

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

**FAO-8251-2017
Decided on : 26.07.2019**

Amandeep Kaur

... Appellant(s)

Versus

Pawan Kumar

... Respondent(s)

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

Argued by: Mr. Keshav Pratap Singh, Advocate
for the appellant(s).

Ms. Sumati Jund, Advocate
for the respondent(s).

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the appellant-wife against the impugned judgment and decree dated 21.09.2017, passed by the Ld. District Judge (Family Court) Shaheed Bhagat Singh Nagar (hereinafter referred to as 'the Ld. Family Court'), vide which the petition filed by the appellant-wife under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act') for dissolution of marriage by way of decree of divorce was dismissed.

The case of the appellant-wife as per the averments made before the Ld. Family Court is that the marriage between the parties was solemnized on 29.11.2013 as per Hindu rites and ceremonies. The respondent-husband would subject her to harassment on the pretext of demand of dowry and would not even hesitate to beat her up mercilessly whenever she restrained him from indulging in vices. On one occasion, the respondent-husband had to be hospitalized on account of consumption of some medicine for which he threatened to falsely implicate the appellant-wife. Further, it was averred that the respondent-husband on one

occasion tried to strangle her and just after seven months of their marriage, she was turned out from the matrimonial home. Her parents along with respectables of the village approached the respondent-husband and his parents who in turn assured them that in future she would not be maltreated and it was only on such assurance the appellant-wife returned to her matrimonial home in October, 2014, where she resided till August, 2015. However, the behaviour of the respondent-husband and his family remained unchanged and she was again thrown out of her matrimonial home by the respondent-husband in August, 2015. Yet another effort was made by her father through a Panchayat, but the respondent-husband misbehaved with her father as well as with the Panchayat. Thereafter, an application was moved by the appellant-wife in Police Station Pojewal regarding her maltreatment and another application was moved to S.S.P., Shaheed Bhagat Singh Nagar on 16.02.2016, which was referred to Women Cell, Nawanshahr. Both the parties were called along with their parents and respectables by the Women Cell, Nawanshahr and efforts were made to bring about a reconciliation between the parties, but due to the adamant behaviour of the respondent-husband, it failed to yield any positive result. On 23.06.2016, an FIR bearing No. 31, under Section 498-A IPC was registered against the respondent-husband and his mother.

The respondent-husband contested the averments of the appellant-wife by filing a written statement, wherein, he stated that the petition of the appellant-wife under Section 13 of the Act was in fact in retaliation to the petition filed by him under Section 9 of the Act. The respondent-husband refuted and categorically denied the allegations of harassment. He denied that he was addicted to any vices or that he had consumed any medicine for which he had to be hospitalized, much less, ever threatened the appellant-wife in any manner whatsoever. He submitted that the behaviour of the appellant-wife had never been cordial towards him. She would not even hesitate to declare that she did not like

the respondent and had been married to him forcibly against her wishes. It was contended by the respondent-husband that on 16.08.2015, the mother of the appellant-wife came to their house and requested them to send the appellant-wife with her for shopping for the marriage of her sister and thereafter, the appellant-wife never returned to her matrimonial home. As per the respondent-husband, efforts were made through Panchayats by him and his parents to bring the appellant-wife back but they all prove to be a futile exercise.

On such pleadings of the parties, the following issues were framed by the Ld. Family Court:-

- “1. Whether the respondent has treated the petitioner with cruelty? OPP*
- 2. Relief.”*

In order to prove her case, the appellant-wife herself stepped into the witness-box as PW-1 and tendered into evidence her duly sworn affidavit as Ex.PW-1/A. She examined her co-villager Tirath Ram as PW-2, her father Dilbag Rai as PW-3 and closed her evidence. On the other hand, the respondent-husband himself stepped into the witness-box as RW-1 and tendered into evidence his affidavit as Ex. RW-1/A. He examined as many as four witnesses i.e. RW-2 Paramjit Singh (Assistant in Saanjh Kendra, Shri Anandpur Sahib), who proved application, statements of Roshan Lal and Pawan Kumar (respondent-husband) as Ex.R1, R2 & R3, respectively. Father of the respondent-husband appeared as RW-3, Sarpanch Shingara Singh as RW-4. The respondent-husband closed his evidence by tendering Wedding Card as Ex.R5 and certified copy of petition under Section 9 of the Hindu Marriage Act as Ex.R6.

Ld. Family Court while dismissing the petition under Section 13 of the Act of the appellant-wife held that the appellant-wife had not been able to make out a case for dissolution of marriage on the ground of cruelty.

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

Learned counsel for the parties during their arguments have stuck to their respective stand and reiterated the submissions made before the Ld. Family Court.

It would be pertinent to mention here that during the pendency of the instant appeal, the parties were referred to the Mediation and Conciliation Centre of this Court, but the same failed to yield any positive result. We interacted with the parties as well, who were present in the Court along with their respective counsel.

In the case in hand, both the parties have levelled allegations and counter allegations against each other. Coming to the first allegation of the appellant-wife of having been treated with cruelty by the respondent-husband, on a reappraisal of the entire evidence on record, one fact which emerges loud and clear is that none of her allegations are supported by any shred of evidence. A very serious allegation was levelled against the respondent-husband *qua* subjecting the appellant-wife to physical assault including an attempt to strangle her on one occasion, but neither any medical evidence was led by her to substantiate the aforementioned allegation nor any witness deposed *qua* the same. In fact, the case of the appellant-wife that she had been turned out of the matrimonial home in August, 2015, stands totally demolished by not only the testimony of her own witnesses but by her own testimony as well. Her father Dilbag Rai/PW-3 admitted that the respondent-husband not only attended the wedding of his younger daughter in November, 2015, but stayed for two days at the time of the marriage. The appellant-wife tried to feign complete ignorance

rights by the respondent-husband, whereas, her father PW-3/Dilbag Rai admitted this fact in his deposition. Another, fact, which must be taken note of is that the real maternal uncle of the appellant-wife i.e. Roshan Lal, with whom the appellant-wife had been living since her childhood, in his statement Ex.R2 made before the Office of SSP, Rupnagar, blamed the mother of the appellant-wife for instigating her against her in-laws and in the same statement he categorically stated that there had been no harassment meted out to his niece i.e. the appellant-wife by the respondent-husband or his family. In fact, none of the witnesses examined by the appellant-wife could spell out any particular date, month or year, when she was subjected to cruelty of such nature, which could be said to endanger her life or give her a cause of reasonable apprehension of such danger. Suffice it to say that the allegations levelled against the respondent-husband of cruelty are not only vague but un-sustainable too.

There is sufficient evidence on record from which a safe inference can be drawn that the appellant-wife herself abandoned the matrimonial home. Nothing has been brought on record to even show that the respondent-husband intentionally pushed her to a corner so as to bring the marriage between the parties to an end.

Hence, in the light of the aforesaid discussion and the reasons recorded hereinabove, no ground is made out to entertain the present appeal. Consequently, the appeal is dismissed.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

July 26, 2019

J.Ram