

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

FAO-M-14-2016(O&M)
Decided on : 10.09.2019

Sikander Singh

..... Appellant

Versus

Veerpal Kaur

..... Respondent

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

Present : Ms. Neeraj Chandel, Advocate for
Mr. Abhay Pal Singh, Advocate
for the appellant.

Mr. J.S.Grewal, Advocate
for the respondent.

Manjari Nehru Kaul, J.

The instant appeal has been preferred by the husband—
Sikander Singh impugning the judgment and decree dated 05.02.2015
passed by Addl. District Judge, Faridkot whereby the petition under Section
13 of the Hindu Marriage Act, 1955 (for short 'the Act') filed by him was
dismissed.

2. Few facts necessary for adjudication of the instant appeal as
pleaded in the petition filed by the appellant-husband before the learned
Court below may be noticed.

The marriage between the parties was solemnized on
28.03.2010 as per Sikh rites and ceremonies. The parties cohabited together
as husband and wife for about a month. No child was born out of the said
wedlock. At the time of marriage, it was told by the parents of the

respondent-wife that she was about 18/19 years of age but later on it was revealed that she in fact was 26 years old. On the very first night of their marriage, when the appellant-husband went to his room, the respondent-wife raised a hue and cry, which baffled him so much so that he was left with no other choice but to sleep on the floor. The following day when he visited the house of his parents-in-law with the respondent-wife, the wife was unwilling to accompany him back. However, after much persuasion by him, she returned back to her matrimonial home. Between 31.03.2010 to 14.05.2010, the respondent-wife left her matrimonial home on many occasions and each time was brought back by the appellant and his family after a great deal of persuasion. On 17.05.2010 while the appellant was sleeping, he heard the mobile phone of the wife vibrate. When he called back on the number from which the call had come, it was answered by one Paramjit from Dabwali. On questioning the respondent-wife about the call, she started arguing and instantly called up her parents by narrating an altogether distorted story to them. On 19.05.2010, her parents came to the matrimonial home and took her away. On 05.07.2010, the appellant-husband and his family yet again managed to bring back the respondent-wife after much persuasion, however, the same was short lived as she again expressed her wish to go back to her parental house. The appellant-husband accompanied the respondent-wife to her parental home. On the same night, his wife and mother-in-law went out in a car and on return the wife had Rs.700/- in cash with her. On inquiring where she had gone and from where she had got the money, the respondent-wife immediately complained to her mother who used derogatory language and levelled false allegations on him.

Fearing for his safety, he left the house in the wee hours of the morning. Thereafter, the respondent-wife lodged a complaint in the Women's Cell levelling false allegations against the appellant. The appellant-husband went to the house of his parents-in-law after assuring the Women's Cell and brought his wife back to the matrimonial home. The respondent-wife's quarrelsome behaviour continued as before and finally her parents came and took her back. Thereafter, in the intervening night of 21/22.10.2010, the parents, brother of the respondent-wife along with 6-7 others, all residents of village Channu, in connivance with the respondent-wife, armed with deadly weapons forcibly entered the house of the appellant-husband and attacked him and his family, committed a theft of gold ornaments and Rs.50,000/- in cash before fleeing in a maruti car bearing registration No.GBW3608 and one Tata Sumo jeep. The appellant-husband then lodged a FIR as well as a criminal complaint qua the alleged occurrence. On 27.12.2010 in the presence of respectables, the appellant-husband and the respondent-wife executed an affidavit to end their marriage wherein the respondent-wife stated that all her dowry articles had been handed back to her and there was nothing due to be returned. The appellant-husband pleaded that the said Paramjit who had purportedly been phoning up the respondent-wife could not be impleaded as a party as he was not aware of his address, parentage etc.

