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

FAO No.361 of 2015 (O&M)

Date of decision: March 27, 2019

Arvinder Kaur

...Appellant

Versus

Arun Tuli

...Respondent

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Harnaresh Singh Gill**

Present: Mr. Balbir Singh, Advocate,
for the appellant.

Mr. Kanwal Goyal, Advocate,
for the respondent.

Rakesh Kumar Jain, J.

This appeal is directed against the judgment and decree dated 28.05.2015 by which a petition filed under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as the "Act") by the respondent-husband for dissolution of his marriage by way of decree of divorce on the ground of cruelty has been allowed.

In brief, the parties solemnized their marriage on 09.02.2000 as per Hindu rites and ceremonies. It was a love marriage against the wishes of the parents of the respondent. They were blessed with a daughter, namely, Kadam on 18.06.2004. After some time, family members of the appellant started visiting her and the respondent also started visiting the paternal house of the appellant with his daughter. It is alleged that the appellant started visiting a religious sect, namely, Anandmurti Gurumaa along with her elder sister and according to the respondent, behaviour of the appellant had changed inasmuch as she had started refusing to perform her matrimonial obligations as she

started spending days together in the Ashram of aforesaid Anandmurti Gurumaa leaving behind her minor daughter, without consultation/information to the respondent. It is also alleged that the appellant had left her matrimonial home which led to the filing of a petition under Section 9 of the Act by the respondent before the Court at Chandigarh, in which a compromise was arrived at and the said petition was withdrawn on 24.12.2011 but as per the case of the respondent, even after joining the matrimonial home, the appellant refused to perform her conjugal duties and left her matrimonial home on 20.05.2012 and lodged a false complaint to the police on 21.05.2012 against the respondent. During enquiry, the appellant made a statement that she had filed false complaint at the instance of her parents and, thus, the said complaint was filed, whereas on 20.06.2012, father of the appellant filed a false complaint and on 21.07.2012, the appellant again left her matrimonial home. The matter was reported by the respondent to the police and once again, father of the appellant made a false complaint to the police in April, 2013. The said complaint, being baseless, was also filed in view of the statement made by the appellant. It was alleged that the appellant had attacked the respondent on 25.03.2014 and the said incident was reported to the police. On 27.03.2014, the appellant again filed a false complaint to the police on the basis of which proceedings under Section 107/151 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the "Cr.P.C.") were initiated against the respondent and his parents and on 01.04.2014, the appellant once again left her matrimonial home leaving behind her minor daughter, without even informing the respondent.

The allegations made here-in-above by the respondent were

denied by the appellant and it was pleaded that the bitterness in their family life was because of the interference of the family members of the respondent. However, filing of the petition under Section 9 of the Act by the respondent and its withdrawal on the basis of compromise was not denied. It was also not denied that the complaints were filed by the appellant but it was pleaded that it was because of the humiliation and harassment extended to her by the family members of the respondent.

The respondent had filed rejoinder to the reply filed by the appellant, reiterating the pleas taken in the petition and controverting the stand taken by the appellant in the written statement.

On the pleadings of the parties, as many as four issues were framed by the Family Court on 25.07.2012. In order to substantiate their case, the parties led their respective evidence. The Family Court, after taking into consideration the evidence led, found that the respondent has been successful in establishing the fact that the appellant has caused mental cruelty to him as she has not only filed repeated false complaints to the police in which inquiries were held and were ultimately filed or withdrawn but wild allegations were made by the appellant that the respondent is having female friends whom he brings to his bedroom in odd hours and that she had apprehended that the respondent would eliminate her. Thus, after appraisal of the evidence, the decree has been granted in favour of the respondent in regard to dissolution of his marriage, which has been challenged by the appellant by way of present appeal, in which notice was issued and operation of the decree was stayed. Thereafter, this Court had made huge efforts in order to reunite the couple by referring their case repeatedly to the Mediation Centre of this Court as earlier the mediation proceedings were

failed as recorded in the order dated 29.08.2016 but again on 29.03.2017, on the request of counsel for the appellant that there is some scope of settlement between the parties, efforts were made by referring their case to the Mediation and Conciliation Centre of this Court but ultimately, the second round of mediation also failed.

Counsel for the appellant has submitted that the appellant was suffering from psychiatric problem and was under depression. It is further argued that the Family Court has allowed the petition filed by the respondent on vague averments and that it was a case of minor wear and tear of the marriage which does not tantamount to cruelty for the purpose of grant of decree of divorce.

On the other hand, learned counsel for the respondent has submitted that the appellant is working as a Staff Nurse in the PGI and helping the doctors in surgeries, therefore, it cannot be said to be a psychiatric case. It is further submitted that the appellant had started loosing interest in matrimonial chores after she had started following the religious sect Anandmurti Gurumaa. She had been staying in the Ashram for days together without the knowledge of the respondent much-less without his consent, as a result thereof, at one point of time, the respondent had to file a petition under Section 9 of the Act as the appellant herself was not inclined to return to her matrimonial home but the said petition was withdrawn as a compromise had arrived at between the parties on 24.12.2011. It is also submitted that the appellant did not resume matrimonial cohabitation and refused to perform the duties of a wife on 20.05.2012 and lodged a complaint with the police on 21.05.2012, which was found to be false as she had stated herself that it was got registered by her on the asking of her parents and, thereafter,

her father made a false complaint, which was also found to be baseless and filed by the police. The appellant got initiated proceedings under Section 107/151 of the Cr.P.C. against the respondent and his parents and left the matrimonial home leaving behind minor daughter who is in the custody of the respondent. It is also submitted that she did not spare the respondent in any manner because she also levelled baseless allegations against his character that he used to bring his female friends to his house at odd hours. It is, thus, submitted that all these allegations have been taken care of by the Family Court on the basis of the evidence brought on record to form a firm opinion. It is a case where the respondent has been subjected to mental cruelty by the appellant and it is not a mere case of simple wear and tear of the marriage.

We have heard learned counsel for the parties and perused the record with their able assistance.

As a matter of fact, learned counsel for the appellant has not argued much on the issue of errors in the findings recorded by the Family Court except for submitting that the appellant was suffering from depression and in this regard, he has referred to an application filed by him to bring on record the additional evidence. However, the evidence brought on record by the respondent, which has been discussed by the Family Court, is sufficient to hold that repeated baseless and frivolous criminal complaints were filed by the appellant and her father against the respondent and his family members; the appellant did not have any interest in the family affairs and used to away from the matrimonial home for days together for spending time in the Ashram; did not look after the minor daughter and had levelled scandalous allegations against the character of the respondent that he has affair with his female friends

whom he used to bring to his bedroom and these instances are not of the nature of simple wear and tear of the marriage but cumulatively prove the act of mental cruelty on the part of the appellant, for which the respondent has rightly been granted the decree of divorce for dissolution of his marriage with the appellant, in which we do not find any reason to interference in the absence of cogent reasons.

In view of the above, we do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

(Rakesh Kumar Jain)
Judge

March 27, 2019
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(Harnaresh Singh Gill)
Judge

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