

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

**FAO No. M-82-2016 (O&M)
Date of Decision : 15.11.2018**

Ved Parkash

...Appellant

Versus

Jeewan Jyoti

...Respondent

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

Present: Mr. Vipin Mahajan, Advocate for the appellant.

Mr. Kuldip Sanwal, Advocate for the respondent.

Rakesh Kumar Jain, J.(Oral)

This appeal has arisen from the judgment and decree dated 21.10.2015 passed by the trial Court dismissing the petition filed by the appellant-husband under Section 12 (1) (a) (b) of the Hindu Marriage Act, 1955 (for short 'the Act') for seeking annulment of his marriage.

The parties to the lis were married on 21.10.2009 as per Sikh Rites. The appellant had filed a petition under Section 12 (1) (a) (b) of the Act for annulment of the marriage, inter alia, on the ground that the respondent-wife is suffering from Epilepsy. In order to prove the fact that the respondent is suffering from Epilepsy, the appellant has produced Dr. Anurag Arora as PW4, who has deposed that he had been treating the respondent for the disease of Epilepsy before her marriage. In this regard, he has referred to the prescription slips Ex. PW-4/A to Ex. PW-4/J and had also referred to the medicine prescribed i.e. Sodium Valproate (Valparin) used for the treatment of the said disease but at the same time he had also stated in the examination-in-chief that the said medicine is also used for headache, depression and other disorders.

The trial Court did not accept the evidence of Dr. Anurag Arora (PW4) on the ground that the evidence led by the appellant was not sufficient to hold that the respondent was suffering from Epilepsy. A finding has also been

recorded by the trial Court that the appellant has nowhere specifically mentioned either in his petition or in his affidavit about the disease with which the respondent is suffering.

As per the condition provided in Section 5(ii) (c) of the Act a marriage may be solemnized between any two Hindus on fulfillment of the condition that at the time of marriage neither party has been subject to recurrent attacks of insanity.

It has been argued that since the respondent was suffering from Epilepsy before marriage, therefore, the appellant has the right to file a petition under Section 12 (1) (a) (b) of the Act before the Court of law for declaring their marriage as nullity but after going through Section 5(ii) (c) of the Act, it is found that the word 'or Epilepsy' has been omitted by Act 39 of 1999 (w.e.f. 29.12.1999) rather it is provided "recurrent attacks of insanity".

Learned counsel for the appellant has failed to appreciate that the legislature has used the word "insanity" and since the respondent is not suffering from 'insanity', therefore, petition filed under Section 12 (1) (a) (b) of the Act for declaring the marriage as nullity is not maintainable.

Thus, we do not find any merit in this case and the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

November 15, 2018
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(ANUPINDER SINGH GREWAL)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>