



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

**FAO No.1455 of 2024 (O&M)
Date of Decision: 29.10.2024**

Jaswinder Kumar

.....Appellant.

Versus

Baljinder Kaur

.....Respondent.

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
 HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Harwinderjeet Singh Sandhu, Advocate for
 Mr. Yashpal Thakur, Advocate for the appellant.

G.S. SANDHAWALIA, J.(Oral)

The present appeal is directed against the judgment and decree dated 21.11.2023 passed by learned Additional Principal Judge, Family Court, Patiala (for short 'the Family Court'), whereby the petition under Section 13 of the Hindu Marriage Act for dissolution of marriage by way of a decree of divorce, had been dismissed, which was initiated by the present appellant on the ground of cruelty and desertion.

2. The Family Court had noticed that the parties were married on 16.10.1999 by way of Anand Karaj ceremony and are blessed with two children. The averments of the appellant-husband are that the respondent-wife was a lady of quarrelsome, cruel and harsh nature and started compelling him to live separately at Bhadson or Nabha and she had left her household work and did not provide food to the appellant as well as the children and had deserted the matrimonial home.



3. The averments made by the appellant were not found to be correct and the Family Court observed that the respondent-wife had been given merciless beatings by the appellant in the month of July 2003 for which she had moved an application at Police Station, Shimla Puri, Ludhiana and she was also medico-legally examined on 02.07.2003 but the matter was compromised. Again in December 2011, a similar incident had taken place and DDR Ex.R1 was recorded at Police Station Bhadson and she was also medico-legally examined at CHC, Bhadson and thus, the stance that she had been turned out of her matrimonial home in February 2012, was accepted by the Family Court and the appellant had failed to maintain his children, who were living at that point of time with the respondent-wife. The factum of the husband not paying maintenance to the wife and children after 2017 and that not being aware of the college or school in which his children were studying and the fact that all the dowry articles were in the custody of appellant, were kept in mind by the Family Court, while dismissing the divorce petition.

4. The factum that the wife had been granted maintenance of Rs.5,000/- per month in the petition filed by her under the Domestic Violence Act, which the present appellant had not even bothered to appear, was also kept in mind apart from an order of maintenance passed under Section 24 of the Hindu Marriage Act, whereby Rs.2,500/- had been fixed as monthly maintenance which was also not paid by the appellant. The petition under Section 9 of the Hindu Marriage Act filed by the appellant had been dismissed in default under Order 9 Rule 8 CPC and thus, keeping in view the fact that the wife was a victim of physical abuse and that there



was no cruelty on her account and rather, there was a valid cause for her to leave the matrimonial home, the divorce petition has rightly been dismissed on the ground of desertion also. The Family Court had also considered that the appellant, being a motor mechanic and owner of a piece of land did not pay any maintenance, even in lump-sum, to the wife and children.

5. Thus, there is no apparent error on the face of the record which would suffice to show cruelty on the part of the respondent-wife and rather, she had been forced to leave the matrimonial home leaving behind all the dowry articles, details of which have been mentioned in the impugned judgment.

6. In these circumstances, we are of the considered opinion that nothing has been pointed out in the judgment under appeal which suffers from any illegality or irregularity which may warrant a different view. Resultantly, the impugned judgment and decree dated 21.11.2023 passed by the Family Court is upheld and the present appeal is dismissed by condoning the delay of 31 days in filing the same.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

October 29, 2024
Yag Dutt

Whether speaking/reasoned: Yes
Whether Reportable: No