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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 16th August, 2023*

+ **MAT.APP.(F.C.) 79/2020**

JASMEET KAUR

..... Appellant

Through: Ms. Gitanjali N. Sharma, Advocate.

versus

PRAVEEN SINGH

..... Respondent

Through: Mr. Abhinav Sharma, Mr. Naveen Gaur and Mr. Deepak Jain, Advocates with respondent in person.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The appellant Smt. Jasmeet Kaur has preferred the present appeal against the judgment dated 08.01.2020 vide which the Principal Judge, Family Court has granted divorce on the grounds of desertion under Section 13 (1)(ib) of Hindu Marriage Act, 1955.
2. The parties got married on 20.10.2002 at Jungpura Bhogal Gurudwara, Delhi according to Sikh customs and rites. One child Amanpreet was born from the said wedlock on 04.08.2003. The respondent/ husband had claimed that it was dowry less marriage and the expenses incurred on the marriage were shared equally between the two



families. It is claimed that soon after their honeymoon appellant/wife informed him that it may not be possible for them to live peacefully as she was an adamant, rigid and stubborn kind of lady with scant regard for love, emotions and sentiments. The respondent claimed that the appellant was a quarrelsome lady who was blunt and cruel. She always taunted him and insisted on the respondent's separating from his mother and brother and to live in an independent house as she had no liking for the family members of the respondent. Moreover, she used to frequently visit her mother's house without informing any family member and used to remain there for days together and would not return despite repeated requests. She also failed to discharge her matrimonial obligations and refused to do any household works. Despite all the efforts by the respondent and reasoning with her that it was her duty to take care of the family, she continued to neglect the respondent and his family members.

3. The respondent brought these facts to the notice of the family members of the appellant, but neither they nor appellant was ready to mend her ways. Moreover, the appellant denied matrimonial relation and cohabitations to the respondent. Despite all his efforts, love and affection he was unable to prevail upon her or to convince her to desist from her cruel behaviour.

4. Furthermore, it was claimed that the appellant developed a habit of thrashing the respondent and beating him with whatever object she got in her hand. She threw the articles mindless of the fact that it could result in injury to the respondent or the family members. The situation over a period of time, deteriorated on account of the conduct of the appellant which was being given indulgence by her relatives and especially her



brother Manjeet who had many cases pending against him in the Police Station Nizamuddin. He openly threatened and criminally intimidated the respondent as well as his family members with dire consequences in case he or his family members objected or restrained the appellant from doing whatever she felt like doing. On many occasions, the respondent was not allowed by the appellant to sleep in the same room with her forcing him to spend the night outside. Furthermore, he was given to understand that at the time of marriage the father of appellant had expired, but he subsequently came to know that the father was alive at the time of solemnization of marriage. The appellant continued to subvert her behaviour believing that birth of child would improve her behaviour but nothing changed despite even thereafter. She deprived the respondent of showering his love and affection towards the child which caused him immense pain, agony and trauma.

5. In the third week of March, 2007 the appellant hit him with a frying pan because of which he became unconscious. The Doctor was called and the parents of the respondent tried to call the police but the appellant apologized that she would not repeat such conduct in the future and thus no formal complaint was registered.

6. It was claimed that on 12.04.2007 the appellant deserted the matrimonial home. A meeting was held in October, 2007 at Gurudwara Bangla Sahib, where a compromise was arrived that the parties would take divorce by mutual consent and an amount of Rs.1 lakh towards permanent alimony, shall be given to the appellant. Subsequently, the appellant resiled from the compromise and demanded Rs.2 lakhs. A sum of Rs.20,000/- which had already been paid, were not returned. All efforts



for reconciliation were rejected by the appellant who also threatened to implicate the respondent in false cases. A Notice from National Commission for Women was received by the respondent on 20.07.2009, wherein biased proceedings were carried out and the respondent was pressurized to seek reconciliation. Moreover, the respondent was denied to meet his child which added to his misery. The respondent thus, filed the petition for divorce on the ground of cruelty under Section 13 (1)(ia) and (ib) of the Hindu Marriage Act, 1955.

