

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

**FAO No.2474 of 2023 (O&M)
Date of Decision: 11.05.2023**

**SHEKHAR BHARDWAJ
Versus**

..... Appellant(s)

DIVYA

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Amtiaz Sandhu, Advocate
for the appellant.

LISA GILL, J.

1. This appeal has been filed by the appellant-husband, challenging judgment and decree dated 12.04.2022, passed by learned Principal Judge, Family Court, Rewari, whereby petition under Section 13(1)(ia) of Hindu Marriage Act, 1955 (hereinafter referred to as the Act), filed by the respondent-wife has been allowed.

2. Respondent-wife in her petition seeking dissolution of marriage solemnized with the appellant on 10.07.2018 by a decree of divorce, raised various pleas to substantiate her prayer. Notice was issued in the petition to the present appellant (respondent in the petition). Respondent despite service, chose not to associate himself with the proceedings and he was proceeded *ex-parte* on 21.12.2021. Evidence was led by the wife. Learned Family Court on considering the evidence on record, facts and circumstances concluded that the wife was entitled to a decree of divorce on the ground of cruelty. Accordingly,

marriage solemnized between the parties on 10.07.2018 was dissolved. While taking note of the fact that present appellant-husband was serving Life Insurance Corporation as Assistant Administrative Officer at New Delhi with his net salary being ₹68,741/- in November, 2021 and ₹81,081/- in December, 2021, Learned Family Court directed permanent alimony of ₹10,00,000/-, to be paid to the wife.

3. Present appeal has been filed after a delay of 294 days by the appellant, who was admittedly proceeded *ex-parte* before the learned Family Court. It is a matter of record that no steps were ever taken by the appellant to join proceedings initiated by the wife before the learned Family Court. It is submitted that execution proceedings were initiated by the wife and conditional warrants of arrest were issued. Civil Revision No.2483 of 2023, it is stated, was filed by the appellant challenging issuance of conditional warrants of arrest. Notice of motion was issued in the said revision while directing the appellant to deposit the amount of ₹10,00,000/- with the Registry of the Court. Following order was passed in CR-2483-2023 on 25.04.2023:-

“Vide the impugned order, petitioner was directed to pay permanent alimony of Rs.10 lakh. Learned counsel for the petitioner undertakes to deposit Rs.10 lakh in the Registry of this Court within a week subject to that Notice of Motion be issued for 12.05.2023, and operation of the impugned order (Annexure P3) is stayed till the next date of hearing only.

Dasti as well.”

4. Learned counsel for the appellant submits that the amount in question has been deposited on 01.05.2023. Photocopy of the receipt has been supplied. Same is taken on record, subject to just exception. It is to be noted at

this juncture that present appeal has been filed on 04.05.2023. Learned counsel for the appellant candidly states that though appellant has no desire to resume matrimonial ties with the respondent, he is aggrieved of the quantum of permanent alimony awarded to the respondent-wife.

5. We have heard learned counsel for the appellant on this aspect but we find no ground what-so-ever to interfere even regarding quantum of permanent alimony granted by the learned Family Court, Rewari for the reasons as discussed in the following paras.

6. It is admitted by the appellant that he was duly served in the petition under Section 13 of the Act, filed by the respondent-wife. It is categorically stated in para 15 of the grounds of appeal that appellant and his family were advised, albeit incorrectly, that if he did not appear before the Family Court to represent his side, the matter would be settled amicably, thus he chose not to appear to save himself from further embarrassment. It is apparent that appellant was aware of him being proceeded *ex-parte*. It is stated in Para 18 of the grounds of appeal that when the appellant got to know about the judgment/decreed dated 12.04.2022 he finally decided to let go of things while wanting to make a new beginning in his life as well as to the respondent's life. It is further stated in Para 20 of the grounds of appeal that respondent-wife concealed the various attempts made by him to deposit the ordered amount while initiating execution proceedings.

7. Paradoxically appellant at this stage seeks to question the quantum of permanent alimony by way of this appeal. Clearly the appellant chose not to join proceedings before the learned Family Court and present his case before the learned Family Court. Appellant was happy to sit on the fence and watch the

proceedings. In case, appellant did not have any intention to cohabit with his wife, nothing prevented him from appearing before the learned Family Court and expressing his intentions, thereby saving the respondent-wife from undergoing the rigours of the entire trial. Premise that appellant was incorrectly advised that an amicable settlement would be possible in this manner and that he wanted to avoid embarrassment, does not hold much water. Fact remains that appellant, never having any intention to resume matrimonial ties with the respondent, allowed passing of the *ex-parte* judgment and decree dated 12.04.2022 against him. It is only when warrants of arrest were issued in execution proceedings that appellant filed Criminal Revision No. 2483 of 2023. It is to be noted that even in this revision petition it is stated that he is ready to make the payment in instalments. Even in the present appeal, it is stated in the grounds thereof that appellant had made several attempts to pay the decreed amount and she had filed the execution petition before the learned Family Court while concealing the same. Vide order dated 25.04.2023 in CR-2483-2023 notice of motion was issued therein, subject to deposit of ₹10,00,000/- with the Registry of this Court. It is subsequent thereto that the present appeal has been filed on 04.05.2023. The deposit in question, it is stated, has been made on 01.05.2023. Conduct of petitioner during pendency of petition under Section 13 of the Act, filed by the wife as well as his conduct thereafter clearly amounts to cruelty towards his wife. Furthermore, we find that a dichotomous and paradoxical stand is being taken by the appellant wherein on one hand it is stated that he is ready to pay the amount in question and on the other hand he seeks to challenge the quantum of permanent alimony.

8. Admittedly, appellant is still serving the Life Insurance Corporation and is posted at Delhi. There is no denial of the figure of salary as is mentioned in the impugned judgment/in the grounds of appeal and neither is there anything therein to indicate that the appellant has any other responsibilities. On a pointed query regarding the present salary of the appellant, learned counsel for the appellant expresses ignorance thereof. At the instance of the appellant we find no ground to vary the quantum of alimony as has been assessed by the learned Family Court.

9. Learned counsel for the appellant is unable to point out any illegality, infirmity or irregularity in the impugned order dated 12.04.2022, passed by learned Principal Judge, Family Court, Rewari, which calls for any interference by this Court in the present appeal, which in any case is barred by limitation. This appeal has been filed on 04.05.2023, after a delay of 294 days, for which there is no explanation leave alone a reasonable one.

10. No other argument has been addressed.

11. Application seeking condonation of delay as well as the appeal are accordingly dismissed.

13. Pending miscellaneous applications, if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

11.05.2023

Sunil

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