

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

FAO-M-192-2014

Decided on : 06.12.2019

Poonam Verma

..... Appellant

Versus

Sanjay Verma

..... Respondent

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

Argued by : Mr. Akshay Jindal, Advocate
for the appellant.

Mr. A.S.Brar, Advocate
for respondent.

Manjari Nehru Kaul, J.

The instant appeal has been preferred by the wife – Poonam Verma to impugn the judgment and decree dated 27.03.2014 passed by Addl. District Judge, Chandigarh whereby petition filed by the respondent-husband under Section 13 (1) (i-a) (i-b) of the Hindu Marriage Act, 1955 (for short 'the Act') 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 07.12.1996 as per Hindu rites and ceremonies at Chandigarh. One son was born out of the said wedlock, who is presently residing with the mother. The respondent-husband averred that within few months of their marriage, the appellant-

wife started subjecting the appellant-husband to harassment as she would often compel him to get himself transferred to Barwala so that he could reside separately from his parents. After the birth of their child in March 1999, the appellant-wife resided with her parents-in-law at Pinjore just for a few months and soon thereafter in January, 2000, she along with the minor child shifted to her parental home at Delhi. In June, 2000 father of the respondent-husband wrote a letter to the father of the appellant-wife asking him to send the appellant-wife to attend a family function(engagement ceremony), which was slated for 03.07.2000. This was followed by another letter on 30.06.2000 with the same request but the appellant-wife failed to come and attend the family function. Finally, when she returned after a while, the behaviour of the appellant-wife had worsened but the respondent-husband and his family turned a blind eye towards it. In July, 2000 when the respondent-husband met with an accident and suffered a head injury, the appellant-wife did not even bother to visit him nor did she ever accompany him during his visits to the PGI, Chandigarh where he was undergoing treatment for the injury suffered. Instead, in the month of March 2001, the appellant-wife created an ugly scene in the locality and it was only with the intervention of the mohalla president that the matter was settled. It was further pleaded that the appellant-wife visited the office of the appellant-husband number of times where she insulted and humiliated him in front of one and all, and went to the extent of filing a false complaint against the respondent-husband with the police at Pinjore. It was pleaded that due to the head injury suffered by the respondent-husband, the Medical Board, Panchkula declared the said injury as a chronic disease vide Certificate

dated 24.08.2005. A certificate to the same effect was also issued by PGI, Chandigarh on 15.11.2006. Even though the appellant-wife was fully aware of the medical condition of the respondent-husband despite that she did not hesitate to lodge a false complaint against him, his parents and his minor sister before the Sr. Superintendent of Police, Chandigarh in February, 2007 just to harass and humiliate him. He and his family even had to face proceedings before the Women's Cell, Chandigarh. Thereafter, the matter was transferred to Women's Cell, Panchkula at the instance of the appellant-wife, which was subsequently dismissed on 20.11.2007. It was pleaded by the respondent-husband that the appellant-wife had left the matrimonial home in October, 2005 along with their minor child and all efforts made by him to reconcile the matter had proved futile. Despite his earnest efforts, he was not allowed to meet his minor child. He thus, prayed for dissolution of his marriage with appellant-wife on the grounds of cruelty and desertion.

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 alleged that the parties initially resided at Mansa Devi Complex and only on account of the transfer of the respondent-husband, they had to shift to Barwala. It was further submitted by the appellant-wife that when the respondent-husband did not turn up at the house in Barwala for more than two months, her father came and took her along with her minor child to Delhi. She rather alleged that she was continuously harassed by the respondent-husband and his family for dowry and it was in this background that she had been compelled to approach the police. She admitted that the respondent-husband underwent treatment in

PGI subsequent to his accident but claimed that all the medical expenses were borne by her parents. She alleged that the respondent-husband would not provide her enough money for her basic needs nor provide money for the maintenance of the child. She claimed that on one occasion she had withdrawn her complaints filed by her against him and his parents after they had tendered an apology. She categorically denied having left her matrimonial home and subsequently having shifted to her parental home. She claimed that the three of them, including respondent-husband had shifted to her parents house at Manimajra as their child was undergoing his treatment for Leukoderma in PGI, Chandigarh. She alleged that it was in fact the respondent-husband, who while staying at her parental home at Manimajra had picked up a quarrel with her and deserted her in December, 2005. Thereafter, neither he nor his parents had ever bothered to find out about her or her child's well being.

4. Rejoinder was also filed by the respondent-husband wherein he denied the averments made in the written statement and reiterated his pleadings.

5. From the pleadings, learned court below framed the following issues:

1. Whether the respondent treated the petitioner with cruelty? OPP
2. Whether the respondent has deserted the petitioner continuously for a period of two years? OPP
3. Relief.

6. The respondent-husband himself stepped into the witness box

as PW-4 and examined four other witnesses. On the other hand, appellant-wife stepped into the witness box as RW-1 and examined Joginder Singh as RW-2.

7. On an analysis of the evidence led, the trial Court allowed the petition filed by the respondent-husband on the ground of cruelty and desertion.

8. We have heard learned counsel for the parties and reappraised the evidence as well as other material available on record.

9. 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.

10. Adverting to the case in hand, a perusal of the evidence and other material available on record reveals that the allegations of cruelty levelled against the appellant-wife by the respondent-husband are only sweeping allegations from which no inference whatsoever can be drawn that the acts of cruelty complained of, by the respondent-husband were serious or grave, making it difficult for the parties to live together.

11. The bald allegations of the respondent-husband against the appellant-wife of misbehaving with his parents and relatives in the absence of any cogent much less convincing evidence cannot be said to fall within the ambit of cruelty. Admittedly, there are no allegations of the parties ever subjecting each other to any physical assault. It is the admitted case of the respondent-husband that he had moved to the parental home of the appellant-wife at Manimajra as their son was undergoing treatment at PGI, Chandigarh and it was in December 2006 that he left the parental home of

the appellant-wife at Manimajra. In this background, the allegations of the respondent-husband being humiliated and even being neglected by the appellant-wife after his accident in 2000 does not appeal to reason. Moreover, the factum of his shifting to Pinjore from Manimajra in December, 2006 finds corroboration from the testimony of his mother PW-2 Shashi Bala, who too admitted to the same. The fact remains that even if allegations of cruelty against the appellant-wife are accepted, the respondent-husband continued to stay with her till 2006. Hence, it would not be wrong to presume that he had condoned all her earlier acts of cruelty prior to 2006. Further, from the allegations it is not hard to discern that the allegations of cruelty at best could be termed as trivial and routine quarrels or disagreements between the spouses. Hence, it is the respondent-husband, who left her at her parental home and walked away and not the other way around as alleged.

12. From all the cumulative circumstances coupled with the conduct of the respondent-husband as is discernible from the evidence and other material on record, it gives rise to a reasonable and legitimate inference that the respondent-husband deliberately abandoned his wife along with their minor child at her parental home in the year 2006 leaving the appellant-wife with no other option but to continue living at her parents' house.

13. As a sequel to the above discussion, we have no hesitation in holding that no ground of cruelty and desertion as alleged by the respondent-husband is made out against the appellant-wife.

Consequently, the impugned order dated 27.03.2014 passed by the court below is set aside and the present appeal stands allowed.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

06.12.2019
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Whether speaking/non-speaking:	Yes
Whether reportable :	Yes