

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-M-420-2016

Date of Decision: 24.09.2019

Pirithi Singh

...Appellant

Versus

Manjit Kaur

...Respondent

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

PRESENT: Mr. Mohd. Yousaf, Advocate for the appellant.

Mr. Saurabh Kaushik, Advocate for the respondent.

RAJAN GUPTA, J.

Present appeal is directed against the judgment and decree dated 3.10.2016 passed by Additional District Judge, Patiala, whereby petition filed by appellant under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') seeking dissolution of marriage, was dismissed.

Marriage between the parties was solemnized on 23.9.2012. They resided together at village Dandrala Kharound, District Patiala and cohabited with each other as husband and wife. Out of their wedlock, no child was born. According to the appellant, respondent was a short tempered and quarrelsome lady. She left the matrimonial home without intimating or informing to the petitioner or any other family members. On 19.1.2014, mother and aunt of the respondent came to the house of the appellant and took respondent with them at her parental house. Appellant along with his mother, sister and other respectable persons went to the house of the

respondent to take her back but she flatly refused to join his company. Appellant filed a petition under Section 9 of the Act but respondent was not ready to live with appellant. Accordingly, the appellant filed a petition under Section 13 of the Act alleging cruelty. Upon notice, respondent-wife refuted the allegations by filing a written statement. It was pleaded therein that she was forced and turned out from the matrimonial home by the appellant and his family members. It is further pleaded that on 19.1.2014, she was asked to bring 1/4th share of property from her parental house and on her refusal, she was given merciless beatings. Rather, it was the appellant himself who had deserted the respondent and did not come back to take her. In support of his case, the appellant besides examining himself as PW1, also examined Ram Singh as PW2, Gurdial Kaur as PW3 and Rajinder Kaur as PW4. On the other hand, respondent herself appeared as RW1 and also examined Amartej Singh as RW2.

On the basis of the oral as well as documentary evidence led by the parties, the trial court came to the conclusion that appellant had failed to prove that the respondent treated him with cruelty. Accordingly, the petition filed by appellant was dismissed vide judgment and decree dated 3.10.2016. Hence, the present appeal by the appellant.

During the pendency of appeal, the matter was referred to Mediation and Conciliation Centre of this court for amicable settlement. However, it proved to be a futile exercise as the mediation had failed.

We have considered the rival contentions of counsel for the parties. It appears that trial court while appreciating the evidence on record held that appellant failed to produce any reliable and cogent evidence on record to prove that he was treated with cruelty by respondent. It was held

by the court below that the reason for filing the divorce petition was not cruelty, on the part of the respondent but was because of the fact that respondent was unable to bear a child. Further, no such act of cruelty has been mentioned by appellant which had become dangerous for appellant to live with respondent. The allegations levelled by the appellant are general in nature. 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 failed to prove the allegation of cruelty alleged to have been caused by the respondent-wife. It appears that appellant created such atmosphere that compelled the wife to leave her matrimonial home. On reappraisal of evidence on record, we are of the view that findings have been correctly returned by the court below.

In view of above, we find no reason to differ from the findings arrived at by the court below. Accordingly, the appeal being devoid of any merit, is hereby dismissed.

(RAJAN GUPTA)
JUDGE

September 24, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned
Whether Reportable

Yes/No
Yes/No