

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-1859-2018 (O&M)

Date of Decision: 16.09.2019

Ruhi Hans

...Appellant

Versus

Jayant Rathi

...Respondent

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

PRESENT: Mr. Rakesh Dhiman, Advocate for the appellant.

Mr. Sandeep Verma, Advocate for the respondent.

RAJAN GUPTA, J.

Present appeal has been preferred by appellant-wife being dissatisfied with the judgment and decree dated 26.2.2018 passed by Principal District Judge, Family Court, Gurugram, whereby petition filed by husband-respondent under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') seeking dissolution of marriage, was allowed.

Marriage between the parties was solemnized on 8.2.2011 according to Hindu rites and ceremonies at Gurugram. Parties resided together as husband and wife at Gurugram. It was alleged that when respondent visited Gurugram for the first time on 11.3.2011 after rejoining of work, appellant-wife was not cordial to him or his family. She pressurized respondent to live separately and also stopped doing the household work. Respondent made efforts to save marriage, but appellant continued with her misbehaviour. In August, 2011, respondent had to go to Scotland and requested appellant to accompany him as his parents were also

leaving for Norwich (UK), but she refused to do so and rather told that she would be going to Denmark and Paris on 18.9.2011 for her official work. On enquiry, respondent found that appellant had gone with Sidharth, owner of the company, where she was working. After her return, she declared that Sidharth was a better person than respondent. Even the request of respondent to shift to Panchkula was not acceded to by the appellant. She had left the matrimonial home on 22.2.2012 on the pretext that she would return after weekend, but she never returned and ultimately refused to live with respondent. She threatened respondent and his parents of dire consequences. On account of aforesaid conduct of the appellant, respondent-husband had sought dissolution of marriage by way of petition under Section 13 of the Act. Upon notice, appellant-wife filed written statement controverting the allegations levelled against her by the respondent-husband. It was pleaded that she was assaulted and threatened by the respondent and his family members when she lived with him. She was thrown out of the matrimonial home on 24.2.2012 and since then she was living with her parents at Gurugram. Trial court on the basis of evidence led by the parties, came to the conclusion that appellant had treated the respondent and his family with cruelty. Accordingly, trial court dissolved the marriage of the parties vide judgment and decree dated 26.2.2018. Being aggrieved, appellant-wife has preferred the instant appeal.

Learned counsel for the appellant has vehemently contended that trial court has gravely erred in not appreciating the evidence in its correct perspective. According to learned counsel, the decree of divorce was granted on the basis of misreading of evidence. Since, there is nothing on record to show that respondent has either been treated with cruelty or

harassed, impugned judgment deserves to be set aside.

On the other hand, learned counsel for the respondent besides supporting the judgment and decree, contended that trial court on appreciation of evidence led by the parties, has rightly concluded that respondent was treated with cruelty.

We have heard learned counsel for the parties and given careful thoughts to the facts of the case. It appears that lower court while appreciating the evidence on record arrived at a conclusion that appellant-wife treated respondent-husband with cruelty. From a perusal of the record, it is clear that appellant-wife has never instituted any complaint against her husband regarding ill-treatment and harassment meted out to her. Maintaining of illicit relationship by a wife with a third person is also cruelty. In the instant case, respondent-husband has not only pleaded but successfully proved the illicit relationship of appellant-wife with his employer by leading evidence. Moreover, appellant-wife was living separately from her husband since 22.2.2012. She has filed a petition seeking restitution of conjugal rights which later on was withdrawn by her. On reappraisal of evidence and other material on record, we are of the view that findings have been correctly returned by the court below.

In view of above, we find no reason to differ from the findings arrived at by the court below. Accordingly, the instant appeal is dismissed.

(RAJAN GUPTA)
JUDGE

September 16, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned
Whether Reportable

Yes/No
Yes/No