

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO-M-178 of 2017 (O&M)  
Date of Decision : 11.09.2019

Parveen Mehmi..... Appellant

VERSUS

Surinder Pal..... Respondent

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

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Present: Mr. Deepak Nayar, Advocate  
for the appellant.

Mr. Deepak Verma, Advocate  
for the respondent.

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MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by Parveen Mehmi (wife) impugning the judgment and decree dated 11.05.2017 passed by the Additional District Judge, Chandigarh, vide which the petition filed by her under Section 13(i-a) and (i-B) of the Hindu Marriage Act, 1955 (for short the 'Act') read with Marriage (Amendment) Act, 1975 was dismissed.

Few facts necessary for adjudication of the present appeal as pleaded in the petition filed before the Court below may be noticed.

The marriage between the parties was solemnized on 26.06.2012 as per Hindu rites and customs. A daughter was born out of the said wedlock. The parents-in-law of the appellant were dissatisfied with the dowry brought by her at the time of marriage even though her parents had

spent lavishly on the wedding. A demand of Rs.04 lakhs was made from her parents but on her refusal to satisfy the demands of the respondent and his family, she was subjected to frequent harassment. Besides this, the respondent-husband told the appellant that he was having an affair with his sister-in-law and would not be able to live without her. The husband was a drunkard and would subject her to physical assault whenever she urged him to mend his ways. The behaviour of the husband worsened with the passage of time and she was finally thrown out of her matrimonial home while she was carrying a child in her womb. She then unwillingly shifted to a rented accommodation in Chandigarh. On 12.06.2013 she delivered a baby girl and when the news of the birth of the baby girl was given to the respondent and his family, they heaped scorn upon her. Despite all endeavours and efforts made by her for reconciliation with her husband the same bore no fruit. She had been deserted by her husband from October 2012 onwards.

Per contra the husband submitted in his written statement filed before the Court below that the marriage ceremony was a simple one sans any dowry. He refuted and categorically denied the allegations levelled against him by the appellant. He submitted that in fact his wife was unhappy staying in a joint family and her insolent behaviour spoiled the atmosphere in their house. She would shirk her matrimonial duties and was always at odds with his family. He further submitted that he and his family were not even aware of her pregnancy and came to know about the birth of the child only during the mediation proceedings. He submitted that she had left the matrimonial home in October 2012 which was much prior in time to the birth of the child i.e. June 2013. Further, he submitted that he had filed a petition under Section 9 of the Act before the Civil Court in Garshankar.

The appellant filed a petition to get the same transferred to Chandigarh. While the transfer petition was still pending before the High Court, the petition under Section 13 of the Act was filed by her which was a clear indicator of the wife being the deserter and not he.

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

1. Whether the respondent-husband has treated the petitioner-wife with cruelty, as alleged? OPP
2. Whether the respondent-husband has deserted the petitioner-wife, as alleged? OPP
3. Whether the petition is not maintainable? OPR
4. Whether Courts at Chandigarh has no jurisdiction to entertain the present petition? OPR
5. Whether the petitioner has concealed the material facts from Court? OPR
6. Relief

In support of her case, the appellant examined himself as PW1 besides examining her brother as PW2. The respondent-husband on the other hand stepped into the witness box as RW1 and examined two other witnesses RW2 Ajit Singh and RW3 Kuldeep Singh.

After analyzing the evidence, the Court below dismissed the petition filed by the appellant by holding that the grounds of cruelty and desertion were not proved against the husband.

During the pendency of the instant appeal, the matter was referred to the Mediation & Conciliation Centre of this Court to explore the possibility of an amicable settlement between the parties. However, the

same proved to be a futile exercise.

We have heard learned counsel for the parties as well as re-appraised the evidence and other material on record.

The parties have reiterated their respective versions and maintained the stands taken by them before the Court below.

From the perusal of the evidence as also the written statement filed by the husband, it is evident that he has raised a question mark qua the paternity of the child born on 12.06.2013 and also levelled allegations qua the character of the appellant. While appearing as RW1, he admitted in his cross-examination that the allegations qua the character of the appellant had been made by him in anger. We are of the opinion that the trial Court was in grave error in not appreciating the fact that levelling of disgusting accusations and doubting the character of a wife as also doubting the paternity of the daughter would amount to nothing but acute cruelty. The husband had doubted the character of the appellant even in his reply to the application filed by him before the High Court in which the wife had sought transfer of the petition under Section 9 of the Act to Chandigarh. Further, the trial Court failed to appreciate that the averments of the appellant of being harassed on account of insufficient dowry was not without any substance. Though the husband in his written statement submitted that it was a simple marriage sans any dowry, the same however stood falsified by his own deposition as RW1 wherein he admitted that the dowry which had been given at the time of marriage was still lying in his possession.

The levelling of wild, scandalous and malicious allegations against the appellant-wife would entitle her to a decree of divorce. Nothing

can be more cruel than doubting the character of a wife and paternity of the child, which would have caused the wife mental agony of the severest form, leaving her to feel deeply hurt. The respondent-husband is himself responsible for creating circumstances which forced the appellant-wife to stay away from her matrimonial home. It is very evident that the matrimonial life of the parties was mired in misery and acrimony from the very beginning. It is no different even now. All efforts by the Mediation & Conciliation Centre of this Court to whom they were referred to explore the possibility of an amicable settlement have failed miserably.

In light of the above, the instant appeal is allowed. Accordingly, the judgment and decree dated 11.05.2017 passed by the Additional District Judge, Chandigarh, is set aside. The marriage solemnized between the appellant and the respondent on 26.06.2012 stands dissolved by a decree of divorce. Decree Sheet be prepared accordingly.

( RAJAN GUPTA )  
JUDGE

( MANJARI NEHRU KAUL )  
JUDGE

11.09.2019

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**Note:** Whether speaking/reasoned :  
Whether Reportable:

Yes / No  
Yes / No