

FAO-M-257-2013

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

FAO-M-257-2013

Date of Decision: 28th November, 2017

Jasbir Kaur

...Appellant

Versus

Harinder Singh

...Respondent

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. K.S. Chahal, Advocate
for the appellant.

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

M.M.S. BEDI, J.(ORAL)

Both the parties are present in Court alongwith their respective counsel. An attempt has been made for reconciliation. The appellant has submitted that for the sake of minor child born out of the wedlock, she is ready to resume cohabitation. We have also heard the respondent-husband, who has obtained decree of restitution of conjugal rights under Section 9 of the Hindu Marriage Act. Respondent has stated that he has filed a petition for divorce and has no intention to resume cohabitation. His statement in this regard has been recorded.

In view of the statement made by the respondent-husband that he has filed a divorce petition and has no intention to resume cohabitation, his claim under Section 9 of the Hindu Marriage Act is apparently

FAO-M-257-2013

camouflage and is a mode of defence in the proceedings including criminal proceedings initiated by the appellant-wife. It has also been informed that the respondent-husband has been convicted in the criminal proceedings under Sections 406 and 498-A of the Indian Penal Code.

In view of the said circumstances, the impugned judgment and decree dated 23.11.2012 obtained by the respondent under Section 9 of the Hindu Marriage Act, deserves to be set aside as the impugned decree has been obtained without any intention to execute the same.

The appeal is allowed. The impugned judgment and decree dated 23.11.2012 is set aside on the basis of the statement made by the respondent-husband in the Court today. Decree sheet be prepared accordingly.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

28th November, 2017
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No