



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2345-2024 (O&M)
Date of Decision: 15.05.2024

SARITA KUMARI ...Appellant

Versus

PAWAN CHANDILA ...Respondent

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

Present:- Mr. Kamal Chaudhary, Advocate for appellant.

SUDHIR SINGH, J.

The challenge in the present appeal is to the judgment and decree dated 02.03.2024 passed by learned Family Court, Faridabad, whereby the petition under Section 13(1)(i-a) of Hindu Marriage Act, 1955 (hereinafter referred as 'the Act') filed by the respondent-husband, has been allowed and the marriage between the parties has been dissolved by decree of divorce.

2. The respondent-husband had filed the aforesaid petition, *inter-alia*, stating therein that his marriage with the appellant-wife was solemnized on 07.12.2014, according to Hindu rites. It was further stated that right from the inception of the marriage, the appellant-wife's attitude was arrogant and she was very irresponsible towards her matrimonial obligations; that she used to pick up quarrels on the trivial issues and used to threaten the respondent-husband to implicate him in false criminal cases; that she used to insult the respondent-



husband by saying that he was less educated than her and that he did not suit to her personality. It was further stated that the parents of the appellant-wife used to interfere in the matrimonial life of the parties and that the appellant-wife had asked the respondent-husband to live separately from his parents. It was further stated that prior to the marriage, the respondent-husband used to live in a joint family, but after the marriage, his elder brother had to leave the joint family due to the cruel behavior of the appellant-wife; that she had also levelled the allegations of extra-marital relations of the respondent-husband with other girls just to lower his reputation in the society and his family and that rather she was having extra-marital relations with someone and she would always keep herself busy with her mobile phone. It was further alleged that the appellant-wife had spread the rumour that the respondent-husband was not capable of becoming a father, whereas the fact of the matter was that a child was born out of the wedlock on 30.07.2016. It was further averred that the elder sister of the respondent-husband was suffering from kidney problem and was on dialysis, but the appellant-wife used to hide and throw the medicines of the respondent's-sister and also abused her and later on the sister of the respondent-husband died on 07.06.2018. It was further alleged that when all the family members were busy in the cremation, the appellant-wife came back and demanded her share in the property and finally on 20.02.2018 she left the matrimonial home without the consent of the respondent-husband and his family members and while leaving, she took all the *Istridhan* and *jewellery* with her.



3. Upon notice, the appellant-wife appeared and filed her written statement, denying the allegations of cruelty and desertion, challenging the maintainability of the petition. It was further asserted by her that her parents had spent huge amount of Rs.25 lakh in her marriage and that a male child, namely, Vedant, born out of the wedlock, was in the custody of the appellant-wife. While levelling the allegations of demand of dowry against the respondent-husband, it was asserted that when she did not fulfill the illegal demands of the respondent-husband and his family members, she was given beatings by them. It was further asserted that one day while she was sleeping in her matrimonial home, suddenly her mother-in-law with the elder brother of the respondent-husband, namely, Amit, came there and gave severe beatings to the appellant-wife and her mother-in-law bolted the door of room from outside and asked said Amit to make sexual relations with the appellant-wife and, accordingly, he had committed rape upon her. It was further asserted by her that the said Amit (elder brother of the respondent-husband) had raped her on various occasions and when she had raised objections regarding it, she was told that such acts would continue unless she fulfilled their dowry demands. It was further alleged that the appellant-wife was turned out of the matrimonial home and thereafter, she had lodged FIR No.35 under Sections 498-A, 323, 506, 120-B and 376 IPC against the respondent-husband and his family members.

4. On the basis of the pleadings of the parties, the following issues were framed by the learned Family Court:-



“1. Whether the petitioner is entitled to a decree of divorce on the grounds pleaded in the petition?
OPP

2. Whether petition is not maintainable? OPR

3. Whether the petitioner is taking advantage of his own wrongs? OPR

4. Relief.”

5. In evidence, the respondent-husband examined himself as PW-1 besides leading documentary evidence Ex. P-1 to Ex. P-3 and Mark-A to Mark-I. On the other hand the appellant-wife herself appeared as RW-1 and produced documentary evidence Ex. R-1 and R-2.

6. The learned Family Court after taking into consideration the rival contentions and the evidence on record, allowed the petition and dissolved the marriage between the parties by a decree of divorce.

7. Learned counsel appearing for the appellant-wife has vehemently contended that the respondent-husband could not prove before the learned Family Court the allegations of rude and arrogant behavior of the appellant-wife as well as the allegations regarding the appellant-wife raising the demand of living separately from the family of the respondent-husband. It is further argued that it was not proved on record that the sister of the respondent-husband was residing with the respondent-husband and therefore, there, was no question of not taking care of her by the appellant-wife. It is further argued that it is the respondent-husband, who had committed cruelty upon the appellant-wife and it was for this reason that she had lodged the aforesaid FIR No.35 under Sections 498-A, 323, 506, 120-B and 376



IPC against the respondent-husband and his family members. It is, thus, contended that all these material aspects of the matter have not been taken into consideration by the learned Family Court, while passing the impugned judgment and decree.

