



In the High Court of Punjab and Haryana, at Chandigarh

First Appeal Order No. 6333 of 2018

Reserved On: 09.07.2025

Pronounced On: 11.07.2025

Sukhbir Singh

... Appellant(s)

Versus

Bharti

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.
Hon'ble Mr. Justice Rohit Kapoor.**

Present: Mr. D.K.Tuteja, Advocate
for the appellant(s).

Mr. Robin Singh Hooda, Advocate
for the respondent.

Anil Kshetarpal, J.

I. Brief Facts of the Case

1. The appellant (respondent's husband) assails the correctness of the judgment passed by the Additional Principal Judge, Family Court, Rohtak, while dismissing his petition filed under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (hereinafter referred to as "the 1955 Act") for dissolution of marriage by passing a decree of divorce.

2. The appellant sought decree of divorce on the ground of cruelty caused by the respondent while alleging as under:-

"Just after the two days of their marriage respondent went to her parents' house and he joined his duty as an Army Man at Jam Nagar (Gujrat). He was sanctioned leave after two

months and when he went to fetch the respondent from her parents' house, she, without assigning any reason, refused to accompany him. He was again sanctioned leave for 12 days and this time his wife joined his company. Just after 5 days his brother-in-law visited them and asked for sending the respondent with him and on his refusal his another brother-in-law came and they, against his wishes, took his wife with them. His wife spent most of her time at her parents' house. Information of birth of a daughter was also belatedly given to him after two months and that too by Sh. Kanwar Singh and at that time he was posted at Andaman and Nicobar. He immediately rushed to Rohtak but his wife refused to come with him. Her family members told him that his family was not of the equal status and that the respondent can not settle with animals.

His family convened a Panchayat and respondent joined his company but just for five days. Such like events continued for 3/4 years. Whenever his wife stayed with him domestic work. In this way she continuously caused cruelty to him. In the meantime his wife got a job of clerk in MD University, Rohtak and at the same time he was also transferred to Bawana, Delhi. He offered her to join him at Bawana as she could easily commute from Bawana to Rohtak. She joined him at Bawana only for 21 days and thereafter she collected her belongings and went to Rohtak.

In the month of January 1993, his wife and his in-laws contacted his higher authorities for transferring his salary in the name of his wife but the authorities refused to oblige. The authorities rather offered to allot a residential house to him for the stay of the parties to the petition and though his wife once agreed to the proposal but did not join him. She even refused to accompany him and he was rather insulted in the street.

*On the asking of the Panchayat she stayed with him at Bharat Nagar, Panipat but there also she used to pick up quarrel. She left the house of the petitioner at her own and never turned back. He made his best efforts to persuade her to live with him and to perform her marital duties but all the efforts were futile. A Panchayat was convened by his father but the respondent and her parents did not respond. She and her parents got registered a false case against him and his family members and they were acquitted in terms of * judgment dated 7.10.2003. In the meantime he was posted to Ambala. She created lot of hurdles in his service. She did not allow e him to enjoy sexual intercourse. After January 1996 she did not allow him to enjoy sexual life. She continuously harassed him and his family members by making false complaints. He got retired from his services and he received an amount of Rs. 5 lacs, she pressurized him to give this amount to his brother who later on returned the same.*

On 18.6.2011 she and her brothers came to his house and

they pulled him in the street and was publicly abused, humiliated, insulted and mercilessly beat him. She threatened to commit suicide and to implicate him and his family members in a murder case. She tried to cut her veins, but he with the assistance of neighbours overpowered her. She and her family members wants to grab his self acquired property.

On 27.11.2011 she and her parents armed with deadly weapons visited his house and assaulted him. On 22.1.2012 she came to his house and gave beatings to him. She pulled him out of his house and locked the main door. This act of the respondent lowered the reputation of the petitioner. She made a false complaint to Women Cell, Panipat and leveled false allegations on the character of the petitioner. The complaint was found to be false. She wanted to blackmail him and get his agriculture land transferred in her favour. A Hence, this petition for divorce primarily on the ground of cruelty, physically as well as mentally.”

3. The respondent contested the petition denying all the allegations. It was claimed that the appellant resides with Rajpati, another woman. It was further alleged that from the wedlock with the appellant, two children (a son and a daughter) were born who are living under the care and custody of the respondent. The allegations of the event dated 27.1.2011 were denied as the respondent's parents died much before that date.

