

FAO-M-212 of 2015 (O&M)

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

FAO-M-212 of 2015 (O&M)
Reserved on: 18.05.2022
Date of pronouncement: 24.05.2022

Major Charanjit Singh Sandhu

.....Appellant-Husband

Versus

Sukhjeet Kaur

.....Respondent-Wife

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

Argued by: -Mr. Gauravjit Singh Jagpal, Advocate,
for the appellant-husband.

Mr. Atul Yadav, Advocate,
for the respondent-wife.

ASHOK KUMAR VERMA, J.

[1] The appellant-husband has come up in appeal before this Court seeking setting aside of judgment and decree dated 09.04.2015 passed by the Additional District Judge, Panipat, 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.

[2] Brief facts of the case are that marriage between the parties was solemnized according to Sikh rites and ceremonies on 21.02.2009 at Amritsar. As per appellant-husband, marriage was simple. Neither any dowry was demanded nor given. The marriage was consummated but no

FAO-M-212 of 2015 (O&M)

child was born out of their wedlock. As per appellant-husband, soon after the marriage, respondent-wife treated him with utmost cruelty. Respondent used to level false allegations against the appellant and his family members. Respondent has made false complaint against the character of father of the appellant. She made a written complaint along with affidavit dated 03.06.2011 levelling false allegations regarding demand of car by the appellant's father. Respondent also submitted a false complaint with the Army authorities against the appellant and his family members. Due to false complaints appellant and his father, who has retired as Deputy Commandant, Border Security Force, have suffered loss to their reputation. Behaviour of the respondent has been cruel towards appellant and his family members since the very beginning of their matrimonial life. She did not give respect to the appellant or his parents. Respondent left the matrimonial home on 21.03.2011 without any rhyme or reason. Thus, appellant has prayed for dissolution of marriage with the respondent.

[3] On notice, respondent-wife filed written statement to the petition pleading therein that the petition was not maintainable. She alleged that soon after the marriage, appellant and his family members started treating her with utmost cruelty. Appellant pressurized the respondent to bring a Swift Dzire car from her father and when she refused, appellant rebuked her and stopped talking to her. Appellant used to give beating to her in routine. It has further been alleged that father of the appellant used to touch her in bad manner. On 21.03.2011 father of the respondent took her to Gurgaon. Panchayat was convened to settle the matter amicably but

FAO-M-212 of 2015 (O&M)

appellant and his family members refused to resolve the matter. Respondent-wife made a written request to the President Army Wives Welfare Association, New Delhi on 03.06.2011 regarding misbehaviour and maltreatment given to her at the hands of appellant and his family members wherein request was made to resolve the matter and for grant of maintenance allowance till the matter is resolved. Army authorities sanctioned 22% of the appellant's salary as maintenance to her. It has been further submitted that she had also filed a complaint under Section 499 and 500 IPC and a case under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short 'the Act') against the appellant and his family members at Gurgaon. A false and concocted story has been narrated by the appellant. She is still ready to live with the appellant, if he mends his ways. Thus, respondent prayed for dismissal of the petition.

[4] From the pleadings of the parties, following issues were framed on 23.10.2013: -

- “1. Whether the petitioner is entitled to a decree of divorce on the grounds as alleged in the petition? OPP
2. Whether the petition is not maintainable in the present form? OPR
3. Whether the applicant has concealed the material facts from the Court? OPR
4. Relief.”

[5] In order to prove his case, appellant himself appeared in the witness box as PW1, besides examining Kashmir Chand as PW2, Vipin Sharma as PW3 and his father Kashmir Singh Sandhu as PW4 and also tendered some documentary evidence.

FAO-M-212 of 2015 (O&M)

[6] On the other hand, respondent in support of her case stepped into witness box as RW1, besides examining her father Harjinder Singh Sidhu as RW2 and Baldev Singh as RW3. She also tendered some documentary evidence.

[7] The Family Court, after going through the evidence on record and hearing the learned counsel for the parties dismissed the petition filed by the appellant-husband vide impugned judgment and decree observing that the stand put forth by him cannot be construed to have constituted mental cruelty or desertion.

[8] Heard learned counsel for the parties at length.

[9] The marriage between the parties was solemnized on 21.02.2009. However, no child was born out of the said wedlock.

[10] Learned counsel for the appellant has stated that respondent filed a complaint under Sections 499 and 500 IPC against the father of the appellant on 08.09.2012, however, same has been dismissed by the Judicial Magistrate First Class, Gurgaon, vide order dated 28.01.2016 (Annexure A-2). He has further stated that respondent-wife also filed petition under Section 17 of the Act against the appellant-husband and his family members, wherein appellant was directed to pay half rent of the tenanted premises i.e. ₹4,925/- per month to the respondent from the date of order on or before 10th of every month, whereas the petition qua other family members of the appellant was dismissed vide order dated 09.01.2017. Besides this, respondent-wife also moved complaints to the Army authorities against the appellant, which have affected his service career and have lowered his reputation. As a result of which appellant had to suffer immense mental as well as physical cruelty.

FAO-M-212 of 2015 (O&M)

[11] The above-said facts are sufficient to return a finding that appellant-husband has been met with cruelty by the respondent-wife. The Hon'ble Supreme Court has held that even one complaint lodged by the wife found to be false against the husband and his family members amounts to cruelty.

[12] Hon'ble Supreme Court in ***K. Srinivas Rao vs. D.A. Deepa, (2013) 5 Supreme Court Cases 226*** held that making false criminal complaints or registration of FIR against the husband or his family members under Section 498-A IPC would amount to mental cruelty. In paragraph 13 and 14 the Hon'ble Supreme Court held as under: -

“13. In Naveen Kohli the wife had filed several complaints and cases against the husband. This Court viewed her conduct as a conduct causing mental cruelty and observed that the finding of the High Court that these proceedings could not be taken to be such which may warrant annulment of marriage is wholly unsustainable.

14. Thus, to the instances illustrative of mental cruelty noted in Samar Ghosh, we could add a few more. Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing of notices or news items which may have adverse impact on the business prospect or the job of the spouse and filing repeated false complaints and cases in the court against the spouse would, in the facts of a case, amount to causing mental cruelty to the other spouse.”

[13] Hon'ble Supreme Court in the case of ***Joydeep Majumdar v. Bharti Jaiswal Majumdar, (2021) 3 Supreme Court Cases 742*** held as under: -

“14. The explanation of the wife that she made those complaints in order to protect the matrimonial ties

FAO-M-212 of 2015 (O&M)

would not in our view, justify the persistent effort made by her to undermine the dignity and reputation of the appellant. In circumstances like this, the wronged party cannot be expected to continue with the matrimonial relationship and there is enough justification for him to seek separation.”

[14] 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.

[15] In view of the above, the appeal is allowed, judgment dated 09.04.2015 passed by the Additional District Judge, Panipat, is set aside and decree of divorce is granted accordingly in favour of the appellant-husband. Decree-sheet be prepared accordingly. However, appellant-husband is directed to give ₹30 lakhs as permanent alimony to the respondent-wife.

[16] In view of disposal of the appeal, civil miscellaneous application, if any pending, also stands disposed of.

(Ritu Bahri)
Judge

(Ashok Kumar Verma)
Judge

May 24, 2022
R.S.

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No