

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

409

FAO-M-275-2005 (O&M)
Date of decision: 13.07.2022

Sushil Kumar

..... Appellant

Versus

Jagriti

..... Respondent

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

Present: None for the appellant.

None for the respondent.

RITU BAHRI, J. (ORAL)

The appellant-husband has filed the present appeal against the judgment and decree dated 12.09.2005 passed by learned Additional District Judge, Sonapat whereby petition filed by him under Section 13 of the Hindu Marriage Act, 1955 (for short 'the HMA') for dissolution of marriage has been dismissed.

The marriage between the parties was solemnized on 27.07.1996 as per Hindu rites and rituals. No child was born out from this wedlock. As per the appellant-husband, from the very beginning of the marriage, the respondent-wife treated him with extraordinary mental and physical cruelty. She was not willing to live with the family of the appellant. She always showed disrespect to her parents-in-law. The marriage did not work and they started living separately since May, 2000.

A perusal of the impugned judgment shows that during separation the respondent has filed complaint/application in the Crime Against Women Cell on 25.06.2000 which was ended with a compromise (Mark R-1) effected between the parties on 14.07.2000. Thereafter, FIR No.24 dated 21.12.2000 under Sections 498-A, 406 and 506 read with Section 34 of the IPC was registered at Police Station Women Cell, Sonapat against the appellant and his family members. The trial in the above-said FIR is still pending. Since the trial had not concluded, the

allegations of cruelty was not made out and the divorce petition was dismissed.

This appeal was admitted on 20.10.2005. As per the record service on respondent-wife was affected by way of affixation on 25.07.2008. However, the respondent-wife has never put in appearance in the present case. The parties are staying separately since May, 2000 and 22 years as to today has gone by. It is a dead marriage.

Keeping in view the registration of FIR in which the appellant-husband and his family members also faced trial under Section 498-A and 323 of the IPC, the fact that the respondent-wife has not chosen to appear in the present case which shows that she is not interested in saving this relationship and the fact that it is a irretrievable marriage, the present appeal is allowed, judgment dated 12.09.2005 passed by learned Additional District Judge, Sonapat, is set aside and decree of divorce is granted accordingly in favour of the appellant-husband. Decree-sheet be prepared accordingly.

Pending applications in this case, if any, stand disposed of accordingly.

**(RITU BAHRI)
JUDGE**

13.07.2022

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**(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No