



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2477-2024 (O&M)
Date of Decision: 21.05.2024

VEERPAL KAUR ...Appellant
Versus

PARMINDER SINGH ...Respondent

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

Present:- Mr. Tarun Sharma, Advocate for appellant.

SUDHIR SINGH, J.

CM-9298-CII-2024

For the reasons given in the application, the same is allowed and the delay of 127 days in filing the appeal is condoned, subject to all just exceptions.

FAO-2477-2024

The present appeal is directed against the judgment and decree dated 13.10.2023 passed by learned Family Court, Ferozepur, whereby the petition under Section 13 of the Hindu Marriage Act (hereinafter referred as ‘the Act’) filed by the respondent-husband has been allowed and marriage between the parties has been dissolved by decree of divorce.

2. The aforesaid petition had been filed by the respondent-husband, *inter alia*, averring therein that his marriage with the appellant-wife was solemnized on 01.12.2019, according to Sikh rites and out of the said wedlock, one female child, namely, Prabhgun Kaur was born on 25.09.2020. It was further stated that from the very



beginning of the marriage, the appellant-wife had been a quarrelsome lady and used to insult his mother and would always force the respondent-husband to live separately. It was further averred that she had left matrimonial home many times without informing the respondent-husband and that in December 2020, the appellant-wife left her matrimonial home, whereupon a Panchayat was convened and the respondent-husband had requested the appellant-wife to join his company. It was further stated that the appellant-wife had felt sorry and also executed an affidavit stating therein that she will do all the household work and would not create any fuss in the family. It was further averred that the respondent-husband and his family members came to know that at the time of her marriage with the respondent-husband, the appellant-wife had already been married to one Arwinder Singh son of Mangal Singh, resident of Basti Nizamdin Wali, Ferozepur City and when the appellant-wife and her parents were confronted with the said fact, they told that the appellant-wife had already taken divorce from the earlier husband and they had also promised to produce the divorce later on. It was further stated that with the intervention of the Panchayat, the respondent-husband brought back his wife, but her behavior and attitude towards the respondent-husband and his family members did not change and that on 25.02.2021, she left the matrimonial home. It was further the case of the respondent-husband that again a compromise was effected and the appellant-wife came back to her matrimonial home after 10/12 days but on 28.04.2021, she again left the matrimonial home and since then she had been residing at her parental house. Accordingly, it was



stated that the appellant-wife had treated the respondent-husband with cruelty and a decree of divorce was sought on that ground.

3. Upon notice, the respondent-wife appeared, but did not file the reply. Subsequently, none had appeared on her behalf and she was proceeded against ex-parte vide order dated 05.01.2023.

4. In his ex-parte evidence, the respondent-husband appeared as PW-1 and had also examined Jarnail Singh as PW-2 and Bhupinder Singh as PW-3, besides leading documentary evidence as Mark A to Mark E.

4. The learned Family Court, after taking into consideration the rival contentions and the evidence on record, allowed the petition filed by the respondent-husband observing therein that the evidence led by the respondent-husband remained unrebutted,

5. Learned counsel appearing for the appellant-wife contends that in the divorce petition filed by the respondent-husband, no date, time or month was mentioned about the alleged harsh, cruel and insulting behavior on the part of the appellant-wife. It is further argued that after having been proceeded as ex-parte vide order dated 05.01.2023, the appellant-wife had filed an application for setting aside the said order, but said application was dismissed vide order dated 29.09.2023. It is further submitted that the appellant-wife had instructed her counsel before the trial Court to challenge the said order before the High Court, but later on she came to know that the main petition had already been decided. It is the contention of the learned counsel for the appellant-wife that as per law, she can challenge the orders dated 05.01.2023 and 29.09.2023 along with the main



judgment and decree passed by the learned Family Court. It is further submitted that the very approach of the learned Family Court in dismissing the application seeking setting aside of the ex-parte order and further granting ex-parte decree of divorce, is not tenable in the eyes of law.

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

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

8. The judgment and decree passed by learned Family Court is based upon the ex-parte evidence led by the respondent-husband. It is not disputed by the learned counsel for the appellant-wife that the appellant-wife was proceeded ex-parte by learned Family Court vide order dated 05.01.2023 and the application filed by her for setting aside the said order was also dismissed by learned Family Court on 29.09.2023. It is also not disputed that no appeal or revision has been filed by the appellant-wife against the order dated 29.09.2023, meaning thereby that the said order passed by learned Family Court, has attained finality. The only excuse taken is that before the appeal against the order dated 29.09.2023 could be filed, the main petition had already been decided. However, this Court does not find any substance in the said plea of the learned counsel for the appellant-wife. It was the case of the respondent-husband before learned Family Court that after his marriage with the appellant-wife, he came to know



that she had already been married at the time of her marriage with him. It was further his stand that he had asked the appellant-wife to produce the copy of the divorce, but the appellant-wife and her parents told that it would be produced later on but, it was never done so.

9. The learned Family Court on the basis of unrebutted pleadings and evidence of the respondent-husband came to the conclusion that the appellant-wife had treated the respondent-husband with cruelty and accordingly, granted the decree of divorce as noticed above.

10. We find no reason to interfere with the findings recorded by learned Family Court, especially when the order passed by learned Family Court, in the application filed by the appellant-wife for setting aside the ex-parte order, has attained finality. Learned counsel for the appellant-wife has failed to bring to the notice of this Court, any rational for not filing of an appeal or revision against the said order.

11. In view of the above, findings no merit in the present appeal, the same is hereby dismissed.

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

[SUDHIR SINGH]
JUDGE

[HARSH BUNGER]
JUDGE

21.05.2024
Himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No