

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

FAO-9053-2014 (O&M)
Decided on : October 30, 2019

Nisha Verma

..... Appellant

Versus

Robin Huriyal

..... Respondent

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

Present : Mr. B.S.Rana, Sr. Advocate with
Ms. Divya Bajaj, Advocate
for the appellant.

Mr. A.S.Rai, Advocate
for respondent.

Manjari Nehru Kaul, J.

The instant appeal has been preferred by the appellant– Nisha Verma to impugn the judgment and decree dated 26.08.2014 passed by District Judge, Family Court, Gurgaon whereby the petition filed by her under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') was dismissed.

2. Few facts necessary for adjudication of the instant appeal as pleaded in the petition filed by the appellant before the learned Court below may be noticed.

Appellant-Nisha Verma was employed as a teacher of Art and Craft in a Government Sr. Secondary School at Sidhrawli, Gurgaon since 07.05.2010. On 24.09.2010 while she was on way to her school, a van

stopped near her. She was pushed inside the van by one of its occupants i.e. respondent- Robin Huriyal after which she was driven to Delhi at knife point by the respondent and six others where she was forced to sign on some papers and marry the respondent. Thereafter, she was dropped back at Gurgaon with a threat that in case she disclosed about the aforementioned incident to anyone, she and her mother would be eliminated. She and the respondent never ever stayed together under the same roof as husband and wife nor did the respondent ever visit her house. The family of the respondent obtained her mobile phone number through his younger sister, who happened to be a student of the appellant. After obtaining the said telephone number, the respondent would frequently threaten and abuse the appellant over the phone. On 20.04.2013, the respondent accosted the appellant outside the gate of the school where she was employed. He snatched her mobile phone from her. He not only slapped her but also threatened her and her mother with dire consequences. He further threatened her that he would forcibly take her away. The appellant reported the matter to the police where the respondent admitted to his guilt in writing and agreed to file a joint petition for divorce by way of mutual consent. He also declared that he had committed a mistake in marrying the appellant and that he would have no conjugal relationship with the appellant in future. However, the respondent did not file any divorce petition by way of mutual consent and continued to indulge in cruel and abusive behaviour towards the appellant causing a great deal of harassment to her. Hence, the appellant prayed for dissolution of marriage on the ground of cruelty.

3. Per contra, the respondent in his written statement filed before

the Court below, refuted and denied the allegations of the appellant. He claimed that it was an inter-caste love marriage, which was solemnized at the instance of the appellant. The factum of their marriage was not disclosed by the parties to their respective families. They had performed the marriage in a temple on 24.09.2010 in the presence of his brother and one other person, who signed as witnesses. He submitted that some photographs were also taken on the said occasion. He further claimed that both he and the appellant had resided together at his house in Narnaul. So much so, she had even disclosed about their marriage to the landlord of the house where they resided together. Not only this, both of them lived in various hotels at Gurgaon as husband and wife. He thus, prayed for dismissal of the petition.

4. From the pleadings of the parties, following issues were framed by the learned trial Court:

1. Whether the petitioner is entitled to get a decree of divorce on the grounds as mentioned in the petition?

OPP

2. Relief.

5. It may be noticed that the respondent-husband thereafter was proceeded against ex parte by the learned court below as neither he nor any other witness in support of his case stepped into the witness box to rebut the testimonies of the appellant-wife and the other witnesses, who were examined by her in support of her case.

6. On an analysis of the evidence led, the trial Court dismissed the petition filed by the appellant-wife by holding that the ground of cruelty on which the marriage was being sought to be dissolved was not made out.

7. It would be relevant to mention that the respondent-husband put in appearance during the pendency of the instant appeal and prayed for dismissal of the instant appeal.

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

9. On examination of the evidence and other material on record in which the marriage between the parties was solemnized irrespective of the circumstances and manner as pleaded by the appellant-wife or in the manner as claimed by the respondent-husband, the fact remains that the relations between the parties from the very inception of the marriage were not normal much less cordial. The very fact that on 07.05.2013 a complaint Ex.P2 was lodged by the wife against the respondent-husband in Police Post Khandsa where the respondent-husband admitted to his wrong doing and mistake as well as gave an assurance that he would file a divorce petition by way of mutual consent, which however, he did not do, leaves no manner of doubt that the appellant-wife was indeed being subjected to continuous harassment by the respondent-husband and the conduct of the respondent-husband in reneging from the assurance given to the appellant-wife in the presence of police and his behaviour thereafter in not filing a petition under Section 13-B of the Act would have definitely caused acute distress to the appellant-wife.

10. In the peculiar facts and circumstances, it would be injurious and unfair not to sever the matrimonial tie in cases of his kind. The consequences of preservation in law of such a marriage would be a source of greater misery for the parties more so when they have been living apart

since 2010 and no child too has been born out of the said wedlock.

11. Consequently, the present appeal stands allowed and the impugned judgment dated 26.08.2014 passed by the court below is set aside. The marriage between the parties is dissolved by way of decree of divorce. Decree sheet be prepared accordingly.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

October 30, 2019
sonia

Whether speaking/non-speaking:	Yes/No
Whether reportable :	Yes/No