II. Evidence Adduced

4. After the issues were framed on 15.10.2013, the parties were

permitted to produce their respective evidence, The appellant appeared as PW.1 and produced on record a certified copy of the judgment of acquittal passed on 07.10.2003 (Ex.P1), certified copy of complaint (Ex.P2), certified copy of the statement of Bharti Malik (Ex.P3), certified copy of the statement of Sukhbir (Ex.P4) and certified copy of police report dated 18.04.2012 (Ex.P5). The certified copies of sale deeds (Ex.P6 and Ex.P7) were also produced.

5. On the other hand, the respondent examined herself as RW.1.

III. Reasons recorded by the Family Court

6. The family court came to the conclusion that the appellant has failed to prove the allegations, which, according to him, constituted cruelty. It was found that acquittal in a criminal case registered at the instance of the respondent was a result of settlement between the parties as all the prosecution witnesses did not support the case set up by the prosecution. Moreover, it was found that the appellant resides with Rajpati and he wishes to continue to reside with her. Thus, it was held that it is the appellant who is guilty of causing mental cruelty to the respondent by leading an immoral life and wasting away the family property by transferring a major chunk in favour of Rajpati.

IV. Arguments Addressed

7. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book along with the requisitioned record

8. The learned counsel representing the appellant has put forth the following submissions:-

- I) The respondent lodged a false criminal case against the appellant and his family members alleging beating and breach of trust which were found baseless, resulting in acquittal. Hence, the appellant was entitled to decree of divorce, as cruelty on the part of the respondent has been proved.
- II) There is no evidence to the effect that the appellant is residing with Rajpati.
- III) The parties are residing separately from August 2006, and there is no possibility of reunion. The marriage between the appellant and the respondent is practically dead and hence, the decree for divorce should be granted.

9. Per contra, the learned counsel representing the respondent has contested the petition.

V. Analysis and Discussion

10. Now this Court proceeds to analyze the arguments put forth by the learned counsel representing the appellant.

11. The deposition of the appellant makes an interesting reading. The selective and relevant part of the statement reads as under:-

“...I am residing with a woman at Panipat whose name is Rajpati.

Rajpati is residing with me here for the last four years. In the family partition 14 acres of land came to my share. Today, I am owner in possession of 4½ acres of land. Rest of the land was sold to the above mentioned Rajpati. It was sold for a

consideration of Rs.1 crore 60 lacs to Rajpati. Prior to started residing with me Rajpati used to reside with her parents at village Nahra District Panipat,. Rajpati has two sisters and one brother. Rajpati was already married prior to start reside with me. I am not sure whether Rajpati had obtained divorce from her husband or not. Voluntarily stated that her husband might have died. I do not know in which village she was married. I also do not know the name of her previous husband. She is educated upto 10+2 standard. Rajpati was not employed anywhere when she started residing with me. Voluntarily stated that she has received some paisas from her father who has retired as a Headmaster and she also received some paisas from her previous husband. I cannot tell about the exact figure of the amount mentioned above received by her from above mentioned source...”

XXXX XXXX XXXX XXXX XXXX

...I am still residing with Rajpati and want to live in future with her only.”

12. Thus, there is no substance in the argument of the learned counsel representing the appellant that there is no evidence to the effect that the appellant continued to reside with Rajpati during subsistence of his marriage with the respondent. Thus, it is the appellant who has caused mental cruelty to the respondent by leading an immoral life.

13. A perusal of the judgment of acquittal (Ex.P1) proves that all the six prosecution witnesses did not support the prosecution's case. Three

prosecution witnesses were declared hostile. There was no corroboration to the version of PW.5 by the testimony of other five witnesses. Hence, the appellant is not entitled to claim decree of divorce on the grounds that he was falsely implicated. Hence, the conclusion drawn by the Family Court does not suffer from any error.

14. Though the parties are residing separately for quite some time, however, the fault lies with the appellant and not the respondent. As is evident, the appellant continues to reside with Rajpati, which is the evidence of him leading an immoral life. Moreover, the appellant cannot take benefit of his own fault.

VI. Decision

15. Consequently finding no merit, the appeal filed by the appellant is dismissed.

(Anil Kshetarpal)
Judge

(Rohit Kapoor)
Judge

July 11, 2025
“DK”

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