

In the High Court of Punjab and Haryana at Chandigarh

**FAO No. 1981 of 2022
Reserved on: 20.4.2023
Date of Decision: 26.4.2023**

Rasbir Singh Punia

.....Appellant

Versus

Preeti Punia

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Argued by: Mr. Pritam Singh Saini, Advocate with
Mr. Abhishek Goel, Advocate
for the appellant.

None for the respondent.

SURESHWAR THAKUR, J.

1. The appellant herein instituted, before the Principal Judge (Family Court), Ambala, and, against the respondent herein, a petition under Section 13(1)(ia) of the Hindu Marriage Act, 1955, to which case CIS No. HMA/748/2021, became assigned. In the said petition, the petitioner claimed the dissolution of his marital ties with the respondent therein.

2. Though, the respondent became served in the said petition, but when despite valid service, being made upon her, she did not cause her appearance, before the learned trial Judge concerned. Therefore, through an order, drawn on 2.12.2021, the respondent concerned, was ordered to be proceeded against ex parte, and, the appellant herein, was permitted to adduce his ex parte evidence, in respect of the pleadings, as, made in the Hindu Marriage Petition (supra).

herein to adduce his ex parte evidence, to substantiate the pleadings, as made by him in his petition (supra), he proceeded to adduce his ex parte evidence. However, the learned trial Judge concerned, yet did not deem it fit, and, appropriate to assign evidentiary sanctity to the said adduced ex parte evidence. Contrarily, the learned trial Judge concerned, on 11.3.2022, made a verdict of dismissal, upon, the Hindu Marriage Petition (supra).

4. The said dismissal of the petition (supra), by the learned Family Court concerned, has led the appellant herein to institute thereagainst the instant appeal, before this Court.

5. The ex parte order, as made by the learned Family Court concerned, on 2.12.2021, was neither asked to be quashed, and, set aside, nor obviously the respondent joined the Hindu Marriage Petition (supra). Moreover, the respondent also uncontestedly, did not, obviously cross-examine, the petitioner's ex parte evidence. Since only, upon an efficacious cross-examination, being made to the ex parte evidence, as became adduced by the petitioner/appellant, could a conclusion be well made, that the said adduced ex parte evidence, thus by the petitioner/appellant, in support of his pleadings, in the petition (supra), rather was not amenable to be assigned any credence. Though, thereupon alone the learned Family Court concerned, became empowered to decline to assign credence to the ex parte evidence, as became adduced by the petitioner/appellant, in support of his pleadings. However, the learned Family Court concerned, without obviously the adduced *ex parte* evidence, being cross-examined, and, obviously when the said ex parte evidence remained unbelied, vis-a-vis its veracity, rather untenably chose to yet not assign any credence to such adduced ex parte evidence, by the appellant/petitioner in support of his pleadings in the Hindu

had committed the prohibited misdemeanor(s) of desertion, and, cruelty, thus leading to the appellant/petitioner hence claiming dissolution of his marital ties with the respondent concerned. The above non assigning of credence to the ex parte evidence, as became adduced by the appellant/petitioner, in support of his pleadings, rather is unwanted, and/or is an exercise, done with a material illegality and gross impropriety.

6. In consequence, the impugned verdict, declining relief to the appellant/petitioner, by the learned Family Court concerned, in the Hindu Marriage Petition (supra), requires an interference being made. Therefore, the instant appeal is allowed, and, the impugned verdict, as made by the learned Family Court concerned, upon the Hindu Marriage Petition (supra), is quashed, and, set aside.

7. The marital ties inter se the appellant and the respondent, are ordered to be dissolved through a decree of dissolution of marriage, being prepared by the Registry of this Court.

8. The pending application(s), if any, is/are also disposed of.

9. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

April 26th, 2023
Gurpreet

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