

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

231

FAO-875-2018

Date of decision: 31.10.2022

Kanta

..Appellant

Versus

Arun Kumar

..Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: None for the appellant.
Mr. Kanwar Abhay Singh, Advocate for the respondent.

RITU BAHRI, J (Oral)

The present appeal has been filed for setting aside the judgment and decree dated 21.12.2017 passed by the Principal District Judge, Family Court, Gurugram, whereby the petition filed by the respondent under Section 13(1)(ia)&(ib) of the Hindu Marriage Act, 1955, has been allowed.

The marriage was solemnized on 13.11.2013. There is no child from the present marriage. The Family Court granted the divorce on the basis of cruelty. As per the judgment Ex.P1, respondent has been acquitted in the criminal trial as allegations levelled by the appellant against the respondent were also not found to be established on record. The marriage between the parties has not been consummated. In the judgment of acquittal (Ex.P1) there was no allegation levelled by the respondent that she had been denied conjugal relationship by the husband. This fact is not even mentioned in her complaint filed under Section 498A IPC. A complaint had also been filed by the wife against the respondent husband levelling allegations of dowry, beating, harassment but the complaint was not found to be substantiated and Incharge of CAW Cell, Gurugram had declined to take any action against the respondent. After the registration of the FIR under Sections 498-A and 406 IPC, the husband had to remain in police custody for one day and thereafter he applied for bail. Hence, the Family Court, Gurugram has rightly come to a conclusion that as per judgment of acquittal (Ex.P1) it established cruelty on the part of the appellant-wife and the law on this subject has been clarified by the Hon'ble Supreme Court in **K. Srinivas Rao vs. D.A.Deepa (2013) 5**

Supreme Court Cases 226. The Family Court in para 12 has further observed that the wife and her father had been asking for Rs.50 lakh in lieu of arriving at a compromise and thereafter would agree to file a petition under Section 13-B of Hindu Marriage Act, 1955, for divorce on mutual grounds. Rs.4000/- maintenance was awarded under Section 125 Cr.P.C. which was being paid by the respondent to the appellant. The appellant-wife is qualified as MA, B.Ed. and is capable to earn and maintain herself as well. The matter was referred for the mediation and as per the report of the Mediator dated 29.11.2018, the matter could not be settled. No one has appeared for the appellant today. On 31.08.2022, when this case was taken up for hearing, since the respondent had been acquitted in the criminal trial, the matter adjourned only to assess the permanent alimony.

Learned counsel for the respondent, on instructions, states that the respondent is ready to give Rs.5,00,000/- as permanent alimony to the appellant.

Keeping in view the above, the appeal of the appellant is hereby dismissed and taking into account that Family Court had assessed Rs.4000/- as maintenance, Rs.5 lakh is being assessed as permanent alimony which the respondent will deposit in the Registry of this Court by way of demand draft in favour of the appellant and the same shall be released to the appellant, in accordance with law.

(RITU BAHRI)
JUDGE

(NIDHI GUPTA)
JUDGE

31.10.2022

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No