

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-M-271-2005 (O&M)
Date of decision: 13.07.2022

Jai Kishan ...Appellant

Vs.

Rekha ...Respondent

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

Present: None.

Ritu Bahri, J. (oral)

The present appeal has been filed against the judgment and decree dated 03.09.2005 passed by the District Judge, Bhiwani, whereby petition filed by Rekha (respondent herein) under Section 13 (1) (ia) (2) (IV) of the Hindu Marriage Act, 1955, seeking dissolution of marriage, has been allowed.

A perusal of the impugned judgment shows that upon issuance of notice in the divorce petition, the husband-respondent (appellant herein) appeared and filed written statement denying the allegations made by the wife in the petition. However, later on despite availing sufficient opportunities, he failed to make payment of *pendente lite* maintenance, therefore, his defence was struck off vide order dated 23.08.2005. Thereafter, petitioner-wife (Smt. Rekha) herself stepped into the witness box as PW-1 and examined her mother Smt. Bhulan as PW-2. On the other hand, no evidence was led by the husband as his defence had already been struck off.

The wife-respondent, while appearing as PW-1, stated that her marriage was solemnized with Jai Kishan on 09.07.2000. At the time of

marriage, she was minor being below the age of 18 years. PW-1 further stated

that she was turned out of the matrimonial home on 04.03.2004. Her date of birth is 20.08.1986 and she was 15 years of age at the time of marriage. The marriage was consummated, but no child was born from this wedlock. Since she was minor at the time of marriage, her petition was accepted under Section 13 (2) (iv) of the Hindu Marriage Act and decree of divorce was granted on the ground of cruelty and repudiation of marriage.

The wife had filed the aforesaid petition on 21.07.2004 i.e. before attaining the age of 18 years. She would attain the age of majority (18 years) on 20.08.2004. In the present case, appellant-husband did not lead any evidence before the trial Court to show that her date of birth was not 20.08.1986. This appeal was admitted vide order dated 07.10.2005. None has put in appearance on behalf of the appellant as well as the respondent since 04.08.2011.

Keeping in view that defence of the appellant-husband before the trial Court was struck off and he failed to rebut the allegations of cruelty, levelled by the wife, no ground is made out to interfere in the impugned judgment. Further, a perusal of the evidence led by respondent-wife shows that she was minor at the time of her marriage with the appellant. Therefore, we are of the view that decree of divorce has rightly been granted by the trial Court in favour of the wife-respondent.

Resultantly, finding no merits, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

13.07.2022
ajp