

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

FAO-M-278-2016 (O&M)

Date of decision :14.11.2019

Pardeep Singh

....Appellant

V/s

Shivani

....Respondent

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

Present: Mr. Veneet Sharma, Advocate for the appellant.

Mr. B.D. Sharma, Advocate for the respondent.

RAJAN GUPTA J.

Aggrieved by the judgment and decree dated 12.05.2016 passed by District Judge, Amritsar, appellant has preferred the instant appeal whereby petition filed by him under section 13 of the Hindu Marriage Act, 1955 seeking dissolution of marriage has been dismissed. Marriage between the parties was solemnized on 16.03.2010 at Amritsar as per sikh rites. After marriage, they resided and cohabitated together as husband and wife and one male child namely Ojus was born on 10.12.2011. It was pleaded by appellant that after one year of marriage, the behavior of the respondent towards him and his family members became harsh and cruel. On trifle matters, she used to quarrel with them. There was undue interference of her family members in their matrimonial life. Due to act and conduct of the respondent, parents of the appellant had also disinherited him from their movable and immovable property. On 01.08.2012, due to constant pressure by the respondent to live separately, appellant took rented accommodation at

respondent did not mend her ways. Thereafter, her family members forcibly entered the house of the appellant and gave him beatings and take away gold ornaments, cash and other necessary documents. On his complaint, FIR No. 85 dated 25.04.2013 under sections 452/323/506/427/148/149 IPC was registered at police station Sadar, Amritsar against the respondent and her family members. According to him, respondent had been living separately from him since 01.08.2012 and there had been no cohabitation between them. On account of aforesaid conduct of the respondent-wife, appellant-husband had sought dissolution of marriage on the ground of cruelty and desertion. Respondent refuted the allegations levelled by the husband by filling the written statement. She pleaded that appellant had levelled false allegations. In fact, it was the appellant and his family members who gave her merciless beatings and had turned her out of the matrimonial home alongwith minor child. She had also instituted petition under section 9 of the Act. In support of his allegations, appellant examined himself as PW1 and examined two other witnesses. Respondent herself stepped into the witness box and deposed as RW1. Her plea was supported by two other witnesses. Both the parties led their respective oral as well as documentary evidence. Finding no substance in the plea raised by the appellant-husband, the court below dismissed his petition seeking dissolution of marriage. Present appeal emanates from the said petition.

Learned counsel for the appellant submits that court below has gravely erred in not appreciating the evidence in correct perspective. According to him, allegation of cruelty has been duly established but the same has been ignored from consideration. Moreover, respondent has left the matrimonial home on her own accord and without any reasonable cause.

We have reappraised the evidence on record. On careful examination of the evidence on record, we are of the view that there is no infirmity with the order passed by the court below. In the instant case, parties have been living peacefully as husband and wife for a period of one year. The trouble started thereafter and ultimately appellant filed the petition for divorce. Both the parties filed complaints against each other which are pending adjudication before the court below. The averments made in the petition and the evidence led in support thereof clearly shows that appellant has failed to prove the allegations of cruelty. Moreover, the allegations which are necessary to constitute desertion are also not present in the instant case.

In view of above, we find no reasons to differ from the findings arrived at by the court below. Accordingly, the appeal is dismissed.

(RAJAN GUPTA)
JUDGE

November 14, 2019
Ajay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No