

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

FAO-M-318-2017 (O&M)
Decided on : September 26, 2019

Amritpal Kaur

..... Appellant

Versus

Ajay Singh

..... Respondent

**CORAM : HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

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

Mr. Harkaran Singh, Advocate
for respondent.

Manjari Nehru Kaul, J.

The instant appeal has been preferred by the wife – Amritpal Kaur impugning the judgment and decree dated 21.07.2017 passed by Addl. District Judge, Gurdaspur whereby the petition under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') filed by her was dismissed.

2. Few facts necessary for adjudication of the instant appeal as pleaded in the petition filed by the appellant-wife before the learned Court below may be noticed.

Marriage between the parties was solemnized in June, 2004. Two children were born out of the said wedlock, who are living with the respondent-husband. The husband and his family were dissatisfied with the dowry given to the appellant-wife at the time of marriage and she would thus, be subjected to humiliation and maltreatment on one pretext or the

other. She would time and again be thrown out of her matrimonial home by the respondent-husband and his family and each time with the intervention of respectables a compromise would be effected. However, the behaviour of the respondent-husband and his family did not change. On 3.5.2014, she was subjected to merciless beatings as a result of which she sustained injuries including two grievous injuries. Even though her statement was recorded by the police yet no action was taken. In these circumstances, she had been compelled to reside at her parental home ever since then. The respondent-husband had criminal antecedents as he was involved in as many as three cases under the NDPS Act. Hence, she apprehended danger to her life and prayed for dissolution of marriage on the basis of cruelty.

3. Despite sufficient opportunities granted to the respondent-husband, no reply was filed by him by way of written statement leading to his defence being struck off by the learned court below.

4. In support of her case, the appellant-wife examined her father Gurbax Singh as PW-1, Dr. Gurpreet Singh PW-2 and herself as PW-3 besides tendering the relevant documents.

5. After analyzing the evidence led by the appellant-wife, the trial Court dismissed the petition by holding that the appellant-wife was unable to lead cogent and convincing evidence to prove her case.

6. We have heard learned counsel for the parties and perused the evidence as well as other material available on record.

7. We interacted with the appellant-wife, who was present in the Court. She reiterated her allegations of cruelty against the respondent-husband and vehemently urged that despite all efforts made by her to adjust

in her matrimonial home, due to the cruel and inhuman behaviour including continuous physical assault by her husband and his family it had become impossible for her to continue to live with the husband under the same roof. She urged that the trial Court had failed to appreciate that she had been subjected to acute harassment and cruelty by the husband and his family.

8. Learned counsel for the respondent-husband on the other hand refuted the allegations being a man of criminal antecedents by urging that false NDPS cases have been registered against him. Learned counsel rather contended that it was the wife whose behaviour was cruel not only towards the respondent-husband but also against her two children, who were being brought up by their parental grandmother. He further urged that the wife had not referred to even a single incident much less any date on which she was subjected to cruelty by the respondent-husband.

This argument of the respondent-husband does not hold good ground because the appellant-wife has tendered certified copies of complaint made to the Police Station Civil Lines, Batala Ex.P-2 and a compromise dated 23.05.2013 Ex.P-3, which clearly reveals that there had indeed been instances of acrimony between the parties.

10. Admittedly, the parties have been living separately for the past about 5 years and there have been no conjugal relations between them. Our interaction with the parties also leaves no manner of doubt that there is no scope left to salvage their marriage as the wife is maintaining to her stand and reiterating the allegations of acute mental harassment and cruelty against her husband.

11. As a sequel to the above discussion, the possibility of the

parties to reconcile and live together as husband and wife are next to impossible. It is apparent that the marriage has broken beyond repair.

Consequently, the present appeal stands allowed and the impugned judgment dated 21.07.2017 passed by the court below is set aside. The marriage between the parties is dissolved by way of decree of divorce. Decree sheet be prepared accordingly.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

September 26, 2019
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Whether speaking/non-speaking:	Yes/No
Whether reportable :	Yes/No