7. The **appellant/wife contested the petition** and claimed that the divorce petition was a counterblast to the complaint lodged by her with the National Commission for Women. She claimed that respondent was not happy with the dowry and cash given by her parents to the appellant. He has, therefore, levelled false allegations of the appellant being a woman with rigid and stubborn attitude with no respect for the respondent and the family members. All the other allegations made by the respondent were denied. She claimed that she used to discharge all her duties and even took care of the household works. It is the respondent who never took her to any family function or Gurudwara. Furthermore, the petitioner was a regular drunkard and used to come home late and when the appellant questioned, she was beaten by the respondent and his family members also joined him. In her advance stage of pregnancy, respondent and his family members used to regularly abuse her in filthy language, torture and beat her on her abdomen. She was treated as a bonded labour and was not even provided food. The respondent had no affection for the child and even his first birthday was not celebrated. She was subjected to extreme cruelty and kept as maid in the office and she was publicly



humiliated and was not allowed to touch the telephone. On 04.03.2007, she was beaten by the respondent on the instigation of his mother and when she tried to escape with the help of the neighbours, the respondent and the family members locked her and the child in a room where they were kept hungry throughout the day and the door was eventually opened in the evening with the warning to obey the instructions of the family members.

8. It was denied by the appellant that she left the matrimonial home on 12.04.2007 and that she did not return thereafter. It is admitted that the parties had agreed for a divorce by Mutual Consent on the condition that all her jewellery and Istridhan would be returned in addition to Rs.10 lakhs which shall be paid towards permanent alimony of the appellant and the child. It was further agreed that the custody of the child would remain with the appellant. However, the respondent failed to fulfil the terms of the compromise for which reason it fizzled out. Moreover, the respondent never came forth to sign the school admission documents of the child. He also failed to appear for the admission of the child or to bear the expenses of the school which have been borne by the appellant and her family members. She claimed that she along with the child, was thrown out of the matrimonial home on 16.04.2007. It was claimed that she never treated the respondent or his family members with cruelty nor did she desert the respondent.

9. The **learned Principal Judge, Family Court** had observed that the alleged acts of cruelty by the appellant were that the family members of the appellant used to interfere in the lives of the respondent and his family; that her behaviour was not up to mark as a wife; and she used to



leave matrimonial home without informing the respondent and remained away for many days and failed to perform her household obligations. A reference was made to the detailed testimony to conclude that the allegations were vague and did not establish cruelty on the part of the appellant. Thus, the petition for grant of divorce on the ground of cruelty was dismissed.

10. The learned Principal Judge, Family Court considered the testimony of the parties to conclude that as per the admission of the appellant, she had left the matrimonial home on 16.04.2007 though the respondent has claimed that she left the matrimonial home on 12.04.2007. The appellant was unable to prove that she had not left the matrimonial home on her own volition or was thrown out forcibly by the respondent and his family members. The reference was made to the efforts for reconciliation made in the year 2007 and 2008 and also to the complaint made before the National Commission for Women in Delhi in July, 2009 to conclude that the parties have not been residing together for more than two years and the appellant had no intention to join and cohabit with the respondent. It was thus, concluded that she had deserted the husband and granted divorce on the ground of desertion under Section 13(1)(ib) of the Act.

11. Aggrieved by the said judgment of grant of divorce on the ground of desertion, the present appeal has been preferred.

12. **Submissions heard.**

13. It is not in dispute that the parties got married on 20.10.2002 and they separated in April, 2007. It is also not in dispute that after the respondent left the matrimonial home, efforts were made for dissolution of marriage through Mutual Consent. Though the final settlement did not



reach a logical conclusion. Learned Principal Judge, Family Court while considering the surrounding circumstances had rightly concluded that the date of physical separation being in April, 2007 was established. The conduct of the respondent clearly established that she had no intention of joining back the matrimonial home. The relevant of the judgment reads as under :

“From the evidence of the parties, it is clear that the petitioner had tried his level best to call the respondent back and for joining his matrimonial company but it is the respondent admittedly who had refused to join the matrimonial company of the petitioner. It is also stated by the respondent in her cross examination that during the pendency of domestic violence petition, petitioner had agreed to take her back to the matrimonial home and then she resided with the petitioner for some time. Therefore, it is clear from the evidence of the parties that it was the respondent who has left the matrimonial company of the petitioner without any reason or reasonable cause though the petitioner had requested many times to the respondent to join the conjugal company of the petitioner. Respondent had admitted that various meetings had taken place between the parties for settlement of the dispute. She has also admitted that petitioner had requested her to join the matrimonial home and only thereafter she had agreed to join the matrimonial home. The issue is, therefore, decided against the respondent and in favour of the petitioner.”

14. We find that the learned Principal Judge, Family Court had correctly appreciated the evidence to conclude desertion on the part of the appellant.



15. There is no merit in the appeal, which is hereby dismissed.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 16, 2023
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