

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

FAO No.M-217 of 2011 (O&M)

Date of decision:22.04.2019

Ravinder Singh

...Appellant

Vs.

Ravinder Kaur

....Respondent

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

**Present: Mr. R.S.Jhand, Advocate,
 for the appellant.**

**Mr. O.P.Kamboj, Advocate,
 for the respondent.**

Rakesh Kumar Jain, J.

This appeal is filed by the husband against the judgment and decree dated 05.04.2011, by which his petition filed under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as the "Act") for seeking dissolution of his marriage by way of decree of divorce has been dismissed.

In brief, marriage of the parties was solemnized on 09.11.2001 by way of Anand Karaj at Jalandhar. They were blessed with two children. The appellant-husband has filed the petition under Section 13 of the Act for seeking dissolution of his marriage on the grounds of cruelty and desertion. He has averred in the petition that after the marriage, the respondent had started pressurizing the appellant to get his share out of the property of his father and live as a Ghar Jamai after shifting to Jalandhar. According to the appellant, it was not possible for him to demand his share from the property of his father during his life time and he tried to make the respondent understand

his difficulty but she did not mend her ways and kept on pressurizing. She also started showing disrespect to him and his family members, harassed and threatened them by saying that she would commit suicide and involve them in some false criminal case. It is also averred that on 24.10.2002, when girl child Upasana was born at Jalandhar, the appellant and his family members went to Jalandhar with customary gifts but the respondent and her parents showed them disrespect and she insisted that the appellant should live with them as Ghar Jamai. The appellant has allegedly decided to shift to the village of the respondent and stayed there for few months as he was under the impression that their relations would improve but he was treated there like a servant as the respondent and her parents misbehaved with him. Lateron, he was shown the door and when the male child, namely, Anmolpreet was born on 10.11.2003, he was not even informed about his birth nor he was allowed to meet the newly born child. Ultimately, on 04.02.2004, father of the appellant wrote a letter to the Sarpanch of the village of respondent requesting him to interfere and settle the matter between the parties and send the respondent to her matrimonial home with the appellant. Thereafter, on 28.04.2004, father of the petitioner again wrote a letter to the Sarpanch of village for a compromise and on 02.05.2004, a Panchayat was convened at Jalandhar but the respondent's side did not attend the same. The appellant also moved an application on 07.04.2004 to the SSP, Jalandhar for taking action against the respondent and her parents and with the intervention of respectables, the matter was compromised and the respondent had agreed to join the company of the appellant. A written compromise dated 04.06.2005 was also executed in front of the respectables but the respondent backed out from the compromise and did not join the company of the appellant. It is also

stated that the respondent had also deserted the appellant for a continuous period of two years before filing of the petition and, therefore, the appellant had to file the petition on the ground of desertion and cruelty.

While contesting the petition, the respondent has not denied the marriage and alleged that after the marriage, she lived at village Khanpur Rajputtan but when the appellant withdrew himself from her company, she sometimes temporarily used to live with her parents at village Roopewali. Birth of children is also not denied but it is denied that she had ever pressurized the appellant to get his share from his father's property and become a Ghar Jamai. It is alleged that the appellant had demanded ₹31,000/- from her for purchasing a scooter. The said demand was fulfilled and the scooter was purchased by the appellant. The appellant had even asked the respondent for abortion of the girl child but the respondent flatly refused, which made the appellant furious and he started torturing the respondent mentally and physically. The appellant had been asking for ₹10 lacs for going abroad but the respondent had expressed her inability to fulfill this demand and in July, 2002, when she was pregnant, the appellant had turned her out from her matrimonial home after giving her beatings and told her that she will be allowed to enter her matrimonial home only if she brings ₹10 lacs in cash, otherwise she may not come back. When she had given birth to a female child, she was not attended by the appellant and his family members and the appellant even tortured her for giving birth to a female child. It is also averred that in February, 2003, father of the appellant convened a Panchayat at Malsian and the appellant was requested to keep and maintain the respondent and daughter Upasana and with the persuasion of the respectables, the respondent and her child were sent to matrimonial home, but the appellant did

not change his behavior and again turned her out of the matrimonial home while she was pregnant. Again a panchayat was convened but all went in vain. It is also averred that even after the birth of male child on 10.11.2003, the dispute did not come to end and when the matter was reported to the Women Cell, Jalandhar and a compromise was arrived at, the respondent and her children again joined the company of the respondent on 04.06.2005 but all efforts became futile due to repeated demand of ₹10 lacs and the appellant again turned out the respondent from her matrimonial home along with her children. It is denied that the appellant had ever lived with the respondent at village Roopewali as Ghar Jamai.

The appellant had also filed replication controverting the averments made in the written statement and reiterated the contents of the petition.

The learned Family Court framed as many as 3 issues and the appellant himself had appeared as PW1 and the respondent stepped into the witness box as RW1 and both the parties led their respective oral as well as documentary evidence.

The Family Court discussed issues nos.1 and 2 together. It was found that the appellant has failed to prove desertion by the respondent continuously for two years before filing of the petition and also the alleged act of cruelty.

Although learned counsel for the appellant has vehemently argued that the judgment and decree of the learned trial Court is patently erroneous and deserves interference by this Court but he could not refer to any evidence available on record which has either been misread or misinterpreted by the Family Court for the purpose of deciding issues no.1 and 2 pertaining to cruelty and desertion.

In view of the above, we do not find any scope in this appeal for the purpose of interference by this Court and hence, the same is hereby dismissed, though without any order as to costs.

(Rakesh Kumar Jain)
Judge

April 22, 2019
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(Harnaresh Singh Gill)
Judge

Whether speaking / reasoned : Yes
Whether reportable : Yes