

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

**FAO-1689-2017 (O&M)
Decided on : 18.10.2019**

Pardeep Joshi

... Appellant(s)

Versus

Sareena Joshi

... Respondent(s)

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

Argued by: Mr. Ramneek Vasudeva, Advocate
for the appellant(s).

Mr. Dinesh Nagar, Advocate
for the respondent(s).

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the husband – Pardeep Joshi, against the judgment and decree dated 04th November, 2016, passed by the Ld. District Judge (Family Court) SBS Nagar, (in short 'Ld. Family Court'), vide which the petition filed by him under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'), seeking dissolution of his marriage with the respondent-wife, was dismissed.

A few facts necessary for adjudication of the case, as pleaded in the petition filed by the appellant-husband (petitioner therein) before the Ld. Family Court, may be noticed.

The marriage between the parties was solemnized on 12th November, 2009, according to Hindu rites and ceremonies. It was a simple marriage sans any dowry. Soon after the marriage, parties shifted to Rupnagar, where, they both started residing as husband and wife. The husband spent a considerable amount on the studies of the wife. After

completion of her B.Ed. studies, the wife was got admitted by him for M.Ed. However, the behaviour of the wife was not cordial with the husband as she would insult and humiliate him in the presence of one and all. All his pleas to the wife to refrain from indulging in insulting behaviour fell on deaf ears. There was a lot of interference from her parental side, which was a constant source of nuisance in their marriage. After the birth of their child, the wife went to her parental house, where she stayed for three months and refused to even return for the Lohri festival. She returned only for a week in April, 2013 and then again left. She moved an application against the husband and his parents before SSP, Nawanshahr, wherein, she levelled baseless and false allegations. However, compromise was arrived at between the parties before the Women's Cell at Nawanshahr. Even though the wife returned to her matrimonial home, she continued inflicting atrocities on the husband and his family, as a result of which, the husband slipped into depression. On 24th July, 2013, wife left the matrimonial home after declaring that she was severing all ties with him. An FIR was also got registered against the husband and his family, leading to his arrest. This cruel act of the wife played havoc on the husband. At the time of the death of his father, neither did the wife nor any one from her parental family attend the last rites. The husband pleaded that due to the cruel acts and conduct of the wife, it had become extremely difficult for them to continue their relationship as husband and wife. Hence, he prayed for dissolution of their marriage by way of decree of divorce.

Per contra, in the written statement filed before the Ld. Family Court, the wife categorically refuted and denied all the allegations made by the husband in his petition. She submitted that sufficient dowry articles including customary gifts were given to the husband and his family members

at the time of their marriage. The husband and his family were dissatisfied with the dowry given at the time of marriage, for which she would be frequently subjected to harassment and cruelty. In the year 2010, wife was left at her parental home after being told that she would be taken back to the matrimonial home only on completion of her B.Ed. and that too at expenses borne by her parents. As a result of which, she remained at her parental home against her wishes for almost a year. It was with great difficulty that her parents managed to get her to finish with her B.Ed. studies. With the efforts of her parents, she was rehabilitated in her matrimonial home but the behaviour of her husband and his family continued to be the same as before. Her husband and his family heaped scorn upon her for giving birth to a daughter. Thereafter, she was left at her parental house by them in April, 2013, after being threatened of dire consequences if she ever thought of returning to the matrimonial home. On 12th April, 2013, she moved a complaint before SSP, SBS Nagar against her husband leading to a compromise being arrived at, between the parties. However, the same was short-lived as on 25th July, 2013, she was turned out of the matrimonial home along with her minor daughter. She again moved a complaint before SSP, SBS Nagar detailing her maltreatment, which was followed by an inquiry by the Women's Cell, Rupnagar, leading to the registration of a case against the husband. The husband then approached the High Court for grant of anticipatory bail and expressed his willingness to reconcile matters with the wife, on the plea that he had filed a petition under Section 9 of the Act. It was only on this assurance, given by the husband, he was granted interim bail. The husband, however, resiled from his assurance, as a result of which, the interim bail granted to him was not made absolute and thus dismissed.

Despite various panchayats convened to settle the differences between the

parties, no success could be achieved. She alleged that in fact, it was the husband, who had deserted her without any reasonable cause. She prayed for dismissal of the petition filed by the husband before the Ld. Family Court.

In the rejoinder filed by the appellant-husband, he controverted all the averments made by the wife in her written statement and reiterated his pleadings.

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

- “1. *Whether the respondent has treated the petitioner with cruelty? OPP*
2. *Whether the respondent has deserted the petitioner with any reasonable cause and excuse ? OPR*
3. *Relief.”*

In support of his case, the husband himself stepped into the witness-box as PW-1 besides examining two other witnesses. On the other hand, wife herself appeared as RW-1 and after tendering into evidence her duly sworn affidavit as Ex.RW-1/A, she closed her evidence.

After analyzing the evidence led by the parties, the Ld. Family Court dismissed the petition under Section 13 of the Act filed by the appellant-husband by holding that cruelty and desertion on the part of the respondent-wife did not stand proved.

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

During the pendency of the instant appeal, the parties were referred to the Mediation and Conciliation Centre of this Court (in connected

case i.e. FAO-290-2017 filed by the wife under Section 9 of the Act) to explore the possibility of an amicable settlement, however, it proved to be a futile exercise. It may be noticed that this Court too interacted with the parties at a considerable length. However, the parties maintained their respective stands and reiterated their allegations against each other.

The appellant-husband during our interaction with him stated that he and his family had been unnecessarily dragged and implicated in false criminal cases, for which he had to remain in custody and eventually he earned an acquittal in those criminal cases. Hence, it had become impossible for the parties to live together under the same roof as husband and wife, as he and his family had suffered a lot of humiliation for no fault of theirs. He, however, submitted that in the eventuality of his appeal being allowed, he was ready to pay an amount of ₹ 10.00 lakhs permanent alimony towards full and final settlement to the wife and an amount of ₹ 07.00 lakhs in the shape of FDR for the maintenance of their daughter 'Aradhya Joshi'. In support thereof, he filed an affidavit dated 01st October, 2019, which was taken on record.

It is very apparent as already discussed above that the chances of any reconciliation between the parties are next to impossible. Our interaction with the parties has also left us with no manner of doubt that the marriage between the parties has broken beyond repair. Admittedly, the parties have been residing separately since 2013.

As a sequel to the above, present appeal is allowed and the judgment & decree of the Ld. Family Court is set aside. The marriage between the parties stands dissolved. Decree sheet be prepared accordingly.

The appellant-husband will deposit a sum of ₹ 17.00 lakhs as per the terms of his affidavit dated 01st October, 2019, on account of permanent alimony to

the respondent-wife towards full and final payment as well as for maintenance of his daughter, within a period of one month from the date of this order. Besides this, the husband is also directed to pay a sum of ₹ 2000/- per month, towards the education expenses of his daughter 'Aradhya Joshi' till she attains the age of 21 years.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

October 18, 2019

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No