

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-M-47-2017

Date of Decision: 16.10.2019

Sukhpreet Kaur

...Appellant

Versus

Sukhdeep Singh

...Respondent

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

PRESENT: Mr. Deepak Aggarwal, Advocate for the appellant.

Mr. A.K. Khunger, Advocate for the respondent.

RAJAN GUPTA, J.

Present appeal is directed against the judgment and decree dated 5.8.2016 passed by Additional Civil Judge (Senior Division), Abohar (exercising the powers of District Judge under the provisions of Hindu Marriage Act), whereby petition filed by respondent-husband under Section 9 of the Hindu Marriage Act, 1955 (for short 'the Act') for restitution of conjugal rights, was allowed.

Marriage between the parties was solemnized in the year 2003 at village Jhumba, Tehsil and District Bathinda as per Hindu rites and rituals by way of Anand Karaj. After marriage, they resided together as husband and wife. Out of their wedlock, two children, namely, Sandeep Singh and Khushpreet Kaur were born out. According to respondent, appellant was a short tempered and quarrelsome lady. She used to leave the matrimonial home and respondent used to bring her back. Respondent was serving in

defence service and used to come home during holidays. On 11.11.2011, when respondent want back to his job, appellant without his consent left the matrimonial home and started to live at her parental home and since then she was residing there. On 29.1.2012, appellant convened a panchayat and went to the parental house of appellant to take her back, but she refused to do so. Under these circumstances, appellant had withdrawn herself from the society of respondent without any reasonable cause. Accordingly, respondent filed a petition under Section 9 of the Act. Upon notice, appellant-wife controverted the allegations by filing a written statement. Besides raising various preliminary objections, it was pleaded that respondent and his family members were greedy persons and after the marriage, they started harassing and maltreating her on account of demand of dowry. On refusal by the appellant for fulfilling the demand of dowry, she was given beatings and was turned out of her matrimonial home.

On the basis of the oral as well as documentary evidence led by the parties, the trial court came to the conclusion that appellant had failed to prove that she had withdrawn from the society of respondent due to any reasonable excuse. Accordingly, the court below allowed the petition vide judgment and decree dated 3.10.2016 and directed appellant to join the society of respondent. Hence, the present appeal by the appellant.

We have heard learned counsel for the parties.

It appears that court below while appreciating the evidence on record concluded that respondent was entitled to the relief of restitution of conjugal rights as appellant was duty bound to join the society of her husband. Further, appellant has not placed on record any medical evidence to show that she was given beatings by respondent at any point of time.

Even no complaint or FIR was got registered by her against the respondent or his family members. Further, the appellant failed to prove that she had sufficient cause to live separately from the respondent and rather she being the legally wedded wife was duty bound to join the company of the respondent. The allegations levelled by the appellant are general in nature. Keeping in view the facts and circumstances of the case, we feel that no interference in the judgment and decree passed by the court below, is called for. On reappraisal of evidence on record, we are of the view that findings have been correctly returned by the court below.

In view of above, we find no reason to differ from the findings arrived at by the court below. Accordingly, the appeal is dismissed. Decree-sheet be prepared accordingly.

(RAJAN GUPTA)
JUDGE

October 16, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned
Whether Reportable

Yes/No
Yes/No