

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

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FAO-M-170-2012

Date of Decision: 16.07.2018

JYOTI SHARMA @ BHUMIKA

....Appellant.

Versus

MANOJ

...Respondent.

**CORAM:- HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Neeraj Gaur, Advocate
for the appellant.

Mr. Varinder Rana, Advocate
for the respondent.

ANUPINDER SINGH GREWAL, J.

This appeal is directed against the judgment dated 29.11.2010 passed by Additional District Judge, Nuh, whereby the petition preferred by the appellant under Sections 12 and 13 of the Hindu Marriage Act, 1955 for dissolution of their marriage on the ground of impotency of husband-respondent as well as cruelty inflicted upon her, has been dismissed.

2. The appellant and respondent are stated to have married on 19.01.2008 at Nuh as per Hindu rites and ceremonies. It was the case of the appellant that due to incapability of the respondent-husband, the marriage could not be consummated. The respondent is also alleged to have beaten up the appellant and the matter was also taken up with the Panchayat. She had also cited several instances, whereby she had been

harassed and treated with cruelty by the respondent and his family members. The respondent-husband had denied the allegations of impotency and had produced medical certificate from All India Institute for Medical Sciences, Delhi in this regard and had alleged that the appellant herself did not consummate the marriage and had left her matrimonial home without any reasonable excuse. The other allegations in the petition were also denied. The trial Court, after considering the evidence led by the parties, had arrived at the conclusion that the allegations, leveled against the respondent both with regard to his incapacity to consummate the marriage as well as of having treated her with cruelty, were not proved and the petition was dismissed.

3. During the pendency of this appeal, this Court had also referred the matter to the Mediation Centre but efforts for bringing about conciliation between the parties failed.

4. In the course of hearing of the appeal, the respondent-husband, who was present in Court, has stated that in case, the appellant-wife does not claim any maintenance, he has no objection to the decree of nullity of marriage being granted to her for marriage having not been consummated. The appellant-wife, who is also present in Court, states that she is willing to waive her right to maintenance in case the decree of nullity of marriage is granted.

5. In view of the statement of the respondent-husband, it is apparent that differences between the parties have increased to such an extent that it would not be possible for them to reside together. Both the parties want to settle the matter peacefully by going separate ways to live rest of their lives on their own accord and wishes. It would, thus, be

in the interest of justice, if the appeal is allowed and the decree of nullity of marriage is granted.

6. Consequently, the appeal is allowed and the decree of nullity of marriage is granted on account of marriage having not been consummated. The appellant-wife would not be entitled to any right of maintenance or alimony in terms of her statement made in Court today.

7. Decree sheet be drawn.

(M.M.S. BEDI)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

16.07.2018
SwarnjitS

Whether speaking/reasoned :	YES/NO
Whether reportable :	YES/NO