

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

FAO-M-343-2015 (O&M)
Decided on : July 26, 2019

Rajeev Kapoor

..... Appellant

Versus

Rashmi Kapoor

..... Respondent

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

Argued by : Mr. Rajesh Kumar, Advocate for
Mr. Shailendra Sharma, Advocate
for the appellant.

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

Manjari Nehru Kaul, J.

The instant appeal has been preferred by the appellant-husband against the judgment and decree dated 27.05.2015 vide which his petition filed under Section 13(i), (ia) and (ib) of the Hindu Marriage Act, 1955 (for short 'the Act') was dismissed 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 03.09.1999 in accordance with Hindu rites and ceremonies at Chandigarh. After the marriage, parties resided and cohabited together at Chandigarh and out of the said wedlock, one male child was born on 01.09.2000.

3. As per the averments in the petition filed before the trial Court, it was alleged by the appellant-husband that he had been at the receiving end of the rude and arrogant behaviour of the respondent-wife. It was also

alleged that she indulged in spending extravagantly and often visited the house of her parents without his consent and knowledge. So much so that in order to cause harassment to the appellant-husband, she intentionally changed the locks of their house as a result of which the appellant had to wait outside the house or sit at the house of his acquaintances many a times till her return to the house. Besides this, the appellant-husband levelled allegations of her frequently harassing and misbehaving with not only him but even his friends and relatives.

4. On the other hand, respondent-wife in her written statement filed before the Court below refuted the allegations of the appellant-husband and denied that she had been treating the appellant-husband with cruelty. It was contended that in fact it was the appellant-husband, who had been inflicting cruelty including physically assaulting her from the very beginning of their marriage as she was not able to accede to his demand of getting more dowry from her parents. Respondent-wife alleged that the appellant-husband and his family intentionally tried to create a hostile atmosphere in the matrimonial home so that she was left with no other option but to leave her matrimonial home and pave the way for the appellant-husband to remarry.

5. In the replication filed by the appellant-husband to the written statement, the averments made in the written statement were controverted and he reiterated his own averments.

6. After completion of pleadings, trial Court framed the following issue:

1. Whether the petitioner is entitled to decree of

divorce on the grounds mentioned in the petition? OPP

2. Relief.

7. After analyzing the evidence on record, the trial Court held that except for his bald statements, the appellant-husband had been unable to prove the allegations against the respondent-wife by any cogent or convincing evidence and dismissed the petition.

8. We have heard learned counsel for the parties and perused the other material available on record.

9. It would be pertinent to mention that during the pendency of the instant appeal, the parties were referred to Mediation and Conciliation Centre of this Court to explore the possibility of amicable settlement, however, it failed to yield any positive result.

10. Learned counsel for the parties have stuck to their respective stand taken by them and reiterated their submissions made before the trial Court.

11. It is not disputed that the respondent-wife is working as Assistant Librarian in the Government Medical College and Hospital, Chandigarh and the appellant-husband is working as a Sales Officer in a private firm in Chandigarh. The son has been living with the respondent-wife and is studying for Medicine. The respondent-wife is taking care of his education as well as his other expenses.

12. The respondent-wife while appearing before this Court along with her counsel expressed her willingness to part ways with her husband, if she was granted adequate permanent alimony.

13. Learned counsel for the appellant-husband, on the other hand,

prayed for taking a lenient view in granting permanent alimony to the respondent-wife. Though the appellant-husband claimed that he was drawing a salary of Rs.8,000/- per month only but no document was placed on record by the appellant-husband, which could reflect the same. It is not disputed that the appellant-husband is a Commerce graduate and has been working as Sales Officer in a private firm for the past many years. Thus, it is unbelievable and hard to digest that he would be drawing a meager salary of just Rs.8,000/- per month.

14. Keeping in view the fact that all efforts to bring about a reconciliation between the parties have failed coupled with the fact that the respondent-wife is single handedly raising their son, this Court is of the opinion that it would be just and appropriate in the facts and circumstances of the case, to award a sum of Rs.7 lakhs as permanent alimony to the respondent-wife payable by the appellant-husband within a period of three months from the date of receipt of certified copy of this order.

15. As a sequel to the above discussion, the instant appeal is allowed and the petition under Section 13 of the Act filed by the appellant-husband succeeds. The decree of divorce is hereby granted subject to the condition mentioned above. Decree-sheet be prepared accordingly.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

July 26, 2019
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Whether speaking/non-speaking:	Yes/No
Whether reportable :	Yes/No