

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

FAO-M-162-2018 (O&M)
Decided on : July 11, 2019

Kiran Bala

..... Appellant

Versus

Varinder Kumar

..... Respondent

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

Present : Mr. Naveen Sharma, Advocate
for the appellant.

Mr. S.K.Sharma, Advocate
for respondent.

Manjari Nehru Kaul, J.

The instant appeal has been preferred by the appellant-wife – Kiran Bala against the judgment and decree dated 22.03.2018 vide which the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') was allowed by the trial Court.

2. Brief facts of the case as pleaded before the trial Court were that the marriage between the parties was solemnised on 04.02.2013 in accordance with Hindu rites and ceremonies at Jalandhar and no child was born out of the said wedlock.

3. As per the averments in the petition filed by the petitioner (respondent herein) before the trial Court, it was alleged that on the very first day of their marriage, the appellant-wife expressed her unwillingness to participate in the ceremonies taking place in her matrimonial home and on

the next day of their marriage i.e. 05.02.2013 at about 5.30 pm, the appellant-wife ran away from her matrimonial home. The respondent-husband and his family on search found her a few kilometers away from the house. They then tried to persuade her to return to the matrimonial home but she refused by stating that the marriage had been performed forcibly by her parents, against her wishes. The said incident was immediately reported to the police by the respondent-husband and a compromise was arrived at, between the parties, where the brother of the appellant-wife gave an undertaking that he was taking his sister i.e. appellant-wife with him as per her wishes and without any pressure. The said undertaking was signed by a number of respectables of the locality. Further, it was submitted that despite earnest efforts, the appellant-wife refused to join the society of the respondent-husband without any sufficient cause. Lastly, it was pleaded that since the parties never cohabited with each other and the marriage was not consummated, the same amounted to cruelty.

4. On the other hand, appellant-wife in her written statement filed before the Court below, controverted the averments made by the respondent-husband and refuted the allegations contained therein. Rather it was submitted that her parents had spent approximately Rs.10 lakhs on her marriage with the respondent-husband but soon after the marriage, she was harassed by the respondent-husband and his relatives on account of insufficient dowry. She alleged that when she objected to the same, she was physically assaulted by the respondent-husband and turned out of her matrimonial home.

5. In the replication filed by the respondent-husband to the written

statement, the averments made in the written statement were controverted and he reiterated the correctness of the contents of his petition.

6. On the pleadings of the parties, the learned trial Court framed the following issue:

1. Whether there are sufficient grounds to grant divorce to the petitioner on account of cruelty and desertion? OPP
2. Relief.

7. Thereafter both the parties adduced evidence in support of their case. The respondent-husband stepped into the witness box as PW-1 besides examining his father Ashok Kumar as PW-2, Ram Pal an independent witness as PW-3, Om Parkash as PW-4 and HC Pal Singh as PW-5. The appellant-wife herself stepped into the witness box as RW-1 besides examining her mother Santosh as RW-2.

8. After analyzing the evidence led by the parties as also the other material available on record, the trial Court allowed the petition and held the respondent-husband entitled to a decree for the dissolution of his marriage with the appellant-wife on the ground of cruelty.

9. We have heard learned counsel for the parties and perused the evidence as well as other material available on record.

10. It may be noticed that while addressing arguments both the parties stuck to their respective stand and reiterated their submissions made before the trial Court.

11. On reappraisal of the documentary evidence led by the respondent-husband, it leaves no manner of doubt that after the marriage of the parties, the appellant-wife left her matrimonial home on the next day

itself and thereafter, was brought back by the respondent-husband and his family after which a meeting of respectables of the locality was convened, which was attended by the members of the appellant-wife's family as well. Not only this, an application was moved before the police, which was signed by a number of persons of the locality. PW-5 HC Pal Singh was examined by the respondent-husband in support thereof. In this background, if there had been any iota of truth that the respondent-husband and his family had harassed the appellant-wife on account of insufficient dowry, there was nothing, which prevented her or her family from reporting the same to the police or bringing it to the notice of the members of the panchayat, when the same was convened. The testimony of the prosecution witnesses comes across as credible and remained unshaken from which a safe inference can be drawn that the appellant-wife was unhappy with her marriage with the respondent-husband right from day one. Not only this, an undertaking Ex.P2 given by the brother and mother of the appellant-wife lends credence to the factum of the appellant-wife having been married against her wishes.

12. It thus, goes without saying that the respondent-husband just a day after his marriage with the appellant-wife had to face mental pain and agony on account of her behaviour and conduct. So much so, even before the marriage between the parties could be consummated, the appellant-wife had left her matrimonial home. On top of all this, she levelled false allegations of demand of dowry against the respondent-husband just to cover up for her own conduct and behaviour.

13. Taking an overall perspective of the matter, the wronged party

i.e. the respondent-husband cannot be expected to live with the appellant-wife, who in order to cover up for her own conduct and behaviour levelled false allegations against him of demand of dowry. We have no hesitation in holding that the conduct of the appellant-wife amounted to infliction of acute distress and mental agony on the respondent-husband.

14. As a sequel to the above discussion, we do not find any perversity in the impugned order passed by learned Court below as the same is a well reasoned one.

15. The instant appeal being devoid of merit, is dismissed. Decree-sheet be prepared accordingly.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

July 11,2019
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Whether speaking/non-speaking:	Yes/No
Whether reportable :	Yes/No