singh and younger Gursangeet Singh, were born 24.03.1996 and 10.07.2001 respectively. Gursimran Singh was taken in adoption by his

sister and was presently residing with her in Australia whereas Gursangeet

Singh was residing with him. After marriage, the respondent lived with him for eight months and then left his company without any reasonable cause. With the intervention of respectables of the village, she returned to the matrimonial home in the year 2000 and lived there upto 2004. Ever since 2004 till date she was residing in her paternal home in village Kasunana.

The appellant further pleaded that from the very inception of marriage, behaviour of the respondent was quarrelsome and humiliating towards him and his family members. She did not like doing household work i.e. cooking or cleaning utensil etc. and wanted his mother to do the said jobs. For the sake of maintaining peace in the family, he kept tolerating her harsh attitude but the same was deteriorating day by day. She insisted on purchasing a separate house and for sale of the land of his father so that they could live separate from his parents. When he did not agree, she threatened to involve him and his family members in false dowry case to teach them a lesson. Her behaviour was so cruel and abusive that he apprehended danger to his life and to the life of his family members. He feared that she could administer some substance of poison to any of them in the food. Submitting that the respondent had withdrawn from his society without any reasonable cause for a continuous period of more than six years and had refused to rejoin him despite his repeated efforts to bring her back, which had led to irretrievable break down of the marriage, the appellant prayed for a decree of divorce.

The respondent contested the petition raising preliminary and legal objections with regard to maintainability of the petition and suppression of material facts by the appellant. She pleaded that her father spent huge amount i.e. approximately Rs.10 lacs on her marriage and gave

gold ornaments weighing about 40 tolas, Rs.2,50,000/- in cash for purchase of car, a Hero Honda motorcycle and other valuable articles. However, the appellant and his family members were not satisfied with the dowry and immediately after marriage they started harassing and torturing her for bringing more dowry from her father in the shape of cash of Rs.5 lacs. Pressurizing her to fulfill their demand, they had many a times thrown her out of the matrimonial home. Their greed increased day by day and her life became hell. She specifically denied that she had ever left the company of the appellant, had misbehaved with him or anyone in his family or had insisted for a separate house and submitted that besides demand for cash amount after the death of her father in 2006, the appellant and his family members started demanding her share in the immovable property left by her father and threatened to kill her if she was unable to get the same. When she refused to take the share, she was given merciless beating and was thrown out of the matrimonial home in December, 2008 in three wearing clothes. Her mother and brother convened Panchayat but to no effect. The appellant intended to contract second marriage and in order to save himself from the criminal litigation, he had filed the present petition. Last, but not the least, she expressed desire to live with the appellant provided he does not demand dowry or share in the property of her father.

On the basis of the pleadings of the parties, following issues were settled:-

- (1) Whether the respondent has deserted the petitioner without any sufficient cause and excuse? OPP.
- (2) Whether the respondent has treated the petitioner with cruelty? OPP.

- (3) If issues No.1 and 2 are proved, whether the petitioner is entitled to the decree of divorce? OPP.
- (4) Whether the petition is not maintainable? OPR.
- (5) Relief.

In order to substantiate his case, the appellant himself stepped into the witness box as PW1 and examined his father Gurnek Singh as PW2 and Major Singh as PW3. On the other hand, respondent herself stepped into the witness box as RW1 and examined her brother Dilbagh Singh as RW2 and Gurpartap Singh as RW3.

Considering the evidence led by the parties and the arguments addressed on their behalf, learned trial Court finding that the appellant is not entitled to decree for divorce, dismissed the petition.

Feeling aggrieved by the judgment dated 11.10.2012, the appellant preferred the instant appeal.

We have heard the submissions made by Mr. B.S. Bhalla, learned counsel representing the appellant and Mr. R.S. Sekhon, learned counsel representing the respondent and perused the record.

The appellant had sought dissolution of his marriage with the respondent on two grounds (i) that he and his family members had been treated with cruelty at the hands of the respondent; and (ii) that he had been deserted by the respondent without any reasonable cause for the last more than two years preceding presentation of the petition for divorce. Learned counsel for the appellant argued that all allegations of the appellant relating to cruel and harsh behaviour of the respondent towards him and his family members were reiterated by him on oath through his affidavit Ex.PW1/A

when he appeared in the witness box. His testimony was corroborated by his

father Gurnek Singh-PW2 and Major Singh-PW3 an independent witness. They all unequivocally deposed that from the very beginning of the marriage the behaviour of the respondent had been quarrelsome, humiliating and insulting towards the appellant and his family members. She never wanted to do household jobs and also wanted him to live separate from his parents though his parents were very old and he was their only son who could take care of them. Referring to the statement of RW3 Gurpartap Singh, resident of the village of respondent, learned counsel pointed out that the said witness admitted that lot of quarrels had taken place between the appellant and the respondent and that the relation between them had become strained and they cannot live together. He also admitted that the appellant is looking after his old aged parents and there is no one else to look after them and that the respondent is living away from him since 2004 and has deserted him since the said year. The witness further admitted that the appellant apprehends danger to his life at the hands of the respondent. Learned counsel emphatically asserted that from the deposition of the witness of the respondent herself, the grounds of cruelty and desertion, on which the appellant has sought dissolution of his marriage, stand established.

