

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

FAO-3204-2017 (O&M)
Decided on : July 17, 2019

Manmohan Singh Grover

..... Appellant

Versus

Veena Rani

..... Respondent

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

Present : Mr. Bipan Sharma, Advocate
for the appellant.

Mr. C.S.Rana, Advocate
for respondent.

Manjari Nehru Kaul, J.

The instant appeal has been preferred by the appellant-husband – Manmohan Singh Grover against the judgment and decree dated 08.02.2017 vide which the petition filed by the appellant-husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') was dismissed by the trial Court.

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 09.01.2011 as per Sikh religious rites and ceremonies. It was the second marriage of both the parties. The respondent-wife had one male child from her earlier marriage, which had been dissolved by a decree of divorce under Section 13-B of the Act. In his petition before the Family Court, the

appellant-husband alleged that soon after their marriage, the respondent-wife started maltreating not only him but also his aged parents. As per him, the respondent-wife had been specifically told that after their marriage she would have to take care of his aged parents as well. It was only on an assurance given by the respondent-wife to that effect that he had made her a nominee in his service documents on 18.11.2011. However, the appellant-husband alleged that soon after making her a nominee, her behaviour underwent a complete change towards his parents. She not only used to abuse them but refused to prepare meals for them. His younger brother and maternal uncle requested and tried to convince her to treat the appellant-husband and his parents in a civilized manner but it was to no avail. So much so it was alleged that the respondent-wife conceived twice but got her pregnancy terminated just to inflict pain on him and his family. The respondent-wife left the company of the appellant-husband on 02.09.2013 and had been living separately ever since then. On 08.10.2014, with the intervention of respectables and friends a compromise was effected and a joint petition for divorce was filed in the Court at Balachaur where the statements of both the parties were recorded in the first motion. But before the second motion statement could be recorded, the respondent-wife backed out. Hence, it was prayed that the marriage between the parties be dissolved by a decree of divorce on grounds of cruelty and desertion.

3. Per contra, the respondent-wife while filing her written statement before the Court below refuted and categorically denied the allegations of the appellant-husband. She submitted that in fact it was the appellant-husband, who had been behaving in a very harsh and cruel manner

towards her right from the very beginning of their marriage. She would be often abused and taunted on account of sub-standard and insufficient dowry. He even refused to accept her son from the first marriage. She was thrown out of her matrimonial home on 02.09.2013 after being given severe beatings. Even though a panchayat was convened but the appellant-husband refused to rehabilitate her. She rather alleged that it was the appellant-husband, who had intentionally and without any reasonable cause deserted her despite the fact that she would always perform all her matrimonial duties and obligations towards her husband and would carry out all the household work. Qua the compromise effected between the parties for mutual divorce, she alleged that in fact it was the appellant-husband, who did not abide by the terms and conditions of the compromise.

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

1. Whether the respondent has treated the petitioner with cruelty? OPP
2. Whether respondent has deserted the petitioner without any reasonable cause and excuse? OPR
3. Relief.

5. In order to prove the case, the appellant-husband himself stepped into the witness box as PW-1 and tendered an affidavit Ex.PW-1/A. He also examined four other witnesses. On the other hand, respondent-wife herself stepped into the witness box as RW-1 and tendered into evidence her affidavit Ex.RW-1/A along with document Ex.R1. She also examined two other witnesses.

6. After analyzing the evidence led by the parties as also the other material available on record, the trial Court dismissed the petition by observing that no cogent evidence had been brought forth by the appellant-husband to prove that he had been treated with cruelty and desertion as required under Section 13 of the Act.

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

8. It would be pertinent to mention that 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 while addressing arguments stuck to their respective stands and reiterated their submissions made before the trial Court.

10. In the instant case, the appellant-husband is primarily seeking dissolution of his marriage with the respondent-wife on ground of mental cruelty, which was allegedly inflicted by the respondent-wife ever since their marriage on 09.01.2011. It was contended that the learned Court below failed to take into account that there was sufficient evidence to prove the continuous harassment and ill-treatment, which was meted out to the appellant-husband by the respondent-wife.

11. On reappraisal of the evidence and other material on record, we are somehow unable to fathom as to how the alleged acts and conduct of the respondent-wife would fall within the ambit of cruelty. No doubt, it is not easy to define “mental cruelty” as there cannot be said to be any set standard

to measure the nature and degree of cruel behaviour that would satisfy the test of what would constitute “mental cruelty”, however, in the case in hand, the allegations of the appellant-husband on the face of it are not only vague and frivolous but certainly cannot by any stretch of imagination be said to be falling within the ambit of cruelty or even bordering on the same. The allegations, which though were denied by the respondent-wife, even if taken to be having some grain of truth, cannot be said to be of such magnitude and consequence, which would have caused the appellant-husband such mental agony and pain so as to endanger his health – both mental and physical. In fact it is the admitted case of the appellant-husband himself that the relations between the parties were cordial in the first year of their marriage. Even his brother Amarjit Singh Grover, who stepped into the witness box as PW-3, admitted that the relations between the husband and wife remained cordial for five months after their marriage and it was his parents, who had problems with the respondent-wife as she was not taking care of them as per their expectations. A perusal of the entire evidence on record does not even reveal any specific instance wherein the respondent-wife allegedly misbehaved with the parents of the appellant-husband or the husband from which an inference could be drawn that her conduct was unbecoming of a wife and as such she had failed to discharge her matrimonial obligations.

12. Coming to the next allegation against respondent-wife of terminating her pregnancy, PW-4 Dr. Rachna Aggarwal during her cross-examination admitted that when she conducted the third ultrasound on the respondent-wife during the pregnancy, the foetus was found to be dead and the reason for the same was probably due to the diabetic condition of the

patient. Hence, the allegations of the respondent-wife deliberately getting her pregnancy terminated stands falsified by the deposition of PW-4 Dr. Rachna Aggarwal. In fact, this deliberate and false allegation of termination of pregnancy by the appellant-husband comes across as totally malicious and amounts to inflicting cruelty on the respondent-wife instead.

13. As far as the second ground on which the appellant-husband sought dissolution of marriage is concerned i.e. desertion, the same also does not stand proved. On an analysis of the facts and circumstances of the case, the behaviour of the appellant-husband can be construed as one of willful neglect and abandonment of the respondent-wife without any reasonable or just cause.

14. As a sequel to the above discussion, we do not find any perversity in the impugned order passed by learned Court below as the same is a well reasoned one.

15. The instant appeal being devoid of merit, is dismissed.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

July 17,2019
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Whether speaking/non-speaking:	Yes/No
Whether reportable :	Yes/No