

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

FAO-2765-2021 (O&M)
Date of decision: 18.05.2022

Pardeep

...Appellant

Vs.

Manju

...Respondent

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

Present: Mr. Jasdev Singh Thind, Advocate,
for the appellant.

Ritu Bahri, J. (oral)

CM-11603-11604-CII-2021

For the reasons mentioned in the applications, same are allowed and delay of 81 days in filing and 296 days in re-filing of the present appeal is condoned.

FAO-2765-2021 (O&M)

The present appeal has been filed against the judgment and decree dated 02.01.2019 passed by the District Judge, Family Court, Hisar, whereby petition filed by Manju-petitioner (respondent herein) under Section 13 of the Hindu Marriage Act, 1955, has been allowed.

Marriage between the parties was solemnized on 27.02.2013 at village Arya Nagar, Tehsil and District Hisar, as per Hindu rites and rituals. There is no child from this marriage. It was alleged that the respondent-husband and his family members were not happy with the dowry articles. They used to harass and humiliate the wife on account of insufficient

dowry. It was further stated that the appellant-husband used to give beatings

to the respondent-wife under the influence of liquor. He did not give household expenses to her and spent his entire income upon his bad habits of consuming liquor and gambling. In this regard, Panchayats were convened, but the husband and his family members remained adamant on their illegal demand of dowry. Ultimately, the parents of Manju took her to the parental home on 01.12.2016. Hence, the petition.

Upon notice of the petition, respondent-husband (appellant herein) failed to appear before the Court despite service of summons and vide order dated 31.10.2018, he was ordered to be proceeded against *exparte*.

In order to prove her case, Manju-respondent examined her brother namely Sandeep as PW-1 and she herself stepped into the witness box as PW-2.

Family Court, after going through the evidence led by the petitioner-wife (respondent herein), gave a finding that the husband-appellant used to humiliate her on account of demand of dowry. Allegations of harassment, maltreatment, torture also stood proved on record. It was further held that since the husband did not appear in Court despite service of summons, the allegations levelled by the wife remained unchallenged and there was nothing on record to discard the evidence.

Before this Court, there is delay of 296 days in re-filing of the present appeal. Vide order dated 27.10.2021, learned counsel for the appellant was given time to file an affidavit of the Clerk, who caused delay in re-filing the appeal. Thereafter, the matter was adjourned and the affidavit of the Clerk was filed on 03.11.2021. On 24.01.2022, learned counsel for the appellant sought time to get instructions, as to whether the

appellant was ready to deposit the litigation expenses as well as interim maintenance for exploring the possibility of amicable settlement.

After having two adjournments, learned counsel for the appellant-husband states that the appellant is a labourer and is not in a position to pay the litigation expenses as well as interim maintenance.

A Division Bench of this Court in Harmeet Singh vs. Rupinder Kaur, 2019 (4) PLR 53, was examining a case, where there was non payment of maintenance during the pendency of the appeal. Appellant, in that case, had not paid a single penny towards the maintenance amount fixed by the Family Court. Even, his defence had been struck off by the Family Court. In this backdrop, his appeal was dismissed.

Keeping in view that the appellant is not ready to pay the litigation expenses as well as the interim maintenance, no case is made out to entertain the present appeal.

Dismissed.

(RITU BAHRI)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

18.05.2022
ajp

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