

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.M-191 of 2016 (O & M)

Date of Decision: 31.10.2018

Om Parkash

.....Appellant

Vs.

Bindu Bala

..... Respondent

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

Present: - Mr. Sharanjay Mittal, Advocate
for the appellant.

Respondent ex parte.

ANUPINDER SINGH GREWAL, J.

The appellant-husband has challenged the judgement dated 30.11.2015 whereby the petition preferred by the respondent-wife under Section 13 (1) (ia) & 13 (1) (ib) of the Hindu Marriage Act, 1955 ('Act' - for short) for dissolution of marriage on the ground of cruelty and desertion, had been allowed.

It is the case of the respondent-wife that she had married with the appellant on 20.12.2010 at village Abubshehar, District Sirsa as per Hindu rites and ceremonies. The parties lived together as husband and wife at village 2 SGR, Tehsil Pilibanga, District Hanumangarh (Rajasthan). No issue was born from the wed-lock. It was stated by the respondent-wife that despite her parents giving adequate dowry including gold and silver ornaments and other household goods to her in-laws, she was harassed, taunted and subjected to cruelty by her husband and in-laws for bringing insufficient dowry. They had demanded a car and on her failure to fulfill

their demands, she was turned out from her matrimonial home. Thereafter,

her relatives had arranged a sum of ₹ 1,00,000/-, which was given to the appellant-husband and she was permitted to live in her matrimonial home. She was, later on, taken to Jaipur by her husband on the pretext that he had to manage his business there. However, at Jaipur she was compelled by the appellant-husband and his brother Raj Kumar to indulge in prostitution. She was administered intoxicating drugs and exploited by several influential persons in connivance with the appellant. She was not permitted to talk to her parents and subjected to all types of physical and mental cruelty.

On 17.08.2011, her uncle Atma Ram (PW-2) visited Jaipur to inquire about her well-being and she narrated him the entire episode of her being subjected to cruelty. The appellant-husband and his brother threatened her uncle and was blackmailed by them as they had prepared a fictitious CD. She was, thereafter, taken to their village in District Hanumangarh (Rajasthan) on 21.08.2011. A telephonic message was sent to her another uncle and on his arrival there, he was also manhandled by the appellant and his parents. She had been beaten up and got medico legally examined on 30.09.2011, which revealed five blunt injuries. She had also got an FIR registered against the appellant-husband and his relatives under Sections 498-A, 406, 506 and 323 IPC at Police Station Sadar Dabwali. Another FIR No.679 dated 22.11.2011 under Sections 376, 328, 343, 323, 506 and 120-B IPC was registered by her at Police Station Vaishali Nagar, Jaipur City, South Mark-C, accusing her husband and other influential persons including politicians and police officers having sexually exploited her. She had been living in the house of her parents since 29.09.2011 as it was difficult to join the company of her husband due to aforementioned acts of cruel behaviour.

The appellant-husband denied the allegations levelled by the

respondent-wife and stated that the respondent herself was not interested in residing with him as he was a divorcee and there was a wide age difference between them. He stated that the FIR under Section 498-A was falsely lodged against him. He also stated that the case registered by the respondent-wife at Jaipur was also found to be false and cancellation report was filed in the Court.

The trial Court framed the following issues:-

- “1. Whether petitioner-wife is entitled for decree of divorce on the grounds of desertion and cruelty as averred and explained in the petition? OPP
2. Whether petition is false and frivolous? OPR
3. Relief.”

The respondent-wife herself appearing in the witness box as PW-1 while Atma Ram appeared as PW-2.

The appellant-husband appeared in the witness box as RW-1 and after producing various documents closed his evidence.

After considering the evidence and the documents brought on record, the trial Court had decided issue No.1 in favour of the respondent-wife and against the appellant-husband.

We have heard learned counsel for the appellant and examined the record.

It is manifest from the evidence led by the respondent-wife as PW-1 that she had been sexually exploited by several influential persons in connivance with the appellant-husband and his relatives, who had even prepared a fabricated CD and she was subjected to blackmail. It was with the intervention of the Panchayat that she was able to free herself from the

clutches of her husband on 29.09.2011 and on reaching the house of her parents, had lodged a case under Section 498-A IPC. Even in her cross-examination, she had stood by the allegations and elaborated that she had even been cheated by her husband as he was already married and had not obtained divorce from his first wife in accordance with law. A fake CD had been prepared to defame her by showing her in objectionable conversation with her uncle Atma Ram, who appeared as PW-2 and supported the allegations levelled by the respondent-wife.

The appellant-husband while appearing before the Court as RW-1 had admitted that he was earlier married with Suman of Abohar and had obtained a Panchayati divorce from her. He admitted that he had not obtained a divorce from a Court of law and there was a difference of 18 years in age with respondent-wife. He was 38 years at the time of marriage while the respondent-wife was 20 years of age. It was also admitted by the appellant-husband that he had not bothered during the last four years to go to his in-laws' house to bring his wife back.

In view of the above, the judgment of the trial Court in allowing the petition of the respondent-wife and granting decree of divorce is under the facts and circumstances in accordance with law. Therefore, the finding recorded by the trial Court is affirmed. Consequently, the appeal is dismissed.

Decree-sheet be prepared accordingly.

(RAKESH KUMAR JAIN)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

31.10.2018

A.Kaundal

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No