

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-3341-2016

Date of Decision: 17.09.2019

Sukhmander Singh

...Appellant

Versus

Surjeet Kaur (Rani)

...Respondent

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

PRESENT: Mr. Munish Gulati, Advocate for the appellant.

Mr. A.S. Khinda, Advocate for the respondent.

RAJAN GUPTA, J.

Present appeal is directed against the judgment and decree dated 29.3.2016 passed by District Judge, Family Court, Moga, whereby petition filed by appellant-respondent under Section 13 of the Hindu Marriage Act (for short 'the Act') seeking dissolution of marriage, was dismissed.

Marriage between the parties was solemnized on 22.5.1997 according to Sikh rites and rituals at village Nahal, District Moga. Previously, respondent was married with Parminder Singh (brother of the appellant). Respondent and said Parminder Singh resided together and cohabited with each other. Out of their wedlock, two children, namely, Harmandeep Kaur and Kuljeet Singh were born. Said Parminder Singh had died on 13.5.1997. 'Karava marriage' of respondent was performed with appellant. They resided together and cohabited with each other. Out of

their wedlock, one son, namely, Vikram Singh, was born. According to the appellant, respondent was of quarrelsome and obstinate nature and failed to adjust herself with in-laws family. She left her matrimonial home and was residing with her parents. She treated the appellant with cruelty. The appellant made efforts to save marriage, but to no avail. Accordingly, the appellant filed a petition under Section 13 of the Act, *inter alia*, alleging mental cruelty and desertion. Upon notice, respondent-wife controverted the allegations by filing a written statement. It was pleaded therein that the appellant himself had caused physical and mental cruelty towards the respondent and had deserted her as he wanted to solemnize second marriage. Due to non-fulfillment of dowry demand, she was thrown out of the matrimonial home in July, 2013. The appellant flatly refused to allow the respondent to join her matrimonial home even before the panchayat convened by her mother. She alleged that the appellant and his family members misappropriated the gold ornaments and *istridhan* of the respondent. In support of his case, the appellant besides examining himself as PW2, also examined Balvir Singh as PW1, Harmandeep Kaur as PW3, Kartar Kaur as PW4, Balvir Singh as PW5 and Gurcharan Singh as PW6. On the other hand, respondent herself appeared as RW1 and also examined Tara Singh as RW2 and Dev Singh as RW3.

On the basis of the oral as well as documentary evidence led by the parties, the trial court came to the conclusion that appellant had failed to prove desertion and cruelty. Accordingly, the petition filed by appellant was dismissed vide judgment and decree dated 29.3.2016. Hence, the present appeal by the appellant.

During the pendency of appeal, the matter was referred to

Mediation and Conciliation Centre of this court for amicable settlement. However, it proved to be a futile exercise as the mediation had failed.

We have considered the rival contentions of counsel for the parties. It appears that trial court while appreciating the evidence on record held that respondent was ready and willing to accompany appellant. Further, not a single instance has been mentioned by appellant that respondent has subjected him to physical or mental cruelty except the allegations which are general in nature. Keeping in view the facts and circumstances of the case, we feel that no interference in the judgment and decree passed by the court below, is called for. The appellant has totally failed to prove the allegations levelled by him in the petition. He also failed to prove the allegation of cruelty alleged to have been caused by the respondent-wife and also that of the allegation of desertion. It appears that appellant created such atmosphere that compelled the wife to leave her matrimonial home. We have reappraised the evidence on record and are of the view that findings have been correctly returned 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 being devoid of any merit, is hereby dismissed.

(RAJAN GUPTA)
JUDGE

September 17, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned
Whether Reportable

Yes
Yes/No