

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

**FAO-M-42-2017 (O&M)  
Decided on : 04.10.2019**

Didar Singh

... Appellant(s)

Versus

Harpal Kaur

... Respondent(s)

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

Argued by: Mr. Ferry Sofat, Advocate  
for the appellant(s).

Ms. Dhivya Jerath, Advocate  
for the respondent(s).

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**MANJARI NEHRU KAUL, J.**

Instant appeal has been preferred by the husband – Didar Singh, against the judgment and decree dated 24<sup>th</sup> October, 2016, passed by the Ld. Addl. District Judge, Sangrur, (in short 'Ld. Court below'), vide which the petition filed by him, under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'), seeking dissolution of his marriage with the respondent-wife, was dismissed.

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

The marriage between the parties was solemnized on 21<sup>st</sup> March, 2004 at Village Ghanauri Kalan. One daughter was born out of the wedlock in the year 2007. The relations between the parties started souring soon after the marriage. The wife would leave her matrimonial home frequently

without any rhyme or reason and she would be brought back with the intervention of the respectables. The wife shirked her matrimonial obligations and would neglect routine household chores. On 17<sup>th</sup> October, 2005, she attempted to hang herself with a rope from the ceiling fan, but due to the timely intervention of the neighbours, she was saved. When the family of the wife was informed about the incident, they threatened to involve the appellant-husband and his family in false cases, which led to major health issues for the parents of the husband. In September, 2010, the wife yet again tried to put herself on fire by dousing kerosene oil on herself. She threatened the appellant-husband and his family that they would be implicated in false criminal cases. Thereafter, the wife moved an application before the Senior Superintendent of Police and when the matter came up for consideration before the authorities, she admitted to her guilt. However, her behaviour continued to be the same as before. On 15.10.2010, the wife in connivance with her mother and other relatives left her matrimonial home, but not before taking along, all her valuables and clothes with her. Ever since then, she had not returned to her matrimonial home. Hence, the husband filed a petition for dissolution of his marriage by way of decree of divorce.

*Per contra*, upon notice of motion having been issued, the respondent-wife refuted and denied the allegations of the respondent-husband, in her written statement filed before the Ld. Court below. She submitted that her family had spent a considerable amount on the marriage. She alleged that the husband and his family had raised a demand of a car and had also demanded an amount from her earnings before their marriage, to which she did not agree. Even though, she was maltreated and subjected to

physical abuse, she continued tolerating and bearing the cruelty inflicted upon her with the hope that with the passage of time, conditions would improve. She alleged that in fact on 10<sup>th</sup> June, 2006, when she was pregnant, she was subjected to merciless beatings by the husband and thrown out of her matrimonial home. As her health was not good, she was taken care of, by her parental family. When the news of the delivery of their daughter was given to the husband, nobody bothered to come to see the new born baby. She was pressurized to leave her daughter behind at her parental home else she would not be allowed to live in the matrimonial home. With the intervention of the Panchayat, the husband and his family gave an assurance that she would not be treated with cruelty in future, as a result of which, she returned to her matrimonial home. The same was, however, short lived. On 12<sup>th</sup> September, 2010, the husband and his relatives again tried to kill her. However, she was rescued and taken to a hospital at Dhuri. Thus, in the given facts and circumstances, it was submitted that the husband was not entitled to decree of divorce and she accordingly prayed for dismissal of the his petition.

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

- “1. Whether the respondent has treated the petitioner with cruelty? OPP*
- 2. Whether the respondent has deserted the petitioner for a continuous period of two years or more immediately prior to filing the petition ? OPR*
- 3. Relief.”*

The parties adduced evidence in support of their respective

stands before the Ld. Court below. The husband himself stepped into witness-box as PW-2 and examined as many as three witnesses viz; PW-1/HC Manjit Singh, PW-3/Avtar Singh and PW-4/Jaspal Singh. On the other hand, the wife stepped into witness-box as RW-1 and examined RW-2/Surjit Singh, RW-3/Jagdev Singh, RW-4/Jasvir Singh and RW-5/Gurpreet Singh and closed her evidence.

After analyzing the evidence led by the parties and also the material on record, the Ld. Court below dismissed the petition filed by the husband, as he failed to prove issue Nos. 1 & 2 *qua* cruelty and desertion in his favour.

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

Learned counsel for the appellant-husband has vehemently urged before us that the marriage has broken down between the parties beyond repair.

It is not disputed that the parties have been living apart for the last more than nine years. It is also not disputed that efforts made through Panchayats to bring about a reconciliation between the parties failed to yield the desired result. All efforts made by this Court as well as the Mediation and Conciliation Centre of this Court to which the parties were referred to, for exploring the possibility of an amicable settlement proved futile, as the parties stuck to their respective stands and reiterated their allegations against each other.

In the light of all these factors coupled with the inflexible behaviour and attitude of the parties, it is evident that there is a complete breakdown of marriage of the parties.

During the pendency of this appeal, the husband submitted that in the eventuality of his appeal being allowed, he was ready to pay permanent alimony to the wife as well as reasonable amount of money for the maintenance of the daughter 'Yadpreet Kaur'. He filed an affidavit dated 17<sup>th</sup> November, 2019, in support thereof, which was taken on record.

As a sequel to the above, present appeal is allowed and the judgment & decree of the Ld. Court below is set aside. The marriage between the parties stands dissolved. Decree sheet be prepared accordingly. The appellant-husband will deposit a sum of ₹ 10.00 lakhs as per the terms of his affidavit dated 17.09.2019, for maintenance of his daughter and as permanent alimony to the respondent-wife towards full and final payment, within a period of one month from the date of this order.

**(RAJAN GUPTA)**  
**JUDGE**

**(MANJARI NEHRU KAUL)**  
**JUDGE**

**October 04, 2019**

*J.Ram*

*Whether speaking/reasoned: Yes/No*  
*Whether Reportable: Yes/No*