

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

FAO-M-299-2016

Decided on : September 09, 2019

Ramandeep Singh

..... Appellant

Versus

Rajwinder Kaur

..... Respondent

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

Argued by : Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Harsimran Aulakh, Advocate
for the appellant.

Mr. G.S.Simble, Advocate
for respondent.

Manjari Nehru Kaul, J.

The instant appeal has been preferred by the husband – Ramandeep Singh impugning the judgment and decree dated 05.01.2016 passed by Addl. District Judge, Gurdaspur whereby the petition filed by the appellant-husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') 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.

Marriage between the parties was solemnized on 30.10.2010 at village Massania, District Gurdaspur as per Sikh rites and ceremonies. This was the second marriage of both the parties. After marriage, they lived together as husband and wife. No child was born out of the said wedlock.

As per the appellant-husband, at the time of marriage it was concealed by the respondent-wife that she was 38 years of age and a divorcee. After just 2/3 months of the marriage, the respondent-wife started maltreating not only him but also his parents; she would pick up quarrels with them on trivial issues and often threaten to implicate all of them in false cases. In order to save their marriage, appellant-husband on being pressurized, started living separately from his parents but it did not help matters as the behaviour of the respondent-wife went from bad to worse. She would not perform her matrimonial obligations and would leave the matrimonial home without the consent and knowledge of the appellant-husband. Whenever the appellant-husband confronted the wife about the same, she would threaten to commit suicide. On October, 2012 the respondent-wife left her matrimonial home without any reasonable cause without informing the appellant-husband. One of the brothers of the respondent-wife, who was working in Punjab police, threatened him with dire consequences. The respondent-wife on a couple of occasions, with the help of some unknown persons made an attempt to kill him as a result of which the appellant-husband moved an application before Police Station Bulowal. The appellant-husband thus, sought dissolution of his marriage with the respondent-wife as he had been subjected to both cruelty and desertion, making it impossible for him to live with her.

3. Per contra, the respondent-wife while filing her written statement before the Court below, refuted and categorically denied the averments of the appellant-husband. She submitted that the appellant-husband and his family were well aware that she was a divorcee at the time

of marriage. The petitioner was serving at Hoshiarpur at the time of marriage. After their marriage, she lived at village Chahal Kalan for about 7 months and thereafter shifted to Hoshiarpur along with the appellant-husband. She alleged that she conceived twice but each time, her pregnancy was aborted. She also took treatment for the same. Due to her failed pregnancies, the behaviour of the appellant-husband changed for which she would often be subjected to both physical and mental abuse. On 20.10.2012, the appellant-husband gave severe beatings to the respondent-wife and asked her to arrange an amount of Rs.2 lakhs for which she expressed her inability. On 25.10.2012, her brother left her at her matrimonial home at village Chahal Kalan where she had been residing ever since. However, she was not on talking terms with her husband. She submitted that the appellant-husband had levelled false allegations against the respondent-wife as he wanted to marry some other girl of his choice.

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

1. Whether the petitioner is entitled to a decree of divorce on the grounds mentioned in the petition? OPP

2. Relief.

5. In order to prove the case, the appellant-husband himself stepped into the witness box as PW-3 and also examined three other witnesses. On the other hand, respondent-wife herself stepped into the witness box as RW-1 and tendered her affidavit as RW-1/A. Besides herself, she examined her brother Jaspal Singh as RW-2.

6. After analyzing the evidence led by the parties, the trial Court

dismissed the petition by holding that the allegations of cruelty and desertion could not be proved.

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

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. Learned counsel for the parties maintained their respective stands taken before the Court below and reiterated their allegations against each other. It is very evident that due to their temperamental differences and their unwillingness to reconcile their differences, there is no hope, whatsoever, left for the parties to live and cohabit together. Admittedly, there has been no conjugal relationship between the two since October, 2012 and the marriage between the parties thus exists only on papers.

10. During the course of hearing on 20th August, 2019, learned counsel for the respondent-wife made a statement that she was willing to part ways but subject to grant of permanent alimony, since she was unemployed and had no other source of income. The appellant-husband, who was also present in the Court, expressed his readiness and willingness for the same and filed an affidavit before this Court wherein he agreed to pay Rs.10 lacs as permanent alimony to the respondent-wife, so as to give a quietus to the ongoing litigation between the parties.

11. As a sequel to the above and keeping in view the facts and circumstances of the case, the present appeal stands allowed and the

marriage of the parties stands dissolved by way of decree of divorce. Decree sheet be prepared accordingly. It is, however, made clear that the parties shall remain bound by all the terms & conditions of the affidavit, filed by the appellant-husband, which already stands taken on record and the amount of Rs.10 lakhs shall be deposited in the account of the respondent-wife within two months from the date of the order.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

September 09, 2019
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Whether speaking/non-speaking:	Yes/No
Whether reportable :	Yes/No