

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

**FAO-M-31-2019 (O&M)
Decided on : 24.07.2019**

Reema Rani

... Appellant(s)

Versus

Kamaldeep Kumar

... Respondent(s)

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

PRESENT: Mr. D.S. Bhinder, Advocate
for the appellant(s).

None for the respondent(s).

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the appellant-wife impugning the judgment and decree dated 02.11.2018, passed by the Ld. Additional Civil Judge (Sr. Division), Phul (Exercising delegated powers of District Judge) (hereinafter referred to as the 'Ld. Court below'), whereby, the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act') for restitution of conjugal rights, was allowed.

A few facts necessary for adjudication of the case, as narrated in the petition filed by the respondent-husband before the Ld. Court below, may be noticed. Marriage between the parties was solemnized on 30th October, 2011 at Mansa. After the marriage, the parties resided and cohabited together as husband and wife and out of the wedlock a daughter namely 'Dharika' was born. It was a simple marriage and only customary gifts were exchanged between the parties at the time of marriage, as it was the second marriage of both the parties. As per the

respondent-husband (appellant therein), the appellant-wife (respondent therein) started harassing and humiliating the respondent-husband and his family, soon after the marriage, as she was of a quarrelsome nature. Despite this, the respondent-husband showered her with love and affection and also tried to provide her with all comforts. She would frequently leave the society of the respondent-husband and each time, it was the respondent-husband, who made efforts to bring her back to the matrimonial home with the help of Panchayats. On two occasions i.e. 15.04.2012 and 25.09.2012, the appellant-wife attempted suicide, but due to the timely intervention of the respondent-husband and his family, she was saved. On 27th July, 2014, the wife left the society of the husband after quarreling with him. Despite his earnest efforts, the wife refused to return to her matrimonial home. On 11.01.2015, the respondent-husband took a Panchayat to the parental house of the wife, but she openly declared that she did not wish to live with the respondent-husband. It was pleaded by the respondent-husband that the appellant-wife had left his society without any sufficient cause or reason and had thus intentionally deserted and neglected him. In view of the aforesaid reasons, he filed the petition before the Ld. Court below, claiming relief of restitution of conjugal rights.

Per contra, in the reply filed by the appellant-wife, she admitted the factum of marriage having been solemnized between the parties and also the birth of a girl out of their wedlock. However, she submitted that her parents had spent approximately ₹ 7.00 lakh on her marriage and had given the dowry as per the demands of the respondent-husband and his family. It was also averred by her in her written statement that her husband and her husband's family had been subjecting her to harassment ever since their marriage as they were dissatisfied with the dowry that had been given to her by her parents at the time of marriage

and finally, she was turned out of the matrimonial home by them along with her daughter, after raising a demand of ₹ 1.00 lakh and subjecting her to beatings. Even though, a Panchayat was convened by the parents of the appellant-wife, but the respondent-husband and his family refused to take her back to her matrimonial home.

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

- “1. *Whether the petitioner is entitled for restitution of conjugal rights ? OPP.*
2. *Whether the petition is not maintainable? OPR*
3. *Relief.”*

The respondent-husband stepped into the witness-box as PW-1 and examined as many as three witnesses including PW-2/Mohan Lal and PW-3/Jagdish Rai and closed his evidence. On the other hand, the appellant-wife examined two witnesses and herself stepped into the witness-box as RW-1 and also examined Kewal Krishan as RW-2. Thereafter, closed her evidence.

Ld. Court below after an appraisal of the evidence, allowed the petition filed by the respondent-husband and directed the wife to join his company by recording a finding that she had withdrawn from the society of the respondent-husband without any reasonable cause or reason.

We have heard learned counsel for the parties, perused the evidence and other material on record thoroughly.

No doubt, the appellant-wife cannot be compelled to live with her respondent-husband in adverse circumstances, particularly, when there have been serious allegations levelled by her against her husband and in-laws, but on re-appraisal of the evidence on record, it comes out loud and clear that not only PW-

respondent-husband on all material aspects of the case, but the evidence led by the respondent-husband has gone un-rebutted and unchallenged. It may be pointed out that while appearing as RW-1, the appellant-wife deposed that she was willing to accompany her husband, provided he tendered an apology.

It would be pertinent to mention that a perusal of the order dated 28.05.2019 of this Court reveals that on that date both the counsel along with the parties were present and made a statement to the effect that they had started living together in the same house as husband and wife.

In view of facts and circumstances of the case, we feel that the impugned judgment and decree dated 02.11.2018, passed by the Ld. Court below, does not warrant any interference. Consequently, the instant appeal stands dismissed.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

July 24, 2019

J.Ram

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