

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

FAO-M-127-2018

Decided on : September 26, 2019

Paramjit Kaur

..... Appellant

Versus

Narinder Singh

..... Respondent

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

Argued by : Ms. Dhivya Jerath, Advocate
for the appellant.

Mr. Arun Takhi, Advocate
for respondent.

Manjari Nehru Kaul, J.

The instant appeal has been preferred by the wife – Paramjit Kaur impugning the judgment and decree dated 01.03.2018 passed by Addl. District Judge, Hoshiarpur whereby the petition under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') filed by the respondent-husband was allowed.

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

Marriage between the parties was solemnized on 19.01.1999 as per Sikh rites and ceremonies. Thereafter they cohabited together as husband and wife and two children were born out of the said wedlock. The respondent-husband averred that from the very beginning of their marriage,

the behaviour of the appellant-wife was highly unbecoming and she did not have a shred of respect for her parents-in-law. All the efforts made by the respondent-husband to reason out with his wife only worsened the matters. She would claim that her marriage had been performed under compulsion as she had wanted to marry a singer of international repute. It was submitted by the respondent-husband that the appellant-wife would clandestinely consume some tablets before going to sleep. Under the influence of those tablets she refused to perform her conjugal duties. She would frequently pressurize the respondent-husband to move into a separate accommodation. Since the respondent-husband was serving in the Army, the wife would insist on him to take her along to his place of posting. On 01.03.2000, she ran towards the road threatening to commit suicide by coming under the passing vehicles so that he and his family would be incarcerated. Whenever the respondent-husband would be at his place of posting, she would go to her parental home without bothering to inform him or his parents. She would also leave the children behind with his aged parents. He claimed that he tried to seek the help of his parents-in-law but they seemed least concerned about the same. Since the behaviour of the appellant-wife was not normal from the very beginning of their marriage, he suspected that she may have been suffering from some mental disorder. On 02.05.2009, she threatened to jump off the roof of their house. A panchayat was convened to save the situation from worsening any further. On the following day i.e. 03.05.2009, she left the matrimonial home and went to her parental house leaving the children behind with him. Ever since then she had not returned to the society of the respondent-husband.

3. On the contrary, the appellant-wife in her written statement filed before the Court below, refuted and denied the allegations of the respondent-husband. She submitted that her children had been forcibly kept by the respondent-husband and she had not even been permitted to meet them. The respondent-husband and his family would harass and humiliate her on one pretext or the other. They were in fact greedy people, who were dis-satisfied with the dowry brought by her. She submitted that her husband was a drunkard and never paid heed to her grievances. After a month of their marriage, when the respondent-husband returned to his place of posting, her in-laws taking advantage of his absence, started subjecting her to physical and mental cruelty. She alleged that all the allegations levelled against her were fabricated. Due to the cruelty meted out to her, she slipped into depression as a result of which she had to seek medical treatment from the doctor at Hoshiarpur. In fact in August 2014, on return from her parental home where she had gone for Raksha Bandhan, her husband and his family did not let her enter the matrimonial home as a result of which she was left with no other option but to stay with her mother ever since then.

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

1. Whether the respondent has treated the petitioner with cruelty? OPA
2. Whether the petitioner is entitled to the decree of divorce as prayed for? OPA
3. Whether the petition is not maintainable in the present form? OPR

4. Whether the petitioner has not appeared in the court with clean hand? OPR

4(a). Whether the respondent has withdrawn from the society of the petitioner without a sufficient cause? OPA

5. Relief.

5. Thereafter both the parties adduced evidence in support of their respective stands. The respondent-husband himself stepped into the witness box by way of affidavit Ex.PW-2/A. Besides him, he examined one witness. On the other hand, appellant-wife herself stepped into the witness box by way of affidavit as RW-1/A.

6. After analyzing the evidence led by the parties, the trial Court allowed the petition filed by the respondent-husband and dissolved the marriage by way of decree of divorce.

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

8. On reappraisal of the evidence on record and the impugned judgment as well as after our interaction with the parties, it is very apparent that the parties who have been living separately since 2011 are not willing to relent and are sticking to their allegations against each other. It has come on record as well that during the panchayats convened to bring out a reconciliation between the parties, the wife herself asked for divorce. Due to their temperamental incompatibility and the fact that for the past so many years there has been no conjugal relationship between the parties, it would not be wrong to presume that the marriage of the parties has indeed broken down beyond repair.

9. During the pendency of the instant appeal, the parties were referred to Mediation and Conciliation Centre of this Court to explore the possibility of an amicable settlement, however, it failed to yield any positive result. All efforts made by this Court as well as the lower Court to bring about a reconciliation between the parties failed on account of the adamant behaviour of the respondent-wife as she neither wanted to accompany the respondent-husband nor was she willing to divorce him by way of mutual consent. An affidavit dated 02.09.2019 was also filed by the respondent-husband wherein he undertook to pay an amount of ₹ 8 lakhs to the appellant-wife towards permanent alimony.

10. In these circumstances, it would be unrealistic to expect the parties to reconcile and live together as husband and wife. We do not thus, find any reason to interfere in the impugned judgment dated 01.03.2018 passed by the Court below. Consequently, the present appeal stands dismissed. The respondent-husband shall however, remain bound by the affidavit dated 02.09.2019, which already stands taken on record. The appellant-wife would be entitled to an amount of ₹ 8 lakhs towards permanent alimony as full and final payment, within a period of four months in two equal installments from the date of this order in terms of the affidavit dated 02.09.2019.

(RAJAN GUPTA)
JUDGE

September 26, 2019

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(MANJARI NEHRU KAUL)
JUDGE

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