

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

FAO-M-224-2016 (O&M)
Date of decision: July 24, 2019

Diwakar Kapil ...Appellant

Versus

Neha ...Respondent

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

Present: Mr. N.K. Vadehra, Advocate for the appellant.
Mr. Harsh Garg, Advocate for the respondent.

Rajan Gupta, J.(oral)

Present appeal is directed against the judgment and decree dated 06.05.2016, passed by Additional District Judge, Ludhiana, whereby petition filed by the petitioner for dissolution of marriage has been dismissed.

Appellant Diwakar Kapil and respondent Neha got married on 12.09.2005 as per Hindu rites and ceremonies at Ludhiana. Out of the wedlock, two children namely, Nishika Kapil and Ryan Kapil were born on 11.6.2006 and 19.10.2009 respectively. The alliance turned abnormal soon after marriage. Petitioner and respondent levelled allegations and counter allegations against each other. The husband ultimately preferred instant petition before the trial court seeking divorce on the ground that respondent had treated him with cruelty. It appears, during the proceedings before the trial court, efforts to settle the matter were made. Even petition under Section 13-B of the Act was filed. However, nothing materialized.

In support of his case, petitioner himself stepped into the witness-box. His father deposed as PW-2. Two other witnesses supported his case. Certain documents were also tendered. Likewise, respondent also stepped into witness-box. Her plea was supported by her mother, who appeared as RW-1 and two other witnesses. The trial court primarily considered the issue whether petitioner was guilty of cruelty. It, however, did not find substance in the same and dismissed his petition.

This court has reappraised the evidence. It transpires that in the oral testimony of the petitioner/appellant, his father and two other witnesses examined by him, it has been stated that respondent had a quarrelsome nature. Her behaviour towards family members of the husband was not good. Though these allegations were denied by the respondent but not much dent could be made in the deposition of the petitioner's witnesses. During the trial, it was decided to dissolve the marriage and a petition under Section 13-B of the Act was also filed. The respondent admitted the entire contents of the petition and suffered a statement on 27.02.2013, which has been proved on record as Ex.P-2. She, however, failed to turn up at the stage of second hearing.

Keeping in view deposition of the witnesses and own admission of the respondent, this court finds that there is substance in the plea of cruelty raised by the petitioner. Besides, during the pendency of the appeal, various efforts were made by the mediator as well as by the court to amicably settle the issue. The efforts remained futile. At the final stage of hearing, the appellant Diwakar Kapil even filed an affidavit stating that he was ready to pay Rs.10.00 lacs as permanent alimony to the petitioner in

case divorce is granted.

In the facts and circumstances of the case, this court finds that the decree of divorce needs to be granted on the ground agitated by the petitioner in his petition under Section 13 of the Act. Besides, there appears to be hardly any possibility of the petitioners cohabiting now. In view of same, appeal is hereby allowed and the findings of the court below are hereby set-aside. The marriage between the parties is dissolved by a decree of divorce. In view of the affidavit submitted by Diwakar Kapil, it is held that the respondent is entitled to Rs.10.00 lacs as permanent alimony, which shall be remitted to her by way of demand draft within one month. Decree-sheet be prepared accordingly.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

July 24, 2019
'Rajpal'

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