

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

**FAO-M-310-2018 (O&M)
Decided on : 06.12.2019**

Jasmeet Singh

... Appellant(s)

Versus

Gurdeep Kaur

... Respondent(s)

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

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

Mr. Rajdeep Singh Chugh, Advocate
for the respondent(s).

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the husband – Jasmeet Singh, impugning the judgment and decree dated 23rd March, 2018, passed by the Ld. Addl. District Judge, Ludhiana (hereinafter referred to as 'Ld. Court below'), vide which the petition filed by the him under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act') for dissolution of his marriage with respondent-wife/Gurdeep Kaur, was dismissed.

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

The marriage between the parties was solemnized on 30th January, 2000, as per Sikh rites at Ludhiana. Out of the said wedlock, a son namely 'Tejusbir' was born on 08th September, 2004, who is residing with

the respondent-wife. The husband pleaded that soon after the marriage of the parties, the respondent-wife would mentally harass and physically assault him, and indulge in petty quibbles. She even attempted suicide on three different occasions, after which the matter was brought to the notice of her parents. It was alleged that on one occasion she physically assaulted him on his genitals for which he had to undergo medical treatment. The husband pleaded that the wife has been residing separately from him since the year 2009 and had even gone to the extent of proclaiming that she was unwilling to continue living with him, as their's was a dead marriage. Hence, in the aforementioned circumstances, the husband prayed for dissolution of his marriage by way of decree of divorce.

Per contra, the respondent-wife (respondent therein) categorically refuted and denied the allegations of the husband, in her written statement filed before the Ld. Court below. She *inter alia* claimed that the husband was in fact residing in Surat and not at Ludhiana, whereas, she was residing in her matrimonial home in Ludhiana along with her son. The husband had intentionally mentioned a wrong address of the parties in his petition under Section 13 of the Act before the Court below. She submitted that despite the fact that enough dowry including a car was given by her parents at the time of their marriage, the husband would pass snide comments of bringing a small car in her dowry and would demand ₹ 2.00 lakhs. It was further submitted by the wife that many a times she found her husband talking for hours on the phone with someone. On questioning the husband about his long conversations over the phone, he would get agitated and start fighting with her. In 2005 when the parties along with Gurpreet Singh (brother of the respondent-wife) and his wife Harpreet Kaur, went to

Harpreet Kaur. It did not end there. In fact thereafter on many occasions, the appellant-husband and Harpreet Kaur were found engaged in intimate conversations, as a result of which the wife got suspicious. Later on, her suspicion about the appellant-husband and Harpreet Kaur came true when she caught both of them in a compromising position in her matrimonial home in June 2008, when Harpreet Kaur came to stay with them. On objecting to the same her husband got enraged and slapped her hard, which resulted in her suffering an ear injury, for which, she had to be medically treated. It was further alleged that in March 2009, her husband in connivance with his family eloped and got married with said Harpreet Kaur and had been residing ever since then in Surat with her. Not only this, he had two daughters from said Harpreet Kaur as well. It was further alleged that the husband's parents and family had been extending their tacit support to the appellant-husband, which was evident from the fact that they had been maltreating her, and despite her earnest efforts to resolve the issue, the family of her husband were trying to shunt her out from the house. She alleged that she had moved a complaint against the appellant-husband to the Commissioner of Police, Ludhiana, but due to the influence wielded by her husband's family, the police took no action against the appellant-husband. In the aforementioned background, she prayed for dismissal of the petition filed by the husband.

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

- “1. Whether behaviour of the respondent towards the petitioner was cruel during her stay in the matrimonial home ? OPP.*

2. *If issue No.1 is proved, whether in the eventuality, petitioner is entitled to decree of divorce under Section 13A PIMA ? OPP.*
3. *Whether petitioner had eloped with Harpreet Kaur (brother's wife of respondent) and has performed illegal marriage with her and also have two daughters from the said illegal wedlock, if so, its effect ? OPR.*
4. *Relief."*

In support of his case, the husband stepped into the witness-box as PW-1, whereas, the wife stepped into the witness-box as RW-2. She examined one other witness from Ryan International School, Gujarat, to prove the admission form of Jaspreet Kaur, daughter of the appellant Jasmeet Singh from Harpreet Kaur.

After analyzing the evidence as well as the material on record, the Ld. Court below dismissed the petition filed by the husband.

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

Learned counsel for the appellant has reiterated the allegations against the respondent-wife and maintained the stand as taken before the Court below. It was urged that the marriage between the parties had irretrievably broken down as the wife had deserted the appellant without any sufficient cause since 2009. On the other hand, the wife too reiterated her version and maintained the same stand as taken before the Court below.

Adverting to the case in hand and on reappraisal of the evidence on record, a big question mark is indeed raised about the authenticity of the version of the husband. The allegations of mental cruelty

across as being totally frivolous & vague. In fact, on a perusal of the evidence led, there are material contradictions in the testimonies of the appellant-husband and his witnesses examined by him in Court. The husband has made sweeping allegations against the wife, which are not even supported or substantiated by any reliable evidence.

As far as the allegation of desertion is concerned, the same also deserves to be rejected outrightly. The photographs exhibited as Ex.RB & Ex.RC pertains to the house of the appellant-husband i.e. 346-R, Model Town, Ludhiana. In the said photographs, the appellant-husband has identified the respondent-wife, but for obvious reasons refused to acknowledge that the house in which the photographs have been clicked is that of H. No. 346-R, Model Town, Ludhiana. The lies of the appellant-husband have further been nailed as a suit for possession *qua* H. No. 346-R, Model Town, Ludhiana, has been filed by none other than his own father against the respondent-wife. Had she in fact not been living in the said house, then the question of a suit for possession being filed by the father of the appellant would not have arisen at all. Further, it is indeed very strange that the appellant-husband, who claims to be doing some business in Surat does not have any permanent address there and it is unbelievable that he would have been staying at a Gurudwara and at a times in the house of one of his friends in Surat. On re-appraisal of all the evidence led, it is very evident that it is the appellant-husband who is guilty of matrimonial misconduct and his behaviour constitutes willful neglect towards not only his wife, but his child as well. It is not the wife, who has abandoned the appellant-husband, but it is the other way round. He cannot be permitted to take advantage of his own wrong by seeking relief under Section 13 of the

In the circumstances, the allegations of cruelty and desertion levelled by the husband against the wife are not made out.

We do not find any ground to interfere in the impugned judgment and decree dated 23rd March, 2018, of the Ld. Court below, as the same is a well reasoned one. The instant appeal is thus, dismissed.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

December 06, 2019

J.Ram

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