The arguments of learned counsel for the appellant at the face may appear to be attractive but are neither convincing nor meritorious. All generic allegations relating to behaviour and conduct of the respondent were levelled by the appellant. Not a single specific instance with date, month or year could be narrated by him which could promote his allegation that the respondent was a hot tampered quarrelsome lady, was a household work shirker or had displayed such act and conduct which could substantiate the fear of the appellant that she could administer poison to him in food and that

living with her under the same roof would prove dangerous to him and his family members. In fact, PW2 Gurnek Singh, father of the appellant, falsified the allegations levelled by him. In his cross-examination, he admitted that the respondent had never quarreled with him. He also admitted that when approximately after eight months of marriage, his daughter-in-law (respondent) had left the matrimonial home, at that time she had not quarrelled with anyone. Further that when the respondent came to know that her son, adopted by her sister-in-law (Nanad), was being taken to Australia, she came to her matrimonial home alongwith 4-5 persons and stayed with them for about one month. It was not his version that at that time the respondent had raised any kind of quarrel with anyone. Rather, as admitted by the appellant, all formalities for sending their son to Australia were completed by him and the respondent jointly, which means she fully cooperated with him in all matters.

The other plea of the appellant was that the respondent insisted him to live separate from his parents, but at the same time he himself stated that being the only son of his old parents he did not accede to her proposal and that means that the appellant and the respondent continued to live with his parents. Contradicting the testimony of the appellant, his father PW2 Gurnek Singh stated that out of the five months when the respondent and his son lived with him after marriage, they resided separate from him for about three months. The statement of PW2 Gurnek Singh is inconsistent in itself. At the first instance, he stated that the respondent left the matrimonial home after eight months of marriage but later he stated that she alongwith the appellant lived for five months in the matrimonial home out of which three months they lived separate. He could not state when or on what occasion the

respondent raised demand for separate residence which had to be accepted by him or his son. He also did not state that after the respondent returned to the matrimonial home she and the appellant had lived separately. The discrepant statement of the appellant and his father leaves no scope to believe their allegation that the respondent had ever insisted for living separate from the parents-in-law.

It appears to be a misconception that PW3 Major Singh, resident of the village of the appellant, had corroborated the pleas of cruelty and desertion raised by the appellant against the respondent. The affidavit filed by PW3 may contain the deposition which the appellant wanted him to make, but on being cross examined, he stated that he had never seen the appellant and the respondent quarrelling with each other. According to him, after marriage the respondent lived with the appellant for some time and then left the house. Subsequently, she came and lived with the appellant for about 2½ years in the matrimonial home. He added that he had never been informed or told by the appellant that the respondent wanted to live separately and that in his presence the respondent had never compelled the appellant to sell his land. In that manner, all the allegations raised by the appellant against the respondent were falsified by PW3.

In his pleadings, the appellant did not mention the date or month on which the respondent had left the matrimonial home. He stated that since 2004, the respondent was residing at her parental home. His said plea was also proved to be false because as admitted by the appellant his son, adopted by his sister, was taken to Australia in the year 2008. PW2 Gurnek Singh stated that the respondent had come to the matrimonial home

appellant also admitted that all required formalities were completed by him and the respondent jointly for sending their son to Australia with his sister. As such, according to the appellant also, in 2008 the respondent was living with him. That supports the plea of the respondent that she was turned out of the matrimonial home in December, 2008. She deposed that she was given severe beatings and was thrown out of the matrimonial home. There may not be any medical evidence to corroborate her version, but there is also no reason to disbelieve her when it is apparent that the appellant had presented wrong facts on all material aspects.

As regards testimony of RW3 Gurpartap Singh, the witness stated that there had been lot of quarrel between the appellant and the respondent and that their relations were strained but simultaneously when it was put to him he admitted that he had stated in his affidavit that the appellant had been beating the respondent mercilessly during her stay with him. It is obvious that the appellant may not have given beatings to the respondent in his presence but he stated that in the year 2006 after the death of father of the respondent, the appellant and his family members openly demanded share of the respondent in the immovable property left by her father and threatened to kill her and not allow her to live peacefully unless she claimed her share in the property of her father. RW3 stated that when the respondent refused to comply with their demand, she was given merciless beatings and was thrown out of the matrimonial home in wearing clothes.

Importantly, the appellant himself suggested to RW2 Dilbagh Singh, brother of the respondent, that there had been lot of dispute between the appellant and the respondent regarding beatings. Also that the relations



between the parties became strained due to the beatings given to the respondent by the appellant. The suggestions given by the appellant by itself prove that because of his wrong doings, the respondent was forced to leave the matrimonial home. In any case, as observed above, the version of the appellant that the respondent was living away from him since 2004 was proved to be wrong.

In the above premise, it is clear that through the evidence led by the appellant he could neither prove that the respondent had treated him with cruelty nor could prove that the respondent had deserted him without any reasonable cause.

Thus, there being no merit in the appeal, we hereby dismiss the same.

**(M. Jeyapaul)**  
**Judge**

**(Sneh Prashar)**  
**Judge**

**20.09.2016**  
*jitender*

Whether speaking/ reasoned : Yes

Whether Reportable : Yes