

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : FAO-M No. 119 of 2017

Date of Decision : January 09, 2020

Nirmala Gollen Appellant

vs.

Davender Gollen Respondent

**CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY.
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA.**

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Present : Mr. Sandeep Berwal, Advocate
for the appellant.

Mr. Arvind Bansal, Advocate
for the respondent.

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MEENAKSHI I. MEHTA, J. :

Feeling aggrieved by the judgment and decree as passed by learned Additional District Judge, Kaithal on 08.02.2017, whereby the petition as filed by the husband (hereinafter referred to as 'the respondent') against the wife (hereinafter referred to as 'the appellant') under Section 13 of the Hindu Marriage Act, 1955 seeking dissolution of their marriage had been allowed, the appellant has preferred the present appeal.

2. As per the brief factual matrix as canvassed by the respondent as the petitioner in the above-said divorce petition, the marriage between the parties was solemnized on 17.04.2002 and one male child had born out of

and she pressurized the respondent to live separately. The respondent fulfilled her wish but thereafter, she raised the demand of transfer of the agricultural land in her name and also demanded the cash amount from her father-in-law and moreover, she used to quarrel over petty matters because of her short temper. She moved numerous false complaints before the Women Cell as well as other authorities against the respondent, his family members and even against the police officers who found her allegations to be false. She also falsely implicated the respondent and his family members in a criminal case under Sections 376-B, 354-A, 354-B, 323, 509, 506, 120-B IPC resulting in intense mental and physical cruelty to the respondent. Thus, the marriage between the parties had irretrievably broken and it was impossible for the parties to reside together.

3. In her written statement, the appellant, who was respondent before the Trial Court, contested the claim of the respondent the ground of concealment of true and material facts from the Court. She also asserted that her father had spent an amount of Rupees seven lacs on her marriage but the respondent and his family members ill-treated her and demanded more money. The respondent used to beat her and to use abusive words for her. He also pressurized her to get visa for him by paying Rs.20 lacs. In the complaint as filed by her against the respondent under Section 12 of the Domestic Violence Act, 2005 (for short 'the Act'), the respondent was directed not to dispossess her and her son from the shared house-hold and he was also directed to provide her a separate room, kitchen, bathroom,

electricity and water connections and also to pay Rs.5,000/- per month to her. The father of the respondent also tried to outrage her modesty and therefore, the said criminal case was got registered against them.

4. In his replication as filed by the respondent before the Trial Court, he had reiterated his earlier stand as taken in the petition besides controverting the assertions as advanced by the appellant in her written statement. Learned Trial Court, on the basis of the pleadings of the parties, framed the following issues on 21.03.2015 :-

“1. Whether the petitioner is entitled to obtain a decree of divorce from the respondent on the ground of cruelty as mentioned in the petition? OPP

2. Whether the petitioner has concealed the true and material facts from the court, if so, its effect? OPR

3. Relief.”

After the appraisal and evaluation of the evidence, oral as well as documentary, as led by both the parties on the afore-said issues and after hearing learned counsel for both the parties, learned Trial Court answered both the issues in favour of the present respondent and against the appellant. Resultantly, the impugned judgment and decree, dissolving the marriage between the parties, were passed.

5. We have heard learned counsel for both the parties in the present appeal and have perused the record thoroughly.

6. Learned counsel for the appellant has contended that the

respondent and his family members had been ill-treating and harassing the appellant from the very beginning and had been demanding more money and it is the appellant who had actually suffered mental as well as physical cruelty at the hands of the respondent and his family members and therefore, the impugned judgment and decree, as passed for the dissolution of the marriage between the parties, are illegal and deserve to be set aside, whereas learned counsel for the respondent has argued that the impugned judgment and decree have been passed by learned Trial Court while appreciating the evidence of the parties in the right perspective.

7. After giving our thoughtful consideration to the arguments as advanced by learned counsel for both the parties, we are of the considered opinion that this appeal is devoid of any merit because as categorically mentioned in the impugned judgment itself, the complaint, as filed by the appellant against the respondent under the Act, had been dismissed by the Trial Court with the exemplary costs of Rs.500/- while observing that the complainant, i.e. the present appellant, was not proved to be an aggrieved person and was not entitled to any relief as claimed by her and even the appeal against the order of dismissal of this complaint had also been dismissed by learned Appellate Court while observing that the appellant was not a victim of the domestic violence and rather, it was vice-versa and the filing of the complaint by the complainant was a blatant misuse of the beneficial provisions of the Act.

8. Another petition as preferred by the appellant under Section 31

of the Act had also been dismissed with costs and the appeal as filed against this order of dismissal had also been dismissed by the Appellate Court on 20.07.2015. Moreover, the afore-mentioned criminal case as lodged at the instance of the appellant against the respondent and his family members had also ended in his acquittal with the observations that the complaint filed by the prosecutrix was nothing but a bundle of lies and it was the case of settling score with the husband and his family members. The application as moved by the appellant in the above-said criminal case under Section 319 of the Code of Criminal Procedure for summoning two more family members of the respondent had been dismissed by the Trial Court and the order of dismissal was upheld even by this Court. The appellant has not placed any material on the file to show that any of the afore-said orders, as passed against her in the above-mentioned proceedings, has ever been set aside by any competent Court/Forum. It has been held by the Hon'ble Apex Court in **Rani Narasimha Sastry vs. Rani Suneela Rani (Civil Appeal No. 8871 of 2019)** that *“when a person undergoes a trial in which he is acquitted of the allegations of the offence under Section 498-A of IPC, levelled by the wife against him, it amounts to cruelty on the husband and he is entitled to the decree of divorce”*. In view of these observations, we are of the considered opinion that the judgment and decree as passed by the learned Trial Court do not suffer from any illegality or infirmity and hence, there are no cogent reasons to interfere with the same.

9. As a sequel to the foregoing discussion, this appeal, being sans any merit, is hereby dismissed.

(DAYA CHAUDHARY)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

January 09, 2020
monika

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.