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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-M No.54 of 2016 (O&M)
Date of Decision: 16.03.2016

Subhash

.....Appellant

Vs

Nisha

.....Respondent

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL
HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. Mandeep Singh Sodhi, Advocate
for the appellant.

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

RAJ MOHAN SINGH, J.

[1]. Husband is in appeal against judgment and decree dated 09.12.2015 passed by Additional District Judge, Ferozepur granting decree of divorce under Section 13 of Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act') in favour of wife.

[2]. Respondent-Nisha wife of Subhash (appellant) filed petition under Section 13 of the Act for seeking decree of divorce by dissolution of marriage between the parties. Respondent alleged that her marriage was solemnised with the

appellant in November 2003 according to Sikh rites. Both husband and wife cohabited with each other, but no child was born out of their wedlock.

[3]. From the very inception of marriage, the respondent came across that Police was raiding the house of the appellant daily as he was a drug addict. Presently appellant is lodged in Central Jail, Ferozepur in case bearing FIR No.63 dated 21.03.2010 and FIR No.194 dated 17.09.2009. The respondent felt mental agony and torture at the hands of the appellant.

[4]. Respondent worked hard to earn her livelihood by doing domestic work in various houses and also spent amount on litigation of the appellant, however appellant was not satisfied and used to beat the respondent. Father of the respondent had expired and her mother was also a domestic servant. The respondent has two brothers to be looked after along with her mother. The appellant deserted respondent for a period of more than three years.

[5]. The respondent was treated with mental and physical cruelty and ultimately petition under Section 13 of the Act came to be filed at the hands of the respondent. Though the petition was contested, however, the involvement of the appellant in criminal cases and his lodging in Central Jail, Ferozepur was not denied. The appellant maintained that he would keep the

respondent-wife with him, but the conduct and circumstances were not conducive for such a course.

[6]. Both the parties went to the trial on the following issues:-

- “1. Whether there are sufficient grounds for dissolution of marriage between the parties by passing decree of divorce? OPP*
- 2. Whether the petition of the petitioner is not maintainable in the present form? OPR*
- 3. Relief.”*

[7]. Respondent-wife had adduced oral as well as documentary evidence. On the other hand husband despite availing number of opportunities could not lead any evidence. Even last opportunity was granted to him with costs. Due to non-payment of cost, evidence of the appellant was struck off vide order dated 09.11.2015. Thereafter case was considered on the basis of evidence led by the respondent-wife. The petition was accepted and a decree for divorce dissolving the marriage between the parties was passed. Hence, the present appeal.

[8]. We have heard learned counsel for the appellant.

[9]. The evidence led by the respondent went unrebutted inasmuch as that the raids conducted by the Police in the house of the appellant and his involvement in criminal cases were the

admitted facts. Even as of now, appellant is undergoing sentence in criminal cases.

[10]. Since the appellant is found to be an addict person having involved in narcotics, is undergoing sentence, in considered opinion of this Court, the conduct of the appellant amounts to mental agony and torture to the respondent-wife. The evidence led by the respondent in the shape of depositions of Jagir Singh (Uncle) PW-1, Gurwinder Singh- PW-2, Herself as PW-3 and Shimla Rani-PW-4 went unrebutted and factum of involvement of appellant in narcotics and undergoing sentence remains unrebutted and unchallenged on record.

[11]. In view of material on record, no exception can be carved out except to endorse the findings recorded by the trial Court.

[12]. In view of aforesaid, this Court does not find any substance in the appeal and the same is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

March 16, 2016

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(M. JEYAPPAUL)
JUDGE