

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-M-201-2014 (O & M)
Date of decision: 17.07.2019

Pawan Kumar Mudgil

.... Appellant

V/s

Savita Devi

...Respondent(s)

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

Present: Mr. Rampal Verma, Advocate, for the appellant.

Mr. Mahender Singh Chahal, Advocate, for the respondent.

RAJAN GUPTA, J. (Oral)

Present appeal is directed against the judgment dated 12.03.2014 passed by Additional District Judge, Jhajjar, whereby he rejected the plea for divorce sought by the husband under Section 13(ia) (ib) of the Hindu Marriage Act.

Marriage between the parties was solemnized on 04.03.2003 as per the Hindu rites and ceremonies. Out of the wedlock one child namely Chhavikant was born on 30.11.2004. Husband alleges that his wife is not ready to fulfil the conjugal obligations. She mostly acts under the influence of her parents. Despite marriage, she continued to stay in her parental home. The Panchayat was also convened but the arrangement failed soon after. He, thus, alleged that respondent was guilty of treating him with cruelty. In support of his plea, he himself stepped into the witness-box and examined his brother-Giri Raj as PW-2. Respondent-wife refuted all the pleas. She herself stepped into the witness-box as RW-1 and examined her father-Ram Niwas as RW-2 and one Ram Phal as RW-3. Trial court framed the issue

whether husband was entitled to divorce on the ground of desertion and

cruelty. On analysis of evidence, it found that there was no evidence of physical assault by the respondent. Thus, question which survives was only of mental cruelty. It held that grounds were not found out and the appellant-petitioner was not entitled to the divorce as prayed for.

On reappraisal of the evidence of the appellant-husband it can easily be inferred that there was continuous bickering between the couple mostly at the behest of the respondent. Admittedly, she also lodged an FIR-Ex. R/2 against the husband and his family on 27.03.2007. The accused were ultimately acquitted in the said case. It also appears that respondent-wife left her matrimonial home and refused to join the company of the appellant-husband. The testimony of the witnesses led by the petitioner-appellant remained untouched. Respondent-wife merely stepped into the witness box and refuted the pleas taken by the petitioner-appellant. Her father deposed on the same lines.

During the pendency of this appeal, which has been pending since the year 2014, number of efforts were made by this court as well as the Mediation Centre to explore the possibility of amicable settlement. However, all efforts proved futile.

During the course of hearing, a query was put to learned counsel for the appellant whether the appellant is ready to pay permanent alimony to the respondent-wife. He submits that he has received instructions that the appellant would pay Rs.16 lacs as permanent alimony. Out of which, a sum of Rs.8 lacs be kept in FDR in the name of the son to be encashed on his attaining the age of majority. There is no statement in this regard on behalf of the respondent.

We find this offer reasonable. In view of our finding arrived at on issue No.1 framed by the trial court, we hereby decide to dissolve the marriage by a decree of divorce. The appellant shall pay permanent alimony of Rs.16 lacs within three months for maintenance of respondent-wife and his son. However, out of this amount, Rs.8 lacs be kept in the FDR in the name of the son-Chhavikant. He would be entitled to encash the same on attaining the age of majority.

In view of the above, marriage between the parties is hereby dissolved by way of decree of divorce. Decree sheet be prepared accordingly.

Allowed in these terms.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

July 17, 2019
sukhpreet

Whether speaking/reasoned : Yes
Whether reportable : No