

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

**FAO-M-211-2019 (O&M)
Date of decision: 10.12.2021**

Kajal

....Appellant

V/s.

Jagsir Singh and another

.....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Janak Singh Bhinder, Advocate for the appellant.

Mr. Mandeep Kumar Dhot, Advocate for the respondents.

Ritu Bahri, J.

The appellant Kajal has come up in appeal against the judgment dated 02.09.2019 whereby respondent-Jagsir Singh has been granted divorce under Section 13 of Hindu Marriage Act. The marriage of the appellant was solemnized with respondent No.1 on 27.10.2010 at Chandigarh as per Hindu Rites and Ceremonies. The marriage was very simple as it was love marriage. After the marriage, the parties resided together upto November 2014 at Sunam but no child was born out of their wedlock. Respondent No. 1 filed a divorce petition on the plea that from the very inception of the marriage, appellant-wife showed her true nature towards respondent No.1. She started stressing upon respondent No.1 to transfer his property in her name and to reside in a separate accommodation from his mother. On refusal, appellant-wife started quarrelling with respondent No.1 and his mother on one pretext or the other. The appellant used to create unpleasant scenes as and when the relatives and friends of respondent No.1 visited the house of respondent No.1. The mother of

respondent No. 1 disowned the appellant and respondent No. 1 from her movable and immovable property. Finally respondent No.1-husband started residing separately at Barnala in the month of April 2011 in a rented accommodation. Appellant-wife was doing job at Trident Company, Barnala and having superiority complex. Finally appellant-wife shifted to village Chahat and developed illicit relations with respondent No.2. In the month of November, 2014, she left her matrimonial home on the behest of respondent No.2-Gurjit Singh and started residing with him.

On notice of the petition under Section 13 of the Hindu Marriage Act, appellant-wife filed written statement taking plea that both the parties were residing at matrimonial home from the date of marriage and a male child was born in the year 2016 out of their wedlock. She filed petition under Section 125 Cr.P.C. against respondent No.1 as he was neglecting her and was not fulfilling his matrimonial obligation. She was never paid maintenance amount by respondent No. 1. The respondent No.1-husband had got registered false FIR against the appellant in connivance with the police. This FIR was cancelled after proper inquiry.

Following issues were framed:-

1. Whether the respondent treated the petitioner with cruelty and is entitled for dissolution of marriage by a decree of divorce?
OPP
2. Whether respondent deserted the petitioner without any reasonable cause? OPP
3. Whether present petition is not maintainable? OPR
4. Relief

The divorce has been granted to the respondent No.1-husband on the ground of cruelty. In para 19 of the judgment, it has been observed that as per birth certificate, a male child was born to appellant-wife on

09.02.2016 where father's name of said child has been mentioned as Gurjit Singh. Copy of register from the office of Births and Deaths Registrar, Patiala is on file as Ex.P1, where a son is shown to have been born to appellant-wife at Sr. No. 540 and father's name of said child has been mentioned as Gurjit Singh. An FIR was lodged by respondent No.1 against the appellant-wife under Section 494/380/120-B IPC which was placed as Ex.P3, however no evidence was led to show that FIR was quashed. The appellant-wife appeared as RW1 and admitted that a son was born to her on 09.02.2016 in Mata Kaushalya Hospital, Patiala and as per birth certificate (Ex.P2), father's name of newly born child was mentioned as Gurjit Singh. No other witness was examined to support the case. The appellant-wife did not lead any witness to support her case that FIR (Ex.P3) was quashed and name of the father of the child shown as Gurjit Singh as per birth certificate (Ex.P2) was wrong. Hence on issue No.1, the finding of cruelty was given against appellant-wife.

On issue No.2 as per the evidence given by the respondent No.1-husband while appearing as PW5 that appellant-wife had left the house of respondent No.1 in the month of November, 2014. This evidence was corroborated by the witnesses PW4 Mohinder Singh, Panch and PW6 Pritam Singh, Sarpanch. Further in a petition under Section 125 Cr.P.C., she admitted that she was not residing with the respondent No.1-husband since 2014. Copy of the statement of appellant-wife is placed on record as Ex.R5. Keeping in view above said admission that since November 2014, the parties did not cohabit, issue of desertion was also answered in favour of respondent No.1-husband and the divorce was granted.

Heard learned counsel for the parties and perused the case file

alongwith lower Court record.

At the outset, reference can be made to statement of the appellant-wife (Ex.R-5) in which she had stated that since 2014, they were residing separately. Admission record issued by the Punjab Health Systems Corporation is placed on record as Ex.P4 in which name of the mother is mentioned as Kajal, date of birth of the child is mentioned as 09.02.2016 and father/husband's name is written as Gurjit Singh s/o Balwinder Singh. As per the OPD slip of Mata Kaushalya Govt. Hospital Patiala, having registration No. 28063, name of the patient is written as Kajal and in the column of father/husband's name, Gurjit Singh is written. Even in the income declaration form, the name of husband is written as Gurjit Singh. Ex.P8 is the application made by respondent No.1-husband under the Right to Information Act, 2005 to the Mata Kaushalya Govt. Hospital Patiala, to seek information with respect to birth details of male child born on 09.02.2016. Pursuant to this application, the information was given by Mata Kaushalya Govt. Hospital Patiala on 07.04.2016 (Annexure P-4). All these documents show that when the child was born to appellant-wife, name of the father is reflected as Gurjit Singh son of Balwinder Singh. Birth certificate (Ex.P-2) also reflects the date of birth of the child as 09.12.2016 and the name of the father of the child as Gurjit Singh. Hence, finding of cruelty was rightly given in favour of respondent No.1-husband that after November 2014, the parties were never stayed together and hence even on the ground of desertion, finding was given correctly in favour of respondent No.1-husband.

In view of above observations, appeal is dismissed.

Pending application also stands dismissed.

(RITU BAHRI)
JUDGE

10.12.2021
Divyanshi

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No