

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

511

FAO-M-11-2008 (O&M)
Date of decision: 18.05.2022

Sukhwinder Singh

..... Appellant

Versus

Prabhjit Kaur

..... Respondent

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

Present: Mr. Vineet Sharma, Advocate 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 13.12.2007 passed by learned Additional District Judge (Ad hoc), Amritsar 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 30.11.2003 at Amritsar in accordance with Sikh rites and rituals. No child was born out of 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 in the village. She always showed disrespect to her parents-in-law. The marriage did not work and they started living separately since 07.02.2005.

Learned counsel for the appellant states that the appellant and his family members have faced criminal trial in case FIR No.42 of

2006 registered under Sections 406 and 498-A IPC at Police Station Ajnala. In the said case, the appellant and his family members were acquitted vide judgment dated 18.10.2012 passed by Sub Divisional Judicial Magistrate, Ajnala. The proceedings in the criminal case have attained finality. He further states that from the last 17 years the parties are residing separately. He further states that although the respondent-wife is working as Government Teacher, even then the appellant-husband has given an affidavit dated 21.08.2019 to show his willingness to give Rs.8,00,000/- to the respondent-wife as permanent alimony.

The Hon'ble Supreme Court has in several cases held that even one complaint lodged by the spouse if found to be false is sufficient to amount to cruelty. In ***K. Srinivas Rao Vs. D.A. Deepa : 2013(2) RCR (Civil) 232*** the Hon'ble Supreme Court examined a complaint, where the wife had raised an allegation that mother of her husband had asked her to sleep with father of her husband. This allegation was found to be false and it amounted to extreme mental cruelty to the husband. In paragraph 28 of the judgment, Hon'ble Supreme Court observed as under: -

“ 28. In the ultimate analysis, we hold that the respondent-wife has caused by her conduct mental cruelty to the appellant-husband and the marriage has irretrievably broken down. Dissolution of marriage will relieve both sides of pain and anguish. In this Court the respondent-wife expressed that she wants to go back to the appellant-husband, but, that is not possible now. The appellant-husband is not willing to take her back. Even if we refuse decree of divorce to the appellant-husband, there are hardly any chances of the respondent-wife leading a happy life with the appellant-husband because a lot of bitterness is created by the conduct of the respondent-wife.”

Recently, the Hon'ble Supreme Court in the case of ***Joydeep***

Majumdar Vs. Bharti Jaiswal Majumdar, Civil Appeal Nos.3786-3787 of 2020, decided on 26.02.2021 has held that defamatory complaints made by wife to husband's superior officers amounts to mental cruelty as the husband had suffered adverse consequences in his life and career, on account of allegations, made by the wife.

In ***Raj Talreja Vs. Kavita Talreja, Civil Appeal No.10719 of 2013, decided on 24.04.2017***, where a false complaint was registered against the husband by the wife, after the wife herself inflicted injuries on her person. In criminal proceedings, the husband had been acquitted and thereafter, proceedings against the wife were launched. On this account, the husband was held entitled to decree of divorce, on the ground of cruelty.

Even if husband and wife are staying together and husband does not speak to the wife, it would cause mental cruelty and a spouse staying away by sending vulgar and defamatory letters or notices or filing complaints containing indecent allegations or by initiating number of judicial proceedings can make the life of other spouse miserable.

Keeping in view the judgment dated 18.10.2012 (Annexure A-1) whereby the appellant and his family members have been acquitted, is sufficient to constitute cruelty and grant decree of divorce in favour of the appellant-husband. Moreover, the parties are living separately from last 17 years, it is also a dead marriage.

In view of the above, the present appeal is allowed, judgment dated 13.12.2007 passed by learned Additional District Judge (Ad hoc), Amritsar, is set aside and decree of divorce is granted accordingly in

favour of the appellant-husband. Decree-sheet be prepared accordingly.

Despite the fact that the respondent-wife is working as a Government Teacher, but the husband being duty bound to maintain the respondent-wife, is directed to give Rs.10,00,000/- as permanent alimony. The said amount shall be paid within 02 months.

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

**(RITU BAHRI)
JUDGE**

18.05.2022
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**(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No