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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1896-2024 (O&M)
Date of Decision: 08.05.2024

PREETI

...Appellant

Versus

PANKAJ SHARMA

...Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE HARSH BUNGER**

Present:- Mr. Chahit Bansal, Advocate for
Mr. Pradhuman Garg, Advocate for appellant.

SUDHIR SINGH, J.

The challenge in the present appeal is to the judgment and decree dated 23.02.2024 passed by learned Principal Judge, Family Court, Hisar, whereby the petition under Section 13 of Hindu Marriage Act, 1955 (hereinafter referred as 'the Act') filed by the respondent-husband has been allowed and marriage between the parties has been dissolved by the decree of divorce.

2. The respondent-husband had filed the aforesaid petition, *inter alia*, stating therein that the marriage between him and appellant-wife was solemnized on 15.11.2003 and out of the said wedlock two children were born. It was further averred that right from inception of the marriage, the appellant-wife started behaving cruelly; that she was a short tempered lady and that she used to pick up quarrels on the



trivial matters. It was further alleged that the appellant-wife used to pressurize the respondent-husband to live separately from his parents. It was further stated that the appellant-wife was having extra-marital affairs with the other boys and she used to often leave the matrimonial home. It was further the case of the respondent-husband that the appellant-wife had moved a false application No.672 dated 03.10.2018 against him wherein he was called by the police, the matter was enquired into and ultimately the allegations levelled therein were found to be false.

3. Upon notice, the respondent-wife appeared and filed her written statement. While denying the allegations of cruelty, it was asserted that the respondent-husband was a drunkard and used to beat her mercilessly. It was further stated that she had moved an application to the police on 04.10.2018, wherein the respondent-husband had confessed his guilt and the matter was, accordingly, resolved. It was further stated that as the marriage between the parties was a love marriage, despite having been given beatings, the appellant-wife did not muster the courage to go back to her parental house to seek the help of her parents in the matter. It was further alleged that the respondent-husband was having illicit relations with many girls and when the appellant-wife had questioned the said conduct of the respondent-husband, she was given mercilessly beating by him.

4. On the basis of the pleadings of the parties, the following issued were framed by the learned family Court:



1. Whether the respondent has treated the petitioner with such a degree of cruelty as alleged in the petition ? OPP
2. Whether the respondent has deserted the petitioner ? OPP
3. Relief.
4. In evidence, the respondent-husband had appeared as PW-1 and he had also placed on record photographs as Ex. P-1 to P-10 and Ex. P-11 and P-12, i.e the orders passed in the proceedings under Section 125 Cr.P.C. and under Section 12 of Protection of Women from Domestic Violence Act, 2005. On the other hand the appellant-wife had appeared as RW-1 but did not lead any documentary evidence.
5. The learned Family Court, after considering the rival contention of the parties and the evidence on record decreed the petition filed by the respondent-husband, as noticed above.
6. Learned counsel appearing for the appellant-wife has vehemently contended that it was the respondent-husband, who had treated the appellant-wife with cruelty and except the photographs, there was no other evidence on record produced by the respondent-husband to substantiate his allegations. It is further argued that learned Family Court, while passing the impugned judgment and decree, had taken into consideration the normal photographs to be the ones, sufficient for granting the decree of divorce. While relying upon a judgment of the Bombay High Court in **Chandrakant Gangaram Gawade Vs. Sulochana Chandrakant Gawade and Ors** (1997 CRI.L.J.520), it is argued that a single lapse on the part of any of



the spouses cannot be construed to hold that the appellant-wife was living an adulterous life.

7. We have heard learned counsel for the appellant and have also gone through the impugned judgment passed by learned Family Court.

8. The issue that requires consideration by this Court is whether the impugned judgment and decree passed by the learned Family Court, requires interference.

9. The learned Family Court has specifically found that the photographs in the form of Ex. P-1 to P10 produced and proved by the respondent-husband were objectionable. It was further found that the act of misadventure on the part of spouse outside the matrimonial alliance cannot be ignored, especially when the other spouse had utterly complained of it. The learned Family Court has further found that the appellant-wife did not lead any evidence to contradict or disprove the aforesaid photographs nor did she prove that the said photographs were the result of manipulation.

10. The learned Family Court has also found that the allegations levelled by the appellant-wife regarding the illicit relations of the respondent-husband with many girls and demand of dowry, were not established as she had failed to prove the same.

11. We find that there being no contradiction to the photographs Ex. P-1 to P-10 proved on record by the respondent-husband, the learned Family Court has rightly found that the conduct of the appellant-wife was such that it amounted to cruelty. Still further, it was found that the appellant-wife could not disclose the



nature of her relations with the persons, who were appearing with her in the different poses at different places in the said photographs. It was further found that no husband could bear or tolerate such an act of his wife and the same is a sufficient ground to seek a decree of divorce. The relevant extracts from the order of the trial Court as under:-

“ 22. Once there is specific evidence of petitioner-husband-Pankaj Sharma PW1 that she-wife is enjoying company of another boys and appearing in objectionable posture in photographs EX.P1, P2, P3, P5 and P7 to Ex.P10, onus was upon the wife-respondent to either disprove the same or rebut it by leading any cogent and convincing evidence. The said photographs are really objectionable as far as the petitioner-husband is concerned. Such an act of misadventure on the part of a spouse outside her matrimonial reliance, cannot be ignored, especially when the other spouse has utterly complained of it. Undeniably, the respondent-wife did neither lead any rebuttal to the said photographs nor did prove on record that the same were the result of any manipulation.

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24. No husband would ever be comfortable with or tolerate such an act by his wife. Only this one



event is sufficient for the petitioner-husband to get a decree of divorce on the ground of mental cruelty.

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33. The wife-respondent could not disclose the nature of her relations with persons, who are appearing with her in different poses, at different places, in photographs. The above mentioned conduct of wife-respondent is of such nature that no person-husband could tolerate it and she has caused mental cruelty to petitioner-husband. Such type of circumstances cannot be said as an ordinary wear and tear of the married life of the parties.”

12. We do not find any merit in the argument of the learned counsel for the appellant-wife that a single lapse on the part of the appellant cannot be construed to be an act of infidelity causing any cruelty to the respondent-husband. The respondent-husband had established on record that it was not a single act, rather there were multiple photographs with other males and as noticed above, there was no rebuttal to the same by the appellant-wife.

13. Thus, we find that the findings recorded by the learned Family Court do not suffer from any parent illegality or perversity. It could not be pointed out that any evidence has been misread or not taken into consideration.

14. No other point has been urged.



15. In view of the above, we do not find any merit in the present appeal and the same is hereby, dismissed.
16. Pending application(s), if any, shall also stand disposed of.
17. Before parting, we would like to appreciate the efforts put in by Mr. Chahit Bansal, learned counsel for the appellant, while efficiently assisting the Court, arguing the appeal and also being honest about the facts of the case.

[SUDHIR SINGH]
JUDGE

[HARSH BUNGER]
JUDGE

08.05.2024
Himanshu

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