

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-M-482-2015 (O&M)

Date of Decision : 18.09.2019

Mamta Masih..... Appellant

VERSUS

Sandeep Masih..... Respondent

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

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Present: Dr. Rau P.S.Girwar, Advocate
for the appellant.

Mr. H.P.S.Isher, Advocate
for the respondent.

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MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by Mamta Masih (wife) against the impugned judgment and decree dated 03.09.2015 passed by the Additional District Judge, SAS Nagar, Mohali, whereby the petition of the respondent-husband under Section 27 of the Special Marriage Act, 1954 was allowed and the marriage between the parties was dissolved on the ground of cruelty.

Few facts necessary for adjudication of the present appeal as pleaded in the petition filed before the Court below may be noticed.

The marriage between the parties was solemnized on 19.05.1998 under the Special Marriage Act, 1954 as the respondent-husband was a Christian and the appellant-wife a Hindu. The marriage was

performed as per Christian rites. Two children namely Sara Samson and Joshua Samson were born out of the wedlock. It was pleaded by the husband that the behaviour of his wife was cruel and unbecoming right from the beginning of their marriage as she would often quarrel with him on trivial issues. The husband tolerated the unbecoming behaviour of his wife with the hope that she would mend her ways but her behaviour worsened with the passage of time. Parents of the husband had constructed a house in Zirakpur out of their retiral benefits. The husband along with his wife and children started residing in the said house with his parents. However, the conduct of the wife continued to be cruel not only towards her husband and children but towards his parents as well. She would shirk her matrimonial obligations and would not even perform the basic household chores. The wife would go to the extent of intentionally hiding the medicines of her parents-in-law so as to harass them and would also physically assault them. The parents of the husband would lock themselves in their room in order to save themselves from the wrath of their daughter-in-law i.e. the petitioner's wife and would refrain from disclosing the harassment and torture meted out to them to their son. It was only from the children that the husband learnt about the cruel behaviour of his wife towards his parents. A Panchayat was convened wherein it was agreed that the husband and wife would start living separately, as a result of which on 24.08.2010 both the parties shifted to another accommodation and started residing separately from the parents of the husband. The wife did not mend her ways and continued with her abusive behaviour towards her husband and children. As she would not cook meals for the children on time, the children were compelled to go to their grand parents for their meals or many a times it was

the husband who would cook for them. With the intervention of respectables, it was agreed that the children be sent to their grand parents as they were being neglected by the wife. The wife would frequently indulge in unruly and uncalled for behaviour inasmuch as she would not even hesitate to pelt stones at the house of her parents-in-law; she would lodge false complaints before the police against the husband. She would intentionally hurt the feelings and sentiments of her husband by desecrating the Bible. In these circumstances, the husband was left with no other option but to approach the Women Cell for getting the matter solved, but it proved to be futile due to the wife's attitude. The wife did not permit her husband to have any conjugal relations with her for almost four years which caused acute mental cruelty to him. The husband pleaded that since the parties had been living separately since August 2010, he be granted decree of divorce on the grounds of cruelty and desertion.

Per contra in her written statement the wife categorically refuted and denied the allegations of her husband. She alleged that in fact it is the husband who had been cruel and indifferent to her. She had sustained injuries on her head in an accident but the husband did not even bother to get her treated in a hospital. She submitted that a huge amount of money was spent on her marriage. She had converted to Christianity to please the husband and his parents but they were unhappy and did not accept her into their family. She alleged that when she was staying with her parents-in-law they would intentionally maltreat her so that she would leave the matrimonial home on her own. Even though she made numerous complaints to the police regarding the behaviour and conduct of the husband and his parents but the authorities did not take any action on the complaints due to

the influence wielded by the husband.

Replication to the written statement was filed by the husband in which he denied all the submissions made by his wife and reiterated his averments made in the petition.

From the pleadings of the parties the following issues were framed by the Court below:-

1. Whether the petitioner is entitled to a decree of divorce by way of dissolution of marriage with respondent on the ground of cruelty? OPP
2. Whether the petitioner has concealed material facts? OPR
3. Relief.

In support of his case, the husband appeared as PW1 besides examining two other witnesses including his daughter Sara Samson as PW3.

The wife on the other hand appeared as RW1 and examined two other witnesses in support of her case.

After analyzing the evidence, the Court below allowed the petition filed by the husband by holding that the grounds of cruelty were proved against the wife. Aggrieved therefrom, the present appeal has been preferred by the appellant-wife.

During the pendency of the instant appeal, the matter was referred to the Mediation & Conciliation Centre of this Court to explore the possibility of an amicable settlement between the parties. However, the same proved to be a futile exercise.

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

The parties have reiterated their respective versions and

maintained their respective stands taken before the Court below. Besides the husband, PW3 Sara Samson i.e. the daughter of the parties stepped into the witness box and in her deposition corroborated the version of her father about the cruelty and misbehaviour of her mother. She was subjected to extensive cross-examination but nothing worthwhile could be elicited from her deposition in favour of her mother. A daughter would be the last person to falsely depose against her mother and that too in the manner in which she has done. Her testimony comes across as truthful and trustworthy. The act and conduct of the wife to say the least is reprehensible not only towards her husband and children but also against her old and aged parents-in-law, which would have naturally caused immense agony to the husband.

In light of the above, the instant appeal is dismissed. Accordingly, the judgment and decree dated 03.09.2015 passed by the Additional District Judge, SAS Nagar, Mohali, is upheld.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

18.09.2019

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Note: Whether speaking/reasoned :
Whether Reportable:

Yes / No
Yes / No