

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

FAO-M-127-2015

Decided on : 04.09.2019

Harvinder Kaur

... Appellant(s)

Versus

R.K. Malhotra

... Respondent(s)

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

PRESENT: Mr. Shrey Goel, Advocate
for the appellant(s).

Mr. A.B.S. Wasu, Advocate
for the respondent(s).

RAJAN GUPTA, J. (Oral)

Present appeal is directed against the judgment and decree dated 05.01.2015, passed by the Additional District Judge, Chandigarh, whereby, petition filed by the appellant-wife (petitioner therein) for grant of divorce has been declined.

Marriage between the parties was solemnized on 25th January, 1991 at Chandigarh. No issue was born out of the wedlock. This was the second marriage of both the parties. Admittedly, appellant has one daughter from her first marriage and the respondent-husband has two issues from his earlier marriage. The case of appellant is that respondent had left the matrimonial home in the month of March, 2008 along with his son Puneet Malhotra and started living separately. At present, respondent is living at Mohali. The appellant preferred a petition before the court below, praying for divorce on the grounds of cruelty and desertion.

Respondent refuted the plea. He levelled number of counter-allegations. He claimed that in 2004, appellant and respondent along with the appellant's daughter visited number of foreign countries. In April 2006,

respondent spent huge amount on the marriage of the appellant's daughter and also gave an FDR for a sum of ₹ 2.50 lakhs. He purchased a plot in Kharar for a sum of ₹ 15.00 lakhs in the name of the appellant-wife. However, the plot in question was later on sold by the appellant for ₹ 22.00 lakhs.

After considering the pleadings of both the parties, the trial Court framed the following issues:-

- (1) *Whether the respondent has deserted the petitioner for a period of more than 2 years at the time of filing of the petition ? OPP*
- (2) *Whether the respondent has treated the petitioner with cruelty ? OPP*
- (3) *Relief.*

Appellant himself stepped into the witnesses-box and deposed as PW1. Respondent deposed as RW1.

According to the appellant, respondent was in the habit of loosing his temper and used to harass her on petty issues. Appellant also submits that the son of the respondent namely 'Puneet Malhotra' had criminal record and was also caught in a examination using unfair means. Appellant was cross-examined, but the testimony remained unshaken. Respondent stepped into the witness-box. However, he merely reiterated the stand taken in the written statement.

Today when the case was taken up for hearing, both the parties were present before this Court. They admit that the parties had been living separately since March 2008 and nothing survives in the marriage.

On re-appraisal of the evidences, we find that there is substance in the plea of appellant-wife. Despite cross-examination, her testimony has remained intact. Besides, the marriage is now beyond any scope of reconciliation. We, thus, feel that the instant appeal deserves to be allowed. We order accordingly.

The judgment and decree dated 05.01.2015 passed by the court below is hereby set-aside and the marriage between the parties is dissolved by a decree of divorce. Decree-sheet be drawn up accordingly.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

September 04, 2019
J.Ram

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