

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

FAO-M-316-2018 (O&M)

Date of decision: September 17, 2019

Gurwinder Singh

...Appellant

Versus

Manjinder Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vipin Mahajan, Advocate for the appellant.

Mr. A.P.S. Rehan, Advocate for the respondent.

Rajan Gupta, J.

Present appeal is directed against the judgment and decree dated 02.07.2016, passed by Additional District Judge, Gurdaspur, whereby plea of the appellant-husband for grant of divorce has been rejected, dismissing the petition filed under Section 13 of the Hindu Marriage.

The appellant namely, Gurwinder Singh got married to respondent Manjinder Kaur on 15.10.2007 as per Sikh rites and ceremonies. After marriage, they resided together at Ghuman Khurd, District Gurdaspur. Two children i.e. one daughter Simranjot Kaur and one son Jotsarup Singh were born out of the wedlock on 15.10.2009 and 26.03.2013 respectively. As per the petitioner-husband, he is serving in Army. It is alleged that respondent-wife is habitual of leaving the matrimonial home in the absence of the petitioner and did not serve her old mother-in-law. Panchayats were also convened at the house of her parents, but respondent did not mend her

behaviour. A petition under Section 9 of the Act was filed by the petitioner. However, same was later on withdrawn on 25.10.2009. Respondent treated the petitioner with cruelty and left the company of the petitioner without any reasonable cause. All efforts made by him to resolve the bickering remained futile. As a result, he filed the instant petition under Section 13 of the Hindu Marriage Act, *inter alia* alleging mental cruelty as well as desertion. In reply respondent-wife refuted all the allegations levelled against her by the petitioner. According to her, petitioner and his family members used to harass and humiliate her for not bringing dowry as per their expectation. On 5.11.2014, petitioner under the influence of liquor, gave her beating and turned her out of the matrimonial home. She was medico-legally examined in CHC, Naushara Majia Singh on 05.11.2014 itself. Since then she has been living with her parents. In support of his case, petitioner-husband himself stepped into the witness-box as PW-1 and also examined three other witnesses. Respondent-wife namely, Manjinder Kaur deposed as RW-1 and also examined Jaswinder Singh as RW-2. On analysis of the evidence on record as well as the contentions raised before the court, it came to the conclusion that petitioner had totally failed to prove desertion and, cruelty on the part of the respondent-wife.

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 appellant has totally failed to prove the allegations levelled by him in the petition. He also failed to prove the allegation of cruelty alleged to have been caused by the respondent-wife. On the other hand, it appears, appellant created such atmosphere that compelled the wife

to leave her matrimonial house. Further, he has also failed to prove the allegation of desertion by the respondent-wife. The appeal is without any merit and same is hereby dismissed. Decree-sheet be prepared accordingly.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

September 17, 2019
'Rajpal'

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