

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

(219)

FAO-M-114-2018

Date of Decision: June 01, 2018.

Yogita

.... Appellant

Versus

Sandeep Kumar

..... Respondent

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE HARI PAL VERMA**

Present: Mr. Deepak Verma, Advocate, for the appellant.

Mr. Shubhashish Kukreti, Advocate, for the respondent.

M.M.S. BEDI, J (ORAL)

Aggrieved by the dismissal of her petition for divorce, the appellant-wife has preferred this appeal.

As per the allegations of the appellant, she was married to the respondent on 20.10.2013. To highlight the grounds of cruelty, it is pleaded in the petition that the respondent was addicted to vices of gambling, drinking and consuming medical intoxicants and he used to spend all money available with him on the said vices. He used to beat the appellant under the influence of liquor and intoxicants. The parties, after marriage, had gone to Australia on 13.04.2015 but the behaviour of the respondent, at Australia, was also not good. He pressurised the appellant to bring Rs.8 lac from her father from India and when she expressed her inability to meet the said demand, she was beaten up by the respondent. Compelled with the circumstances, she returned to India on 02.07.2015. The matter was brought to the notice of parents of the respondent on 09.07.2015. She was pressurised to bring money from her father and on account of non-fulfilling the said demand, she was thrown out of the matrimonial home.

The respondent contested the petition claiming that the appellant was estopped by her own act and conduct from filing the petition and had concealed the material facts. The allegations of demand of dowry and cruelty were denied.

On the pleading of the parties, the lower Court framed the following issues:-

- “1. Whether the petitioner is entitled to divorce on the ground of cruelty?*
- 2. Whether petitioner has concealed the material facts from the Court, if so, its effect? OPR.*
- 3. Relief.”*

The lower Court, while deciding issues No. 1 and 2, arrived at a conclusion that the allegations levelled by the appellant are vague and is not established and her petition for divorce was dismissed.

Counsel for the appellant has contended that the appellant had clearly mentioned the facts and circumstances which indicate that the respondent had treated her with cruelty. Had he treated with due care and affection, there was no reason for her to leave Australia.

We have gone through the statement of the appellant who appeared as PW-1 and tendered her evidence in the shape of affidavit Ex.PA. She has supported all the pleadings and no rebuttal evidence was produced by the respondent-husband. Despite this, the lower Court has declined to accept the plea of cruelty and dismissed the petition declaring the allegations to be vague and uncertain.

We have gone through the statement of Raj Kumar PW-2 who is father of the appellant and tendered his evidence in the shape of Ex.PB.

The appellant herself has appeared as PW-1 established the factors which

had compelled her to leave the matrimonial home. Statement of PW-3 Pushpa Rani corroborates the version of the appellant and her father.

We do not find any reason why the appellant would level false allegations of cruelty and would leave a comfortable life abroad, had she not been shabbily treated.

The fact that the respondent has not led any evidence compel us to believe the version of the appellant.

It is not out of place to mention here that we were informed, during hearing of the appeal, that the respondent has got no intention to contest the present appeal as he is settled in Australia.

We are of the opinion that, in above said circumstances, the appeal deserves to be allowed.

The appeal is allowed. The marriage of the appellant with the respondent is dissolved by decree of divorce on the ground of cruelty. She is held entitled to permanent alimony of Rs.20 lac.

At this stage, father of the respondent, Madan Lal, has put in appearance and stated that the said amount may be reduced and he is ready to pay the permanent alimony of Rs.10 lac. The appellant has accepted the said reduced amount and has received a sum of Rs.5 lac in the shape of bank draft and a cheque of Rs.5 lac dated 01.06.2018. Photocopy of the said documents have been taken on record.

Father of the respondent, Madan Lal, signatory of the cheque, has a special power of attorney in his favour on behalf of the respondent and has given an undertaking that on presentation of cheque after a period of one week, the same will be honoured. The original special power of attorney is taken on record. In case, cheque of Rs.5 lac being dishonoured, it will be

open to the appellant to move an application for launching proceedings for contempt against the respondent/his attorney.

Decree sheet be drawn.

(M.M.S. BEDI)
JUDGE

June 01, 2018.
harsha

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No