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

**FAO No.2508 of 2019 (O&M)
Date of decision: April 08, 2019**

Narender Kumar ...Appellant

Versus

Smt. Seema ...Respondent

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Harnaresh Singh Gill**

**Present: Mr. G.C.Shahpuri, Advocate,
for the appellant.**

Rakesh Kumar Jain, J.

The husband is in appeal against the judgment and decree dated 17.01.2019, by which his petition filed under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as the "Act") for seeking a decree of divorce on the ground of cruelty and desertion has been dismissed.

In brief, the marriage of the appellant with respondent-wife was solemnized on 08.02.2003 at Rohtak as per Hindu rites and ceremonies. They were blessed with a son, born on 24.04.2004. It is alleged that at the time of marriage, the respondent-wife was working as a Lecturer in village Bainsi, District Rohtak but in December, 2003, she was transferred to Government Girls Senior Secondary School, Dayalpur, District Faridabad. The appellant was earlier working as an ad-hoc Lecturer in a private college at Ballabgarh and was appointed as a Government Lecturer in December, 2004. In July, 2005, he also managed his transfer to the Government Senior Secondary

School for Boys, Dayalpur, District Faridabad and, thus, they started commuting together from his parental house, which was about 5 Kms. away from Dayalpur. It is alleged that the respondent had started pressurizing him to live separately from his old aged parents but it was not possible for him because there was nobody to look after his parents as his other brother was residing at Delhi. It is further alleged that on 31.05.2006, the respondent went to Rohtak along with their child to attend the retirement function of her sister's husband and at that time, she proclaimed that she would not return back and also took away all her jewellery worth ₹1,30,000/-. Though the appellant was quite sure that after sometime she would be back but she never returned to the matrimonial home. It is also alleged that he had filed a petition under Section 9 of the Act in which a compromise was arrived at but the behaviour of the respondent-wife became hostile as she wanted to live separately. The appellant has further averred that to avoid the daily disputes, he constructed a separate house with all modern fitting and fixtures in his village and started living separately from his parents but the behaviour of the respondent-wife did not change. In the month of May, 2011, she was again transferred from Dayalpur to Ballabgarh and started to stay at the house of Anil S/o Mishri Lal, resident of House No.597, Bhikam Colony, Ballabhgarh. She used to return to her matrimonial home late at night and also refused to have physical relations with him. After sometime, she started pressurizing him to allow her to stay at the house of aforesaid Anil but he did not accept her illegitimate demand and, thereafter, the respondent-wife shifted to the house of said Anil along with her son. He had tried many times to bring her back but she did not return and when all his efforts failed, the petition was filed for seeking a decree of divorce.

On the other hand, the case of the respondent-wife is that she had

been harassed and humiliated by the appellant on account of bringing less dowry. At the time of marriage, she was serving at village Bainsi, District Rohtak and used to visit her matrimonial home on almost every weekend. She used to hand over her entire salary to her father-in-law out of which he gave only ₹2,000/- for her personal expenses. As a result thereof, she had to borrow money from her mother to meet her personal expenses. It is also alleged that in September, 2003, instead of giving salary to her father-in-law, she purchased a gold chain for her husband, for which she was badly insulted and taunted. It is also averred by her in the reply that she had not been accepted by the appellant's family for bringing less dowry etc. and they were not even happy with the birth of the male child.

On the pleadings of the parties, the Family Court framed as many as four issues, in which issues no.1 and 2 pertain to cruelty and desertion. Both the issues were discussed together by the Family Court and after taking into consideration the entire evidence led by both the parties, the Court was of the opinion that these were ordinary wear and tear of the married life which does not constitute cruelty for the purpose of granting decree of divorce and insofar as the plea of desertion is concerned, the Court had found that there was nothing on the part of the respondent which may constitute the factum of desertion for the purpose of granting the decree of divorce.

Although learned counsel for the appellant has vehemently argued that the findings recorded by the Family Court on both the counts are erroneous but after going through the available record, we are of the considered opinion that there is hardly any scope in this case for the purpose of interference by re-appreciating the evidence because the Family Court has not committed any error in recording the finding that the allegations made by the appellant against the respondent do not constitute the ingredients of cruelty or

desertion.

No other point has been raised.

In view of the above, the present appeal is hereby dismissed being denuded of any merit, though without any order as to costs.

(Rakesh Kumar Jain)
Judge

April 08, 2019
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(Harnaresh Singh Gill)
Judge

Whether speaking / reasoned:	Yes/No
Whether Reportable:	Yes/No