3. On the contrary, respondent-wife by way of her written statement filed before the Court below refuted and categorically denied the allegations of the appellant-husband. She submitted that about Rs.2½ lakhs were spent on her marriage and a huge dowry was given to her which was

still in the possession of the appellant-husband. She would be subjected to cruel and harsh treatment as the appellant and his family were dissatisfied with the dowry given to her at the time of marriage. Even though she never shirked her matrimonial duties, she was subjected to both physical and verbal abuse. So much so, her father-in-law outraged her modesty and when she complained to her husband about the same, he in turn questioned her own character. She submitted that she filed a complaint against her father-in-law in the Women's Cell in retaliation to which the appellant-husband also lodged a FIR against father and brother of the respondent-wife and threw her out of her matrimonial home. A compromise thereafter was arrived at between the parties. Ever since then, her parents had been trying to reason out with the appellant-husband and her parents-in-law to take her back to her matrimonial home but the appellant-husband had been refusing time and again by showing them papers signed by her wherein she had allegedly agreed to a mutual divorce. She submitted that her signatures on the said documents were forged and she wanted her marriage to survive but her parents-in-law were not allowing her to set foot in the matrimonial home till she got a maruti car.

4. In reply to her written statement, a rejoinder was filed by the appellant-husband wherein he reiterated the averments made in his petition. He denied and refuted the allegations made by respondent-wife in her written statement.

5. From the pleadings of the parties, following issues were framed by the learned trial Court:

1. Whether the respondent has treated the petitioner with

cruelty? OPA

2. Whether the respondent has left the company of the petitioner without any sufficient cause? OPA
3. Whether the petitioner has not come to the Court with the clean hands, if so, its effect? OPR
4. Relief.

6. Both the parties adduced evidence in support of their respective stands. The appellant-husband himself stepped into the witness box as AW-1. Besides him, he examined four other witnesses. On the other hand, respondent-wife herself stepped into the witness box as RW-1 and also tendered her affidavit as Ex.RW-1/A.

7. After analyzing the evidence led by the parties, the trial Court dismissed the petition filed by the appellant by holding that the appellant could not prove the allegations of cruelty and desertion against the respondent-wife.

8. During the pendency of the instant appeal, the parties were referred to Mediation and Conciliation Centre of this Court to explore the possibility of an amicable settlement, however, it failed to yield any positive result.

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

10. The case of the appellant-husband is that the respondent-wife from the day one of their marriage was averse to him so much so that she did not even allow him to share the bed with her as a result of which he was compelled to sleep on the floor. However, a perusal of the evidence led

before the Court below by the appellant-husband, reveals that he himself admitted that they cohabited together as husband and wife for about a month after the marriage, which falsifies the case of the appellant-husband that there had been no cohabitation between them. On the one hand, the appellant-husband has levelled allegations of unbecoming behaviour of the respondent-wife leading to strained relations between them while on the other hand, his father Baldev Singh-AW-3 and grand-father Jangir Singh – AW-4 have come up with a totally contrary version in their respective testimony before the Court below. As per Baldev Singh-AW-3, the dispute between the parties arose after 20 days of their marriage when a phone call of some unknown person came on the mobile phone of the respondent-wife. The grandfather Jangir Singh - AW-4 came up with a third version that the dispute between the spouses started on the 4th day of marriage when the appellant learnt that his wife was elder to him.

11. The allegations against the respondent-wife of leaving the matrimonial home frequently without the consent or knowledge of the appellant-husband cannot be said to be of such magnitude so as to cause cruelty and harassment on the appellant-husband. It is the own case of the appellant-husband that when the respondent-wife went to her parental house, he too would accompany her. No doubt, he has levelled allegations of being humiliated and treated badly by his parents-in-law but the same are not substantiated by any evidence whatsoever. It is very apparent that the appellant-husband in order to get rid of his wife has tried to make it out a case of being a victim of the wife's callous and cruel behaviour as well as desertion. But as already discussed above, there are glaring holes in the

testimony of witnesses, who appeared in support of the appellant-husband, which go a long way to demolish his own case that the wife would subject him to cruelty and had deserted him.

12. On an analysis of the entire evidence and in view of the discussion made above, we do not find any reason to interfere in the impugned judgment dated 05.02.2015 passed by the Court below. Accordingly, the present appeal stands dismissed.

13. An application bearing CM No.719-CII-2016 has been filed under Section 5 of Limitation Act, 1963 for condonation of delay of 197 days in filing the appeal. Since the appeal has been dismissed on merit, no further orders are required to be passed in the said application and the same is disposed of as such.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

10.09.2019
sonia

Whether speaking/non-speaking:	Yes/No
Whether reportable :	Yes/No