

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

FAO-M-77-2011

Date of Decision:01.11.2018

Gurmit Singh

. Appellant

Vs.

Paramjit Kaur

. Respondent

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL**

Present: - Mr.Lakhwinder Singh, Advocate,
for the appellant.

Mr.Rajinder Kumar, Advocate, for
Mr.D.S. Dhaliwal, Advocate,
for the respondent.

RAKESH KUMAR JAIN, J.

This appeal is directed against the judgment and decree dated 7.1.2011 by which a petition filed by the appellant-husband under Section 13 of the Hindu Marriage Act, 1955 [for short 'the Act'] for seeking dissolution of his marriage with the respondent by way of a decree of divorce has been dismissed.

In brief, the marriage of the appellant with the respondent was solemnized on 16.2.1997 in District Sangrur as per Sikh rites and ceremonies. They were blessed with two children. The appellant filed a petition under Section 13 of the Act for the dissolution of his marriage by way of a decree of divorce on the ground of desertion and adultery. He has alleged that the respondent had left the matrimonial home on 24.3.2004 on the pretext of attending the marriage of the daughter of her father's sister (bua) but did not return even after the interference of the Panchayat etc. The appellant thereafter filed a petition under Section 9 of the Act whereas the

respondent had filed a complaint under Sections 406 & 498-A of the IPC and a petition under Section 125 of the Cr.P.C. for maintenance. However, thereafter a compromise was arrived at between the parties and they started living together. The appellant has levelled an allegation that the respondent has been indulging in adultery and also persuaded him to shift to some other place and on the insistence of the respondent, the appellant had shifted his residence on 21.10.2009 but the respondent continued to indulge in sexual intercourse with some unknown persons and thus the appellant had been treated with cruelty.

In reply, the respondent admitted her marriage with the appellant and the birth of the children but she denied the allegation of desertion and adultery. On the pleadings of the parties, as many as four issues were framed by the Court. Both the parties led their respective evidence. Learned trial Court did not find any case of desertion against the respondent and even of cruelty. Insofar as the allegation of adultery is concerned, it has also been found that the allegation made by the appellant is without any basis because no evidence was led by the appellant much less cogent and convincing for the purpose of proving the said allegation which is very serious in nature having the trappings of character assassination of a married woman.

Learned counsel for the appellant has though reiterated the allegations made against the respondent but he could not refer to any evidence on record which has been allegedly misread or ignored by the learned trial Court while recording the finding against the appellant and dismissing the petition filed by him on the ground of adultery. It is also pertinent to mention that the appellant has failed to specifically refer about any person with whom the respondent was allegedly living in adultery or

had sexual intercourse. The doubt of the appellant cannot take the place of proof for the purpose of dissolving the marriage on this ground especially when the respondent is the mother of two children.

Thus, in view thereof, we do not find any merit in the present appeal and the same is hereby dismissed though without any order as to costs.

(RAKESH KUMAR JAIN)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

01.11.2018

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*