

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

FAO-1451-2015

Decided on : 09.09.2019

Supriya

... Appellant(s)

Versus

Sudipto Sur

... Respondent(s)

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

Argued by: Mr. Shrey Goel, Advocate
for the appellant(s).

Ms. Isha Goyal, Advocate
for the respondent(s).

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the wife – Supriya, against the impugned judgment and decree dated 15th December, 2014, passed by the Ld. District Judge, Family Court, Gurgaon (hereinafter referred to as 'Ld. Family Court'), whereby, the petition filed by the respondent-husband/Sudipto Sur, under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'), seeking dissolution of their marriage was allowed by the Ld. Family Court.

A few facts necessary for adjudication of the instant appeal, as pleaded in the petition filed by the respondent-husband (petitioner therein) before the Ld. Family Court, may be noticed. The marriage between the parties was solemnized on 14th December, 1998, as per Hindu rites and customs. The husband at the time of the marriage was working with Sahara Airlines as an Engineer, whereas, the wife was working as an Air Hostess in the same Airlines. A daughter was born out of the wedlock on 27th February,

2000. It was *inter alia* pleaded that the behaviour of the appellant-wife towards the husband and his family was cruel and unbecoming. There would be frequent quarrels between the spouses. The wife did not even bother to take care of the ailing mother of the husband, who had been operated upon for cancer in February 2002. The husband constructed a house on a plot which was purchased in the name of both the parties after withdrawing money from the joint account maintained by his father, besides, raising a loan of ₹ 10.00 lakhs in his own name from ICICI Bank, which he repaid in August 2005. In April 2003, the wife conceived for the second time, but she got the pregnancy aborted on 21st April, 2003, against the wishes of the husband and his family. It was also pleaded that despite various efforts made over a period of time by friends to reconcile their differences for the sake of their daughter, it failed to yield any success.

Per contra, the appellant-wife vehemently refuted and denied all the allegations levelled against her while filing her written statement before the Ld. Family Court. She specifically stated that she had, in fact, always been very respectful towards her in-laws and nursed them during their illness. She denied that the house in which she is staying at Gurugram was purchased by the husband after taking money from his father and raising a Bank loan. She submitted that she too had contributed to the same from the funds gifted to her by her parents from time to time. She alleged that though she made earnest efforts to adjust with the respondent-husband, but the same failed due to the unreasonable behaviour of the husband.

From the pleadings of the parties, the following issues were framed by the Ld. Court below:-

“1. *Whether the petitioner is entitled for a decree of divorce*

on the grounds as mentioned in the petition ? OPP

2. *Relief.”*

Both the parties adduced evidence in support of their respective stands before the Ld. Family Court. The respondent-husband examined as many as six witnesses and himself stepped into the witness-box as PW1, while, the appellant-wife examined herself as RW-1.

After analyzing the evidence led by the parties and also the material on record, the Ld. Family Court allowed the petition filed by the husband and dissolved the marriage between the parties under Section 13(1)(ia) of the Act on the ground of cruelty.

We have heard learned counsel for the parties and have also gone through the evidence and other material on record.

It may be noticed that during the course of arguments the parties reiterated their earlier versions as taken before the Ld. Court below. Despite persistent efforts by this Court, the sparring couple have maintained their respective stands and all endeavours to bring about a reconciliation between them have failed. Petty quibbles over trivial issues have been magnified and exaggerated to such an extent that the possibility of the two reconciling their differences are beyond the bounds of possibility.

The parties have been living separately since the year 2012. Therefore, in the circumstances, no useful purpose would be served in compelling them to live together. The consequences of preservation in law of such a marriage would in fact be a source of greater misery for the parties. Our interaction with the parties has convinced us that the marriage between the parties is beyond repair due to their incompatible differences.

During the course of hearing on 28th August, 2019, learned

counsel for the appellant made a statement that in the eventuality of her appeal not being allowed, the appellant-wife be granted permanent alimony, since she was single handedly raising their daughter coupled with the fact that she was unemployed and had no other source of income. The respondent-husband, who was also present in the Court, expressed his readiness and willingness for the same and filed an affidavit before this Court detailing the terms of the full and final settlement as part of the permanent alimony, so as to give a quietus to the ongoing litigation between the parties.

As a sequel to the above discussion and keeping in view the facts and circumstances of the case, we feel that no interference in the judgment and decree passed by the Ld. Family Court is called for. Consequently, the present appeal stands dismissed and the judgment and decree dated 15th December, 2014 of the Ld. Family Court, is upheld. It is, however, made clear that the parties shall remain bound by all the terms & conditions of the affidavit, filed by the respondent-husband, which already stands taken on record and an amount of ₹ 25.00 lakhs shall be deposited in the Bank in the form of FDRs in the name of daughter – Anoushka, within a period of one month from the date of this order.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

September 09, 2019

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No