

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO-M-208-2016 (O&M)
Date of decision: August 28, 2019

Smt. Kamlesh ...Appellant

Versus

Vikas ...Respondent

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

Present: Mr. Ajay Vijarania, Advocate for the appellant.
Mr. Saurabh Arora, Advocate for the respondent.

Rajan Gupta, J.

Present appeal is directed against the judgment and decree dated 21.01.2016, passed by Additional District Judge, Jhajjar, whereby petition filed under Section 13 (1) (ia) (ib) of the Hindu Marriage Act by the respondent-husband for grant of divorce has been allowed.

Appellant namely, Kamlesh got married to respondent Vikas on 25.11.2004 as per custom by way of *Karepa*. Appellant was firstly married with Sunil son of Sant Lal, cousin of respondent on 15.11.2002, who was serving in Army and died in terrorist attack in Jammu & Kashmir while on duty. The appellant refused to cohabit him on the pretext that she had feeling for her previous husband. Thereafter, appellant-wife started visiting her parental house frequently without intimating the respondent-husband and his family members. She also refused to accompany the respondent and

many times she was brought to her matrimonial house by convening Panchayats. It is alleged that she wanted to get married with some educated and rich person. Marriage was, however, consummated in April, 2006. A female child was born out of the wedlock. Respondent claims that appellant received Rs.15.00 lacs from Army being a war widow and one flat in Delhi. She also got a petrol pump as well as full rights of pension and other benefits of her previous husband. Respondent alleges that when the appellant was pregnant, she also tried to get aborted. However, she was taken to the hospital in time and pregnancy was saved. She did not allow her husband to see the newly born child and also threatened to commit suicide. Her brother alongwith other companions also attacked the family of the respondent-husband. Since the day of *Karepa* marriage, respondent and his parents were subjected to great mental and physical cruelty. Ultimately, he filed the instant petition under Section 13 (1) (ia) (ib) of the Hindu Marriage Act, *inter alia* alleging mental cruelty. In reply appellant-wife refuted all the allegations levelled against her by the respondent. According to her, she was given beating and was turned out of her matrimonial home by family members of the respondent. Allegations of demand of dowry were also levelled. In support of his case, petitioner-husband himself stepped into the witness-box as PW-1 and also examined three other witnesses in his evidence. Respondent-wife namely, Kamlesh deposed as DW-1 and examined her brother namely, Naveen as DW-2. On analysis of the evidence on record as well as the contentions raised before the court, it came to the conclusion that petitioner is entitled to get decree of divorce from the respondent-wife on the ground of cruelty as she had

levelled false allegation of rape against her father-in-law.

Keeping in view the facts and circumstances of the case, we feel that no interference in the judgment and decree passed by the court below, is called for. The respondent-husband has fully proved that he as well as his family members were subjected to mental and physical cruelty at the hands of the appellant-wife and her brothers. The appeal is, thus, without any merit and is hereby dismissed. Decree-sheet be prepared accordingly.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

August 28, 2019
'Rajpal'

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