

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

**FAO-M-425-2016
Decided on : 04.10.2019**

Avtar Singh

... Appellant(s)

Versus

Jasbir Kaur

... Respondent(s)

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

Argued by: Mr. PKS Phoolka, Advocate
for the appellant(s).

Mr. Deepak Kaushal, Advocate
for the respondent(s).

MANJARI NEHRU KAUL, J.

The instant has been preferred by the husband – Avtar Singh, against the judgment and decree dated 31st August, 2016, passed by the Ld. Addl. District Judge, Sirsa, (in short 'Ld. Court below'), vide which the petition filed by the respondent-wife/Jasbir Kaur, under Section 9 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'), for restitution of conjugal rights, was allowed.

A few facts necessary for adjudication of the case, as pleaded in the petition filed by the respondent-wife (petitioner therein) before the Ld. Court below, may be noticed.

The marriage between the parties was solemnized on 23rd February, 2008, according to Hindu rites and ceremonies as well as by way of Anand Karaj. It was a simple marriage sans any dowry. No child was born out of the said wedlock. She submitted that their marriage was a lavish affair and her family had spent about ₹ 10.00 lakhs, however, her parents in-laws were unhappy with the dowry given at the time of marriage. She further submitted that the husband got

her injected with a substance on the pretext that it was a vaccination. She later learnt that it was for aborting her pregnancy. She submitted that after some time of marriage, her husband and his family started making demands of Rs. 2.00 lakhs and an Electric Generator set. Since she was unable to satisfy their demands, she was subjected to both mental and physical cruelty. The husband would repeatedly tell her that he would marry a girl from an affluent family so that he could get more dowry. On 09.10.2008, the husband and his family after subjecting her to severe beatings, threw her out from the matrimonial home after being told that she would not be allowed to set foot in the house until she brought the cash amount and an Electric Generator set from her parents. Ever since then she had been forced to live in her parental home. She stated that her father also convened a Panchayat to bring about a reconciliation between the parties, but in vain, as she was unable to accede to their unjust demands. In such circumstances, she filed the petition under Section 9 of the Act, since she was still willing to join the company and society of her husband, who had left her without reasonable cause or reason.

Per contra, in the written statement filed before the Ld. Court below, the husband categorically refuted and denied all the allegations made by the wife in her petition. The husband alleged that the wife was of a quarrelsome nature and hence, there remained continuous acrimony between them. The wife shirked her matrimonial duties and obligations. He denied the allegations that the wife was pressurized for vaccination, which resulted in miscarriage. He alleged that the wife was not interested in living at the matrimonial home, therefore, she had been levelling false allegations against him and his family. He denied raising any demands for dowry. The husband alleged that the wife had herself left the matrimonial home in the month of October, 2008. He averred that in the first week of October, 2008, the wife had attempted suicide by consuming some

intoxicant substance in the matrimonial home, however, she was saved by him. All efforts made by the husband to bring about a reconciliation with the wife failed due to her obstinate behaviour. He, thus, prayed for dismissal of the petition filed by the wife.

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

- “1. *Whether the petitioner is entitled to a decree for restitution of conjugal rights on the grounds mentioned in the petition ?*
OPP
2. *Whether the petition is liable to be dismissed on the grounds mentioned in the written statement ? OPR*
3. *Relief.”*

In order to prove their case, both the parties adduced evidence in support of their respective stands. The wife has examined as many as four witnesses including herself. She examined herself as PW-1, besides examining her brother Sukhpreet Singh as PW-2, Ran Singh as PW-3 and Hargobind Singh as PW-4. On the other hand, in order to prove his case, the husband appeared as RW-1.

After analyzing the evidence led by the parties, the Ld. Court below allowed the petition under Section 9 of the Act filed by the respondent-wife with the direction to the appellant-husband to join the company of the wife within one month from the date of order.

We have heard learned counsel for the parties and have also gone through the evidence and other material on record.

It would be pertinent to mention here that the appellant-husband also

approached this Court by way of an another appeal i.e. FAO-M-422-2016, whereby, he had impugned the judgment and decree dated 31st August, 2016, passed by the Ld. Court below, wherein, the petition filed by him under Section 13 of the Act, seeking dissolution of his marriage with the respondent-wife, was dismissed. Hence, both these appeals were ordered to be heard together vide order dated 23rd May, 2017, passed in the instant appeal.

During the pendency of the instant appeal, the parties were referred to the Mediation and Conciliation Centre of this Court (in connected case i.e. FAO-M-422-2016) 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 their arguments reiterated their earlier versions and maintained their respective stands, as taken before the Ld. Court below.

A perusal of the evidence led unerringly points to the fact that the appellant-husband has withdrawn from the society of the wife without any reasonable excuse. The allegations levelled by him against the wife on the face of it are not only vague but trivial in nature. No cogent, much less, convincing evidence has been led by the husband in support of his plea that the wife left the company of the husband without any sufficient cause. The husband himself comes across as being responsible for creating hostile and adverse conditions leaving the wife with no other option but to take refuge in her parental home.

It is pertinent to mention here that it was the respondent-wife, who was compelled to leave the matrimonial home because of the ill-treatment meted out by her and hence, the Ld. Court below rightly allowed the petition filed by the wife under Section 9 of the Act, holding her entitled to decree of her restitution of conjugal rights.

Resultantly, in view of the facts and circumstances of the case, we feel

that no interference in the judgment and decree passed by the Ld. Court below is called for. Consequently, the present appeal stands dismissed and the judgment and decree dated 31st August, 2016 of the Ld. Court below is upheld.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

October 04, 2019

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No