

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

FAO No.M-39 of 2018 (O&M)

Date of decision: 28 .03.2019

Rajwant Kaur

...Petitioner

Vs.

Sukhjinder Singh

....Respondent

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
 Hon'ble Mr. Justice Harnaresh Singh Gill**

**Present: Ms. Gursharan Kaur Mann, Advocate,
 for the appellant.**

None for the respondent.

Rakesh Kumar Jain, J.

This appeal is directed against the judgment and decree dated 26.10.2017, by which the petition filed under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as the "Act") by the appellant-wife for seeking dissolution of her marriage by grant of decree of divorce has been dismissed.

In brief, the marriage of the appellant was solemnized with the respondent on 29.06.2012 at Amritsar according to Sikh rites and ceremonies. They were blessed with a female child, namely, Samrit Kaur @ Shaeirim Kaur, who was two years of age at the time of presentation of the petition and was in the custody of the respondent. It is alleged that sufficient dowry articles worth Rs.7-8 lacs were given at the time of marriage but behavior of the respondent and his family members was cruel to the appellant as she was usually taunted for bringing less dowry and two/three times she was thrown out of the matrimonial home after giving merciless beatings by the respondents and his family members, but

every time the matter was settled amicably. It is also alleged that the respondent had played a fraud with the appellant as he has concealed the factum of his first marriage. On 14.02.2013, the appellant was again turned out of her matrimonial home after having been beaten seriously. On this premise, the petition was filed for seeking a decree of divorce.

The petition was contested by the respondent in which it is alleged that the factum of his earlier marriage was brought to the notice of the appellant and her family members. It is denied that the appellant had given dowry articles worth Rs.7-8 lacs rather it is alleged that after the birth of the minor child, the behavior of the appellant towards the respondent and his family members became harsh and she had started raising quarrels on petty domestic matters. She had left the matrimonial home and the respondent is looking after the minor child on his own.

The appellant did not file any replication to the reply filed by the respondent and on the pleadings of the parties, five issues were framed by the Family Court in which issues no.1 and 2 were in respect of the alleged factum of cruelty and desertion. Both the parties led their oral as well as documentary evidence and the Family Court discussed issues no.1 to 3 together and recorded a firm finding of fact that the appellant has failed to prove the allegations made by her in the petition about alleged cruelty or fraud having been played by the respondent about his previous marriage or even about desertion.

Learned counsel for the appellant has submitted that the Family Court has committed an error in appreciating the evidence available on record but she has failed to find fault with the findings recorded by the Family Court wherein it has been recorded that the

appellant, while appearing as PW1, has not given any detail of the date, month or year in which the respondent and his family members had demanded the dowry articles or given merciless beatings to her. She had never moved any complaint regarding her maltreatment by the respondent rather she had admitted the compromise dated 01.02.2014 Ex.P1, in which she had not stated anything about the cruel behavior of the respondent or regarding bringing insufficient dowry. PW2 Baljit Kaur, mother of the appellant, also could not produce any proof to prove the factum of any dowry having been given at the time of marriage. The appellant was never medically examined in regard to merciless beatings allegedly given by the respondent and his family members. Similarly, the mother of the appellant had also failed to prove the factum of demand of dowry and beatings.

As a matter of fact, we have found that the appellant has totally failed to prove from the evidence on record both the allegations of cruelty and desertion, therefore, there is hardly any merit in this appeal for the purpose of taking a different view from the view taken by the Family Court by interfering in this appeal. Hence, the present appeal is hereby dismissed, though without any order as to costs.

(Rakesh Kumar Jain)
Judge

March 28, 2019
vinod*

(Harnaresh Singh Gill)
Judge

Whether speaking / reasoned : Yes

Whether reportable : Yes