

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. M-195 of 2015 (O&M)

Date of decision: 08.08.2017

Pooja Rani

...Appellant

Versus

Rajiv Lroiya

...Respondent

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

Present: Mr. Anterpreet Singh, Advocate
for the appellant.

Mr. Jaswinder Singh, Advocate
for the respondent.

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

The respondent-husband has been granted decree of divorce under Section 13 of the Hindu Marriage Act. The operative part of the impugned judgment dated 22.12.2014 and decree is reproduced as under:-

“20. Thus in view of the facts and circumstances of the case and age and economic status of the parties as could be inferred from the record, the Court is of the opinion that the respondent is entitled to permanent alimony. On passing the decree of divorce dissolving the marriage of the parties to the lis, the respondent shall lost the status of wife. In view of which what has been discussed here in above, the marriage between the parties to the lis is dissolved by passing the decree of divorce on the ground of cruelty subject to payment of permanent alimony and maintenance in lump sum of Rs. 3,50,000/- (Three lacs and fifty thousand) which shall be paid by the petitioner to the respondent or shall be deposited in her name with the Court within three months from today failing which the divorce petition shall deemed to have been dismissed”.

A perusal of the above-said judgment indicates that the respondent has been granted decree of divorce on the ground of cruelty subject to payment of permanent alimony and maintenance in lump sum to the tune of ₹3,50,000/- which shall be paid by the respondent-husband to the wife by depositing the same in her name in Court within three months from the date of decree. It is specifically ordered in the decree that the divorce petition shall be deemed to have been dismissed in case of failure of the petitioner-husband to make payment towards permanent alimony and maintenance within a period of three months.

Counsel for the respondent-husband has submitted that on account of amount being excessive, the respondent-husband has not complied with the condition mentioned in order dated 22.12.2014. In such circumstances the decree of divorce has become redundant so far as the respondent is concerned as he has not even opted to file any appeal or cross-appeal against the above said condition in the decree of divorce imposed by the trial Court.

In view of the above circumstances, this appeal has rendered infructuous as the decree of divorce has not been finalised on fulfillment of the condition prescribed. In fact the divorce petition is deemed to have been dismissed on account of non compliance of the decree, within three months of the decree.

Counsel for the appellant has agreed that the appeal has become infructuous with the deemed dismissal of the petition of respondent-husband under Section 13 of the Hindu Marriage Act on account of the non fulfillment of the condition of divorce decree.

As the decree of divorce has become in-operative on account of

the condition imposed therein having not been fulfilled without the time prescribed, this appeal is disposed of as having rendered infructuous.

The status of both the parties will be as it was on the date of filing of the divorce petition.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

August 08,2017
Poonam (II)

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether reportable:</i>	<i>No</i>