

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

FAO-5861-2017 (O&M)

Date of decision : 14.11.2019

Lalit Kumar

....Appellant

V/s

Neelam

....Respondent

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

Present: Mr. N.S. Panwar, Advocate for the appellant.

Mr. Sanjay Vashisth, Advocate for the respondent.

RAJAN GUPTA J.

Appellant-Lalit Kumar has filed the present appeal against the judgment and decree dated 08.08.2017 passed by District Judge, Family court, Sonipat whereby his petition under section 13 of the Hindu Marriage Act, 1955 seeking dissolution of marriage has been dismissed. Marriage between the parties was solemnized on 18.06.2003 at village Harsana Kalan, Tehsil & District Sonipat as per Hindu rites. The marriage was consummated and a male child was born on 18.12.2007. It was alleged by appellant that from the very inception of marriage, the behaviour of respondent towards him and his family members was cruel. She did not take interest in household chores and always used to pressurized him to live separately. On 25.12.2009, respondent-wife had left his company without any reasonable cause. Thereafter, she had instituted proceedings of maintenance under section 125 Cr.P.C. which was allowed ex-parte and maintenance of ₹8,000/- per month was granted. She had also filed a complaint under section 12 of the Protection of Women from Domestic

Violence Act, 2005. Thereafter, a compromise was affected between them and they started living together. However, respondent did not mend her ways. She threatened the appellant and his family members that she would falsely implicate them in a criminal case. As per his version, on 06.04.2012, respondent had again left the company of appellant and also took away valuable articles and a sum of ₹22,000/-. Thereafter, various efforts had been made by him to reconcile the matter but same proved futile. On account of aforesaid conduct of the respondent-wife, appellant-husband had sought dissolution of marriage on the ground of cruelty and desertion. Respondent refuted the allegations leveled by the husband in her written statement. She pleaded that it was the appellant who had been maltreating her. She was harassed for bringing insufficient dowry. In fact she was thrown out of matrimonial home by the appellant and his family members. Appellant had even refused to maintain her and her child. Both the parties adduced their evidence in support of their respective stands. Trial court framed the issue as to whether appellant-husband was entitled for a decree of divorce on the grounds of cruelty and desertion. After considering the entire evidence, the court below came to the conclusion that appellant-husband had failed to prove that he had been subjected to cruelty. His plea of desertion had also not been proved. It, thus, reject the divorce petition. Present appeal emanates from the said order.

Learned counsel for the appellant submits that court below has failed to appreciate the evidence in correct perspective. The evidence brought on record clearly indicates that appellant has been subjected to cruelty but this fact has been completely ignored. Thus, impugned judgment

and decree passed by the court below is erroneous and deserves interference by this court.

We have heard learned counsel for the parties and reappraised the evidence on record. Admittedly, respondent was living separately with her minor son since 2012. It has come on record that only vague and general allegations have been levelled by the appellant without any particulars which does not constitute cruelty under the Act. During cross examination of the respondent, she has deposed before the court below that she was interested and willing to live with the appellant. However, it was the appellant who did not want to live with her. Keeping in view the deposition of the witnesses and the facts and circumstances of the case, we are of the view that there is no substance in the plea raised by the appellant-husband.

In view of above, we find no reason to differ with the findings arrived at by the court below. Accordingly, the appeal is dismissed.

(RAJAN GUPTA)
JUDGE

November 14, 2019

Ajay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No