

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

FAO-M-267-2007 (O&M)

Date of decision : 27.11.2019

Vinod Kumar

....Appellant

V/s

Amita

...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Amit Singla, Advocate for the appellant.

Mr. Amit Jain, Advocate for the respondent.

RAJAN GUPTA J.

Present appeal is directed against the judgment and decree dated 22.05.2007 passed by Additional District Judge, Hisar whereby petition filed by appellant under section 13 of the Hindu Marriage Act, 1955 seeking dissolution of marriage was dismissed. Marriage between the parties was solemnized on 13.06.1990 as per Hindu rites at Hisar. They resided and cohabitated together at Ghaziabad. Two children were born out of said wedlock. It was alleged that from the very beginning, behaviour of respondent-wife was unaccommodating. She did not show interest in household chores. She threatened the appellant and his family members that she would commit suicide and falsely implicated them in a false criminal case. As per his version, on 08.02.1993 respondent-wife left the company of appellant. Thereafter, a criminal complaint under sections 498-A IPC was filed by respondent-wife against the appellant and his family members for

which they faced trial and finally it resulted in acquittal of all of them. On account of aforesaid conduct of the respondent-wife, appellant-husband had sought dissolution of marriage on the grounds of cruelty and desertion. Upon notice, respondent-wife refuted all the allegations of the appellant-husband. She alleged that soon after the marriage, appellant and his family members started harassing her on account of bringing less dowry. Appellant himself appeared as PW1 and examined his brother namely Dr. Sanjay Chauhan as PW2. On the other hand, respondent examined herself as well as one Sohan Lal as RW1 & RW2 respectively and tendered an affidavit Ex. RW2/A. Both the parties adduced their evidence in support of their respective stands. After considering the entire issue, the court below came to the conclusion that appellant-husband had not been able to prove that he had been subjected to cruelty. His plea of desertion had also not been proved. It, thus, reject the divorce petition. Present appeal emanates from the said order.

Learned counsel for the appellant submits that finding of the court below is erroneous. According to him, respondent-wife had treated the appellant with cruelty and this fact has been completely ignored. Thus, impugned judgment passed by the court below is erroneous and deserves to be set-aside.

We have heard learned counsel for the parties and reappraised the evidence on record. We find that the reasoning given by the court below is based on proper appreciation of evidence. It is evident that allegations levelled by appellant have not been proved. The evidence of PW2 Dr Sanjay Chauhan, brother of appellant, who supported the case of the appellant has been disbelieved by the court below. It has come on record that respondent

has left her matrimonial home on account of harassment meted out to her. Moreover, learned counsel for the appellant has not been able to refer to any evidence on record pertaining to cruelty which has either been misread or misinterpreted by the court below.

In view of above, we find no reason to differ from the findings arrived at by the court below. Accordingly, the appeal is dismissed.

(RAJAN GUPTA)
JUDGE

November 27, 2019
Ajay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No