

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

FAO No.M-139 of 2017(O&M)

Date of decision: May 22, 2017

Naib Singh

---Appellant

Versus

Jagindro Devi @ Jogindro Kaur

---Respondent

**Coram: Hon'ble Mr. Justice Ajay Kumar Mittal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr.A.B.S.Wasu, Advocate
for the appellant.

HARINDER SINGH SIDHU, J.

The present appeal has been preferred by the appellant husband against the judgment and decree dated 16.2.2017 passed by the Additional District Judge, Kurukshetra, whereby, the petition filed by him under Section 13 of the Hindu Marriage Act, 1955 for dissolution of his marriage with respondent - wife Jagindro Devi has been dismissed.

The marriage of the appellant with the respondent was solemnized on 17.03.1984 at village Barta, District Kaithal as per Hindu rites and ceremonies. Three children were born from the wedlock, namely, Saravjit Singh, Baljit Kaur and Manjit Kaur on 23.08.1991, 01.08.1993 and 01.05.1995 respectively.

The appellant had sought divorce alleging cruelty and desertion on the part of the respondent. It was pleaded that the respondent always tried to harass the appellant and his children. She was a quarrelsome lady and used to pick up

quarrels and had even threatened to involve the aged parents of the appellants in false cases. She had been living at her parental house for the last two years and had refused to join the appellant at the matrimonial house despite his persuasion and his having tried to get her back.

The respondent denied the allegations and in turn pleaded that despite his long standing marriage with her, the appellant was living with one Pammi Devi. Regarding this, the respondent had filed a complaint whereupon, the appellant, his sister Angrez Kaur and said Pammi Devi were challaned vide Kalandra under Sections 107, 150, 151 Cr.P.C. Dated 04.12.2013. The respondent was being harassed by the appellant to bring money, she was repeatedly beaten by the appellant and since the last one year, the appellant, his sister and Pammi Devi were even planning to kill her. They used to detain her in a room and did not even allow her to meet her children. Specific instances when she was beaten were also mentioned.

In support of his case, the appellant examined himself as PW1 besides examining Parveen Kumar, his son-in-law as PW2, his daughter Baljit Kaur as PW3 and closed his evidence. The respondent on the other hand examined herself as RW1, besides examining her brother Baisakhi Ram as RW2.

The Ld. Trial Court concluded that admittedly after the marriage which was solemnized on 17.03.1984, three children were born to the couple, the youngest one was born on 01.05.1995, the acts of cruelty of the respondent, if any, stood condoned. It was concluded that the appellant was not leading a normal married life. Despite having three children, he was living in the company of women who were not related to him. He was indulging in illegal activities and had

failed to prove that the respondent had deserted him. In fact, as per the evidence, the respondent had been residing in the house of the appellant even four days prior to the filing of the divorce petition. Thus, the allegations levelled against the respondent were not proved. Rather, she had proved that she was beaten up on 31.10.2013 which was clear from the medico-legal report. The appellant had admitted before the police that he was indulging in black magic and had some followers. It was eventually concluded that though there were quarrels between the parties, but the conduct of the respondent was not such that the matrimonial life of the appellant was destroyed and that it had become difficult for him to live with her. To the contrary, the appellant was equally responsible for such behaviour. Besides, he had not come to the court with clean hands.

Ld. Counsel for the appellant has not been able to demonstrate as to how the findings of the Ld. Trial Court are wrong and are not borne out from the evidence on record. The appellant has not been able to substantiate the grounds of cruelty and desertion. In fact, on the evidence, the fault appears to be mainly of the appellant and he cannot be permitted to take the benefit of his own wrong to dissolve the marriage.

Hence, finding no merit in the appeal, the same is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 22, 2017

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Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No