

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

FAO-M-213-2010

Decided on : September 26, 2019

Sukhjinder Kaur

..... Appellant

Versus

Devinder Singh

..... Respondent

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

Argued by : Mr. R.K.Girdhar, Advocate
for the appellant.

Mr. B.S.Sidhu, Advocate
for respondent.

Manjari Nehru Kaul, J.

The instant appeal has been preferred by the wife – Sukhjinder Kaur impugning the judgment and decree dated 06.05.2010 passed by Addl. District Judge, Ferozepur whereby the petition under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') filed by the respondent-husband was allowed.

2. Few facts necessary for adjudication of the instant appeal as pleaded in the petition filed by the respondent-husband before the learned Court below may be noticed.

Marriage between the parties was solemnized on 20.11.1993 as per Sikh rites and ceremonies. Thereafter they cohabited together and resided at Ludhiana. One son was born out of the said wedlock. The respondent-husband averred that the appellant-wife was a short tempered

lady and was unable to adjust in his family due to temperamental issues. She would pressurize him to live in a separate accommodation and would nitpick on trivial issues because he refused to live separately. In February 1999, on return from a business trip he was told by his mother that the appellant-wife had not only misbehaved with her but also refused to cook food. On being confronted, the appellant-wife emphatically told him that she was not willing to live with his parents or serve them. It was alleged that in November, 2001 when a friend of the respondent-husband along with his family visited the house, the appellant-wife caused a great deal of embarrassment to him as she physically and verbally abused him in front of the guests. Thereafter in February 2002, the appellant-wife's father and brother too came to their house and pressurized the respondent-husband to live in a separate accommodation. It was further alleged that when the appellant-wife went to attend the marriage of her sister in October, 2002, she took along with her all her valuables and clothes etc. from which an inference could be drawn that she had no intention of returning after the marriage of the sister. The husband could not attend the marriage due to his business obligations which annoyed the wife's parents a great deal. After the marriage, when he went to bring his wife back, she told him that she would return only on the condition if he agreed to move into a separate accommodation and transfer a plot of land at Giaspura, Ludhiana in her name as well as deposit Rs.10 lakhs in the shape of FDR in her name. He tried to reason out with her but in vain. Since 08.10.2002, the appellant-wife did not join the society of the respondent-husband leading to desertion on her part. On 02.08.2004 at about 4.00 am, the brother and the father of the

appellant-wife came to his house armed with a 12 bore gun and fired a shot at him. However, he had a providential escape. A complaint was filed in the Court, which was still pending when the petition under Section 13 of the Act was filed by the respondent-husband. The appellant-wife too got a complaint filed under SC/ST Act through her maid levelling false allegations against him, which was dismissed by the Court below. It was further alleged that the appellant-wife had also moved applications before the police at Ludhiana and Ferozepur with false allegations of dowry demands against him but the same were found to be false by the authorities. An application under Section 125 Cr.PC was also filed by the appellant-wife.

3. Per contra, the appellant-wife in her written statement filed before the Court below, refuted and denied the allegations of the respondent-husband. She submitted that it was the respondent-husband, who had been subjecting her as well as their minor son to cruel and abusive behaviour. She submitted that the respondent-husband was a man of questionable character and would bring women of ill repute to the matrimonial home in her presence as well as in the presence of his parents. She was threatened by her husband not to disclose the said fact to anyone or else she would be killed. Whenever she would urge him to mend his ways, she would be physically abused. She however, tolerated the abusive behaviour of the respondent-husband with a hope that he would clean up his acts but his behaviour continued to be the same and did not even change after the birth of their son.

4. From the pleadings of the parties, following issues were framed

by the learned trial Court:

1. Whether the petitioner is entitled to a decree of divorce on the ground of cruelty at the hands of the respondent, as alleged? OPP
 2. Whether the petition is not maintainable? OPR
 3. Relief.
5. Thereafter both the parties adduced evidence in support of their respective stands. The respondent-husband himself stepped into the witness box as PW-1. Besides him, he examined five other witnesses. On the other hand, appellant-wife herself stepped into the witness box as RW-1 and also examined her brother Bhupinder Singh as RW- 2 and father Hoshier Singh as RW-3 .
6. After analyzing the evidence led by the parties, the trial Court allowed the petition filed by the respondent-husband and dissolved the marriage by way of decree of divorce.
7. We have heard learned counsel for the parties and perused the evidence as well as other material available on record.
8. During the pendency of the instant appeal, the parties were referred to Mediation and Conciliation Centre of this Court to explore the possibility of an amicable settlement, however, all efforts failed miserably. The parties during the course of arguments stuck to their respective stands taken before the Court below and reiterated their allegations against each other.
9. Admittedly, the parties have been living separately for the past about 17 years and there have been no conjugal relations between them. It

is also a matter of record that various applications were moved by the appellant-wife levelling allegations of cruelty and demand of dowry against the respondent-husband and his family including a complaint under the SC/ST Act filed through a maid employed at the parental home of the appellant-wife, which were all found to be false.

10. It is very obvious that the act of the appellant-wife in filing false and frivolous complaints including one through her maid under SC/ST Act was deliberate. It goes without saying that her conduct would have caused a lot of humiliation as well as acute harassment to the husband and his family. We have no doubt in our mind that the respondent-husband comes across as the wronged party. In the case in hand, the conduct of the appellant-wife unquestionably amounts to cruelty.

11. As a sequel to the aforesaid discussion, we do not find any reason to interfere in the impugned judgment dated 06.05.2010 passed by the learned Court below, which is a well reasoned one.

12. Accordingly, the instant appeal being devoid of merit, is dismissed.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

September 26, 2019
sonia

Whether speaking/non-speaking:	Yes/No
Whether reportable :	Yes/No