

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

**FAO-M-378-2016 (O&M) &
XOBJC-62-CII-2017
Decided on : 25.11.2019**

Karamjit Kaur

. . . Appellant(s)

Versus

Jarnail Singh and another

. . . Respondent(s)

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

Argued by: Mr. Amaninder Preet Singh, Advocate
for the appellant(s).

Mr. Harsh Aggarwal, Advocate
for respondent No.1.

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the wife – Karamjeet Kaur, impugning the judgment and decree dated 17th September, 2016, passed by the Ld. Addl. District Judge, Sangrur (hereinafter referred to as 'Ld. Court below'), vide which the petition filed by respondent No.1-husband/Jarnail Singh under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'), was allowed.

A few facts necessary for adjudication of the instant appeal, as pleaded in the petition filed by respondent No.1-husband (petitioner therein) before the Ld. Court below, may be noticed.

The marriage between the parties was solemnized on 12th November, 2007 at Barnala, as per Hindu rites and ceremonies. Two children were born out of the said wedlock, who are residing with the appellant-wife. It was alleged by the husband that it was a simple marriage

sans any dowry. The appellant-wife was of a quarrelsome nature, who would misbehave with him and his family at the drop of a hat. She would get enraged on petty matters and would throw utensils at him. On account of the pressure exerted on the respondent-husband by the wife, he shifted to an accommodation on their own and started living separately from his mother. However, the behaviour of the wife did not improve. She would refuse to serve his friends and relatives and many a times would bolt the door of her room from inside, as a result of which, he would be left with no other option, but to spend the night in another room. In the second week of October, 2012, the appellant-wife left the matrimonial home and went to her parental home without bothering to inform the husband. Despite his repeated requests, she did not return. Later on, it came to his knowledge that she was in fact living in adultery with a person of village Daangarh. So much so, she admitted to having an illicit relationship with the said person during a telephonic conversation with respondent No.1 – husband. Respondent No.1 – husband recorded the said conversation between the appellant-wife and himself. He tried to seek the help of his parents-in-law, but it was to no avail and instead they demanded ₹ 2.00 lakhs to send her back. On his refusal to bow down to their demands, the husband was threatened with dire consequences. His brother-in-law not only physically assaulted him but also threatened that in case he revealed the incident to any one he would not be spared. The Panchayat convened at his instance did not yield any fruit. Due to her misbehaviour, the husband many a times thought of ending his life. He, thus, prayed for dissolution of his marriage by way of decree of divorce.

Per contra, the appellant-wife (respondent No.1 therein)

categorically refuted and denied the allegations of the husband, in her written statement filed before the Ld. Court below. She submitted that her family had spent a considerable amount on her wedding. She categorically denied being in an illicit relationship with any person. She alleged that in fact the respondent No.1 – husband had concocted a false story as he would often harass her on account of bringing scanty dowry. She denied that the husband had ever convened any Panchayat for reconciliation, after she had been ousted from her matrimonial home. She was subjected to severe beatings and shunted out of her matrimonial home. She alleged that the husband was a man of many vices and in 2012 due to the physical assault on her by the husband she had broken her knee. On 01st October, 2012, the husband and his family had made a demand of ₹ 1.00 lakhs and when she refused to accede to their demands she along with the minor children was thrown out of the matrimonial home. The Panchayats which were convened thereafter by her father proved to be a futile exercise. Besides denying allegations raised in the petition, the wife prayed for dismissal of the same.

From the pleadings of the parties, the following issues were framed by the Ld. Court below:-

- “1. *Whether the petitioner is entitled to the decree of divorce on the grounds of mentioned in the petition ?*
OPP
2. *Relief.”*

In order to prove their case, both the parties adduced evidence in support of their respective stands. Respondent No.1 - husband examined himself as PW-1, besides examining three other witnesses. On the other

hand, the appellant-wife herself stepped into witness-box as RW-1, besides examining one other witness.

After analyzing the evidence as well as the material on record, the Ld. Court below allowed the petition filed by respondent No.1 – husband and dissolved the marriage between the parties under Section 13(1)(i-a) of the Act.

During the pendency of the instant appeal, the parties were referred to the Mediation and Conciliation Centre of this Court to explore the possibility of an amicable settlement, but the same proved to be a futile exercise. It may also be noticed that the parties during the arguments reiterated their earlier versions and maintained their respective stands, as taken before the Ld. Court below. It was also brought to the notice of this Court that despite the orders of this Court, arrears of maintenance *pendente-lite* had not been paid to the appellant.

It would be relevant to notice and reproduce the order dated 23rd October, 2019, of this Court:-

“On August 16, 2019, following order was passed in this case:-

“Appellant is present in court. She submits that arrears of maintenance pendente lite have not been cleared by respondent No.1 – Jarnail Singh despite several opportunities. He is directed to remain present in court on the next date of hearing and explain why contempt proceedings be not initiated against him.”

Mr. Aggarwal, counsel for respondent No.1 submits that he has not received any instructions thereafter from

respondent No.1 – Jarnail Singh, as there appears to be willful disobedience of order dated August 16, 2019.

We hereby initiate contempt proceedings against respondent No.1 returnable by 25.11.2019. He shall be at liberty to file his affidavit on or before the next date of hearing.”

Learned counsel for the appellant has submitted that the husband is in arrears of maintenance *pendente-lite* and despite several opportunities he has not paid any amount *qua* the same. Learned counsel for the appellant has placed reliance upon the judgment of the coordinate Bench of this Court rendered in, “**Neelam Vs. Mukesh Kumar, 2019(2) R.C.R.(Civil) 698**”, wherein, this Court due to non-payment of maintenance *pendente-lite* has struck-off the defense of the husband and thereafter set aside the decree of divorce granted in favour of the husband.

Learned counsel for the respondent-husband has yet again submitted that he has been unable to contact the respondent-husband and hence in this background, he is unable to apprise the Court as to the reasons why the arrears of maintenance *pendente-lite* have not been paid.

We have heard learned counsel for the parties and have reappraised the evidence and other material on record.

It is very evident that the respondent-husband is willfully disobeying the orders of this Court and not clearing the arrears of maintenance *pendente-lite*. Admittedly, the appellant-wife has two children to take care of. His willful disobedience to the directions of this Court coupled with the fact that no maintenance *pendente-lite* has been paid to the

appellant by the respondent amounts to infliction of cruelty not only on the wife but also reveals his callous attitude towards his children.

It may also be noticed that the husband also filed cross-objections (i.e. XOBJC-62-CII-2017) by pleading that the ground of adultery had not been considered despite sufficient evidence having been adduced in support thereof. On a perusal of the evidence on record as well as the judgment of Ld. Court below, we do not find any reason which would warrant any interference on the said ground.

Keeping in view the peculiar facts and circumstances of the case, we have no hesitation in allowing the instant appeal. The judgment and decree dated 17th September, 2016, passed by the Ld. Court in favour of the respondent-husband is hereby set aside.

**(RAJAN GUPTA)
JUDGE**

**(MANJARI NEHRU KAUL)
JUDGE**

November 25, 2019

J.Ram

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