

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

Sr.No.106

FAO No.4172 of 2016 (O&M)

Date of Decision: 18th January, 2021.

Satish Kumar

...Appellant

Versus

Priti

...Respondent

(Heard through Video-Conferencing)

**CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Aditya Jain Advocate &
Mr. Rajat Garg, Advocate,
for the appellant.

Mr. Arjun Kundra, Advocate,
for the applicant-respondent.

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MEENAKSHI I. MEHTA, J.

CM No.338-CII of 2021

This application has been moved for seeking pre-ponement of
FAO No.4172 of 2016, already fixed for 05.03.2021, as the parties to the
appeal have arrived at a compromise.

Learned counsel for the appellant have also joined the
proceedings and they acknowledge the factum of a compromise having been
arrived at between the parties and have no objection if the main appeal is
pre-poned.

In view of the above-discussed facts and circumstances, this
application is hereby allowed and the main appeal, i.e FAO No.4172 of 2016,
is taken on the board today itself.

CM No.339-CII of 2021

By way of this application, the respondent seeks permission to place on record Annexures R-1 to R-4. However, in Para No.4 of her affidavit as submitted today, the respondent has categorically deposed that Annexure R-4 has inadvertently been mentioned in this application.

Learned counsel for the appellant have no objection in allowing this application.

Accordingly, this application is also allowed and Annexures R-1 to R-3, i.e the compromise as well as the respective affidavits of the appellant and the respondent are taken on the record.

FAO No.4172 of 2016

Feeling aggrieved by the judgment and decree dated 01.03.2016 passed by District Judge, Family Court, Gurgaon, whereby the petition, as preferred by the husband (hereinafter referred to as 'the appellant') against the wife (hereinafter referred to as 'the respondent') under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (for short 'the Act') for seeking dissolution of their marriage by way of a decree of divorce on the ground of cruelty, was dismissed with costs, the appellant has chosen to prefer this appeal.

2. Shorn and short of unnecessary details, the facts culminating in the present appeal and canvassed by the appellant in the said divorce petition, are that the marriage between the parties was solemnized on 27.04.2009 according to the Hindu rites and ceremonies. No child was born out of this wedlock. The respondent was not happy with her marriage and her behaviour towards the appellant was cruel. She used to leave her matrimonial home frequently and had to be brought back after much persuasion or with the

intervention of the respectables and she was always reluctant and unwilling to have marital relations with him. She was not residing with him since June, 2012 and refused to return to her matrimonial home despite the fact that the petition, preferred by him under Section 9 of the Act, had been allowed.

3. It is worthwhile to mention here that the respondent failed to appear and to contest the divorce petition despite having been summoned by way of publication in the newspaper and was, therefore, proceeded against ex-parte by the trial Court.

4. However, the Court below dismissed the divorce petition while observing that except his own statement in support of his averments, the appellant had failed to examine any other witness or to adduce any other cogent evidence on the record to substantiate his version.

5. Today, the respondent (wife) has joined the proceedings along with her counsel from his office and has been identified by him and she has acknowledged the receipt of the Demand Draft bearing No.902324 worth Rs.4 lacs towards the full and final settlement amount. In her separate affidavit of even date, she has deposed that she has no objection if the decree of divorce is granted.

6. As specifically mentioned in compromise Annexure R-1, the same is intended to be made a part of the decree sheet. In their respective affidavits Annexures R-2 and R-3, the appellant as well as the respondent have made categoric depositions regarding the said compromise having been entered into by them whereby the settlement amount of Rs.4 lacs has been agreed to be paid by the appellant to the respondent. In her affidavit Annexure R-3, the respondent has specifically deposed that she has been

residing with her parents since June, 2012 meaning thereby that she did not join the company of the appellant despite the order as passed on 13.01.2015 allowing his petition under Section 9 of the Act (Annexure A/1) and thus, she does not seem to be interested in living with the appellant as his wife.

7. Keeping in view the fore-going discussion as well as Annexres R-1 to R-3 and the afore-discussed depositions as made by the respondent in her affidavit filed separately today, the present appeal is allowed and the impugned judgment and decree are set aside and a decree of divorce is passed qua dissolution of the marriage between the parties from the date of this judgment in terms of compromise Annexure R-1 which shall form the part of the decree sheet. Decree sheet be prepared accordingly.

(NIRMALJIT KAUR)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

18th January, 2021.
seema

Whether speaking/reasoned?	Yes/No
Whether Reportable?	Yes/No