

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

FAO No.M-146 of 2017(O&M)

Date of decision: May 30, 2017

Surinderpal Kaur

---Appellant

Versus

Amandeep Singh

---Respondent

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

Present: Mr.Ramnish Puri, Advocate
for the appellant.

HARINDER SINGH SIDHU, J.

The present appeal has been preferred against the judgment and decree dated 27.02.2017 passed by the District Judge (Family Court), Moga, whereby, the petition filed by the respondent - husband Amandeep Singh under Section 13 of the Hindu Marriage Act, 1955 for dissolution of his marriage with appellant - wife Surinderpal Kaur has been allowed on the ground of cruelty.

2. The marriage of the appellant with the respondent was solemnized on 23.09.2012 at village Kishanpura Kalan, Tehsil Dharamkot, District Moga, as per Sikh rites and rituals. At the time of marriage, the respondent was a divorcee, whereas, it was the first marriage of the appellant.

3. The respondent filed the petition for divorce on the grounds of cruelty and desertion. However, the ground of desertion was not pressed.

4. It was averred in the petition that just two days after marriage, the

appellant started quarrelling with the respondent saying that she had consented for marriage only under pressure of her brother. She used to insult him in the presence of his relatives and friends, calling him '*Gawar*', whereas, she was a teacher. She did not allow the respondent to share bed with her, saying that he was neither educated nor smart and was not up to her standard. She threatened that if he makes any attempt to share bed, she would commit suicide and also get his entire family involved in false cases. It was also alleged that just 15 days after marriage, she tried to commit suicide by cutting her nerves by knife and the respondent saved her by snatching the knife. Though, a number of times, Panchayat was convened and she came back to the respondent, but her cruel behaviour towards him did not change and every time she went back to her paternal home. On 20.01.2013, she started quarelling with the respondent and threatened to commit suicide. Her family members were informed and they took her away with them. Then, the respondent along with other respectables visited her parents where the appellant, in the presence of the Panchayat, threatened that if she is pressurised to go with the respondent, she would commit suicide and implicate all his family members in false cases. It was averred that in these circumstances, the respondent remained under constant stress that the appellant may commit suicide any time and hence, it was not possible to reside with her.

5. The appellant on the other hand, denied the allegations. It was stated that the respondent had concealed the fact of his earlier marriage; that despite huge amount being spent by her parents on the marriage, the respondent and his family members wanted more and they tried to kill her on 21.01.2013; about one month

after marriage they demanded Rs.5 lacs in cash and that she was constantly

maltreated physically as well as mentally, .

6. In support of his case, the respondent examined himself as PW1 besides examining Harjit Singh PW2 Harjinder Singh PW3, Sukhwinder Singh PW4, Lachhman Singh PW5 and Parveen Kumar as PW6 and closed his evidence. The appellant on the other hand examined herself as RW1, Atma Singh RW2 and Resham Singh as RW3.

7. PW2 Harjit Singh, who was the mediator in the marriage, fully supported the version of the respondent. Though, he was cross-examined at length, but he was not cross-examined on the material points raised in the petition. PW3 Harjinder Singh, PW4 Sukhwinder Singh and PW5 Lachhman Singh, who were stated to be the members of the the Panchayat convened by the respondent, deposed about their visit to the house of the appellant on 20.01.2013 and also stated that the appellant in their presence and in the presence of other members of the Panchayat threatened that if she was pressurized to join the company of the respondent she would commit suicide and also involve all his family members in some false case. Though, these witnesses were cross-examined, however, they were not cross-examined on these material allegations.

8. As against the evidence of the respondent, the evidence of the appellant could not substantiate her version. The appellant admitted that she had moved an application to the Women Cell, Moga against the respondent, but could not deny that the application had been consigned to the record room on 16.07.2013. Further, though on her complaint, an FIR had been lodged against the respondent, but she did not remember if the DSP, Dharamkot had recorded her statement in that case or that he had found the application to be false or recorded in

his report that the main reason of the dispute between the parties was that the appellant was M.A., whereas, the respondent was not so highly educated. Similarly, though, Atma Singh, her brother, while appearing as RW-2 had deposed that Panchayat was arranged a number of times to resolve the dispute, but he did not remember the date, month and year when they visited the house of the respondent along with the Panchayat. Resham Singh retired DO appearing as RW-3 deposed that he was part of the Panchayat convened by the family of the appellant where the family of respondent demanded Rs.5 lacs from the family of the appellant and abused them. However, he was not able to tell the date, month and year when the appellant and her family had been abused.

9. The Ld. Trial Court, concluded that the deposition of the respondent and his witnesses and their non cross-examination by the appellant on the material allegations against her, revealed her conduct towards the respondent. She had given threats to commit suicide, attempted to cut her veins and falsely implicate the family members of the respondent in false cases. She had not allowed the respondent to share bed saying that he was neither educated nor smart enough and that in case he made any attempt to share bed with her she would commit suicide. Her attitude towards the respondent was one of sustained disdain. It was concluded that these acts and conduct caused grave mental cruelty to the respondent and it was not possible for him to live with her. Consequently, the decree of divorce was granted in his favour.

10. Ld. Counsel for the appellant argued that the Ld. Court below has erred in returning the finding that the appellant was guilty of cruelty. In fact, it was the respondent and his family who maltreated the appellant. They were

greedy for dowry and demanded Rs.5 lacs from the family of the appellant on the pretext of sending the respondent abroad. She had been turned out from the house by them. The fact that he was a divorcee was kept hidden from her family.

11. We are not persuaded by the arguments of the Ld. Counsel for the appellant. He has not been able to show with reference to the evidence led by the parties as to how the conclusion regarding cruelty on the part of the appellant is wrong, based on the acts and conduct of the appellant proved by the witnesses of the respondent. The Ld. Trial Court has specifically recorded that these witnesses were not cross-examined on those material allegations against the appellant and, thus, their deposition was to be treated as admitted.

12. We fully agree with the conclusions of the Ld. Trial Court. Accordingly, finding no merit in the appeal, the same is dismissed.

13. Since the appeal has been dismissed on merits, the application under Section 5 of the Indian Limitation Act is left open.

(AJAY KUMAR MITTAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 30, 2017

gian

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No