
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2514 of 2019 (O&M)

Date of decision: April 08, 2019

Amrit Kaur

...Appellant

Versus

Jaswinder Singh

...Respondent

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

**Present: Mr. Rajesh Bansal, Advocate,
for the appellant.**

Rakesh Kumar Jain, J.

This appeal is directed against the judgment and decree dated 13.03.2019 passed by the Family Court, Patiala, by which a petition filed under Section 13(i)(a)(b) of the Hindu Marriage Act, 1955 (hereinafter referred to as the "Act") by the respondent-husband for seeking a decree of divorce on the ground of cruelty has been allowed.

In brief, the marriage of the parties were solemnized on 24.09.1998 as per the Sikh rites and ceremonies. It is alleged that they stayed together as husband and wife till 15.04.1999 and from their wedlock, one daughter, namely, Simranpreet Kaur alias Jagjiwan Kaur was born who is now in the custody of the appellant-wife. It is alleged that the appellant had left the house of respondent-husband on 15.04.1999 along with her all dowry articles and, thereafter, she never came back. She had also lodged FIR against the respondent and his family members. She was in the habit of raising disputes/quarrels on petty matters and even threatened to commit suicide by falsely implicating the respondent and his family members.

The appellant-wife has taken the stand in her written statement that neither the respondent-husband nor his family members were happy with

the dowry articles as they have been pressurizing her regularly for bringing more and more dowry, which had caused her harassment both mentally and physically and when she could not bear the cruelty of the respondent-husband and his family members, she left her matrimonial home and started living with her parents.

On the pleadings of the parties, as many as three issues were framed by the Family Court. Thereafter, both the parties led their oral as well as documentary evidence. The respondent-husband has alleged that he along with his family members were falsely implicated in FIR No.132 dated 10.08.1999, registered under Sections 406, 498-A IPC at Police Station City, Rajpura. However, after trial, they have been acquitted by the Trial Court vide order dated 09.03.2010 (Ex.PW2/B), against which the appellant-wife preferred an appeal, which was also dismissed by the lower Appellate Court on 27.02.013 (Ex.PW2/C). It is also alleged that when the earlier order was passed on 07.08.2004, the trial in the case FIR No.132 was pending, therefore, the cruelty could not have been proved.

On the other hand, it was the case of the appellant-wife before the Court below that earlier the divorce petition was dismissed, against which no appeal was filed by the respondent-husband, therefore, the present petition was not maintainable. However, the registration of the FIR, acquittal of the respondent-husband and his family members and dismissal of appeal filed by the appellant has not been denied as these facts are matter of record.

The learned Trial Court found that the registration of the case against the respondent-husband at the instance of the appellant-wife on the basis of false allegations, in which respondent-husband and his family members were acquitted by the trial Court, is an act of mental cruelty on the

part of the appellant-wife and is sufficient to grant a decree of divorce to the respondent-husband under Section 13(1)(a) of the Act and, thus, allowed the petition filed by the respondent-husband.

Although learned counsel for the appellant-wife has vehemently argued that the respondent and his family members have been acquitted in the said criminal case by giving benefit of doubt but the fact remains that the Court, who dealt with the criminal case got registered at the instance of the appellant, had found the allegations levelled by the appellant-wife to be false and acquitted the respondent-husband and his family members from the alleged charge of Sections 406 and 498-A IPC. The appellant did not stop harassing the respondent and his family members as she had also filed an appeal against the order of acquittal before the lower Appellate Court, which was also dismissed. Moreover, the appellant herself has admitted that she had left the company of her husband on 15.04.1999 and started living with her parents.

Thus, in view of the aforesaid discussion, the Family Court has rightly passed the decree of divorce in favour of the respondent-husband, in which we do not find any reason to interfere.

No other point has been raised.

Dismissed.

(Rakesh Kumar Jain)
Judge

April 08, 2019
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(Harnaresh Singh Gill)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No