8. We have heard learned counsel for the appellant-wife and have also gone through the impugned judgment and decree passed by the learned Family Court.

9. The question that requires consideration by this Court is whether the impugned judgment and decree passed by the learned Family Court requires any interference.

10. The learned Family Court has found that the appellant-wife had got registered FIR No.35 dated 17.01.2019 under Sections 498-A, 323, 506, 120-B and 376 IPC at Police Station Suraj Kund, Faridabad, against the respondent-husband and his family members and that during investigation, offence under Section 406 was also added, but offences under Sections 376 and 120-B IPC were deleted. In her cross-examination, the appellant-wife had admitted that charges under Section 376 IPC were dropped by the police. Though it was deposed by her that the said charges were dropped under political pressure yet no substantive evidence in this regard was produced by her. It was, thus, found that she had levelled false allegations of rape against her brother-in-law. While referring to document Ex. P-4 (charge-sheet filed in FIR No.35 aforesaid), it was found that the allegations against her brother-in-law, Amit (Jeth) for committing rape; sister-in-law, Rekha (Jethani) and sister-in-law, Asha (Nanad) were found false and the offences under Sections 376 and 120-B IPC



were deleted. It was further found that the allegations levelled by the appellant-wife against her brother-in-law (Jeth) and sisters-in-laws (Jethani and Nanad) were not based on true facts. As regards the averments of pressurizing the respondent-husband to live separately from his family, it was found by the learned Family Court that the specific averments made by respondent-husband in Para No.10 of his divorce petition went un-rebutted as the counsel for the appellant-wife had failed to cross-examine the respondent-husband on the said point. Apart from that, the learned Family Court, while referring to the judgment of the Hon'ble Supreme Court in Naveen Kohli Vs. Neelu Kohli, (2006) 4 SCC 558 and Samar Ghosh Vs. Jaya Ghosh, (2007)4 SCC 511 found that the marriage between the parties had ruptured beyond repair.

11. It has come on record that the appellant-wife had lodged FIR No.35 for the matrimonial offences including the offence under Sections 376 and 120-B against her. It has been found by learned Family Court that the offence under Section 376 IPC against the Jeth of the appellant-wife was found to be false and similar was the position with regard to the offence under Section 120-B IPC against the Jethani and Nanad of the appellant-wife.

12. Even if we take the facts and circumstances pleaded by the respondent-husband in his petition, then also we do not find any substance in the arguments raised by the learned counsel for the appellant-wife. We say so for the reason that the appellant-wife had specifically pleaded in her written statement that on one occasion, her mother-in-law and brother-in-law came to her room, gave her beatings



and ultimately her mother-in-law bolted the door of room from outside and asked her brother-in-law to commit rape upon her and that he had committed rape upon her. The investigation in the aforesaid FIR No.35 found the allegations of rape against the brother-in-law (Jeth) as false and accordingly, the offence under Section 376 was deleted. Thus it is clear that she had levelled false allegations of rape against her brother-in-law (Jeth).

13. In K. Srinivas Rao v. D.A. Deepa, 2013(2) RCR (Civil) 232; Hon'ble Apex Court observed as under:-

“14. Thus, to the instances illustrative of mental cruelty noted in Samar Ghosh, we could add a few more. Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing notices or news items which may have adverse impact on the business prospect or the job of the spouse and filing repeated false complaints and cases in the court against the spouse would, in the facts of a case, amount to causing mental cruelty to the other spouse...”

In K. Srinivas v. K. Sunita, 2015(1) RCR (Civil) 38,

Hon'ble Apex Court observed as under:-

“6. Another argument which has been articulated on behalf of the learned counsel for the Respondent is that the filing of the criminal complaint has not been pleaded in the petition itself. As we see it, the criminal complaint was filed by the wife after filing of the husband's divorce petition, and being subsequent events could have been looked into by the Court. In any event, both the parties were fully aware of this facet of cruelty which was allegedly suffered by the husband. When evidence was led, as also when arguments were addressed, objection had not been raised on behalf of the Respondent-Wife that this aspect of cruelty was beyond the pleadings. We are, therefore, not impressed by this argument raised on her behalf.

7. In these circumstances, we find that the Appeal is well founded and deserves to be allowed. We unequivocally find that the Respondent-Wife had filed a false criminal complaint, and even one such complaint is sufficient to constitute matrimonial cruelty.

8. *We, accordingly, dissolve the marriage of the parties under Section 13(1)(ia) of the Hindu Marriage Act...*”

14. This Court, while considering somewhat similar issue in FAO-1995-2024 – Priyanka @ Pinki Vs. Sandeep Kumar, decided on 16.05.2024, has upheld the findings recorded by the Family Court that once allegations of sexual assault levelled by the respondent-wife against all male members of the family, are found false, the same amounts to cruelty and the husband is entitled to a decree of divorce on the ground of cruelty.

15. In view of the above, we do not find any patent illegality or perversity on the impugned orders passed by the learned family Court.

16. No other point has been urged.

17. In view of the above, we do not find any merits in the present appeal and the same is hereby, dismissed.

18. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[HARSH BUNGER]
JUDGE

15.05.2024
Himanshu

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