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Court : Punjab and Haryana

Decided On : Jul-12-2004

Reported in : (2004)138PLR732

Judge : V.K. Bali, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 13

Appeal No. : First Appeal from Order No. 131-M of 2000

Appellant : Jagdeep Singh

Respondent : Poonam

Advocate for Def. : B.R. Mahajan, Adv.

Advocate for Pet/Ap. : Akshay Bhan, Adv.

Disposition : Appeal dismissed

Judgement :

V.K. Bali, J.

1. Appellant sought a decree of divorce from his wife, respondent herein, in a petition filed by him under Section 13 of the [Hindu Marriage Act, 1955](#), on the ground of cruelty. Hot temper, bearing of child and threatening to commit suicide and further leaving him when he was sick, are stated to be the acts constituting

cruelty, thus, entitled him to a decree of divorce.

2. The parties to this matrimonial dispute were married on December 8, 1991 at Amritsar and were blessed with a son on October 31, 1992. It has been the case of the appellant-husband that after marriage, when respondent came to his house, she proved to be lady of irritable temper and of foul tongue. The appellant, on that count, spent sleepless nights, on number of occasions. She used to abuse him in the foulest language and used to behave with him in the presence of neighbours and his friends in a most insulting manner. She asked him several times to take a separate residence from his parents but when he did not agree, she threatened to commit suicide and involve all the members of his family. The appellant had, thus, to keep himself watchful in order to prevent her from committing suicide. The respondent express many a time that she would be happy if the appellant dies as then she would get his entire property. She used to beat the child by taking him on the road. The mother of respondent would come to the house of the appellant and instigate his wife against him. On March 10, 1995, petitioner was sick. Despite that, respondent packed up all her goods including Ornaments and costly clothes and left the house and while leaving, she branded the appellant to be drunkard, gambler and character less.

3. The matter was hotly contested by the respondent-wife, who denied the allegations made against her. Besides taking some preliminary objections, she further stated that all the allegations were made up so as to secure, a decree of divorce. In fact, she is pauper and living on the mercy of her father, who is a very small shopkeeper at Amritsar. The respondent is a weak and feeble woman, whereas appellant, who is a rich person, is maintaining vehicles and having a flourishing business. His sole purpose is to wear out/tire/exhaust the respondents so that she succumbs to the pressure and agrees to divorce him. The specific instances of cruelty, as mentioned above, have been denied.

4. Learned Matrimonial Court, on the respective pleadings of the parties, framed the following two issues:-

'1. Whether the respondent after the solemnisation of marriage has treated the petitioner with cruelty? OPP

2. Relief.'

5. On the basis of evidence led by the parties, learned Matrimonial Court held that none of the witnesses had stated that the respondent treated the appellant in a rude fashion or gave him the abuses in foulest language and further that simply because a lady was hot tempered, would not in any case constitute cruelty as nature of a person differs from person to person. No specific allegation, it was further held, was proved against the respondent that she used filthy language or abused the appellant. Relying upon a judgment of this Court in *Rupinder Kaur v. Gurmit Singh Sandhu*, (1997-3)117 P.L.R. 553, wherein it was held that disharmony or incompatibility does not amount to cruelty and is not a ground for dissolution of marriage, plea of appellant with regard to hot temper of the respondent and her using filthy and abusive language was repelled. Insofar as insistence of the respondent to have a separate residence is concerned, again, based upon evidence, it was held that the mere request of respondent to arrange for an adequate accommodation or have a separate residence, would not amount to cruelty. Insofar as threat to commit suicide is concerned, plea of the appellant was not corroborated by any independent evidence. Regarding beating of the child by the respondent by taking him on road, it was held that the said plea is even against the pleadings. The child of the parties was still residing with the respondent and was studying in a convent school at Amritsar which in itself shows full love and affection of the respondent towards the child. Insofar as plea of the appellant that the respondent had left him when he was sick is concerned, same was also held non-substantiated. So much so, the very falling sick of the appellant was not believed by the matrimonial Court. There was yet another allegation against the respondent that the marriage of younger brother of the appellant, who was engaged at Amritsar, was broken at the instance of the respondent. It was held by the Matrimonial Court that the said allegation was also false.

6. The efforts were made in this case for reconciliation. The parties were directed to be present in person. Whereas, appellant has come present, wife has however not been able to reach the Court on account of her meeting with an accident, as stated by learned counsel, who represents her. Mr. Mahajan further stated that the respondent was ready to go with the appellant unconditionally. This offer was

however, not accepted by the appellant, who, through his counsel, wished to have a judgment on merits.

7. Mr. Bhah, learned counsel representing the appellant contends that word 'cruelty' has been used in relation to human conduct or human behaviour. It is the conduct in relation to or in respect of matrimonial duties and obligations. It is course of conduct of one which is adversely affecting the other. The behaviour of the respondent threatening to commit suicide and beating the child in a public street and other allegations, that have been made against her, do amount to cruelty. For his aforestated contention, learned counsel relies upon a judgment of the Hon'ble Supreme Court in *Shobha Rani v. Madhukar Reddi*, A.I.R. 1988 Supreme Court 121.

8. If perhaps the appellant might have succeeded in substantiating, that the respondent-wife had indeed threatened to commit suicide and involve him and his relations in some criminal case on that count or for that matter had beaten the child in public street as also indulged into other misbehaviour alleged against her, the cumulative effect of all would have amounted to cruelty but we need not go into this question as in considered view of this Court, appellant could not substantiate even one out of so many acts of cruelty alleged by him that the wife had indulged into. In the facts and circumstances of this case and in the context of pleadings and evidence that was led by the parties as also from the impression that we have gathered while talking to learned counsel for the parties and the appellant while endeavouring to reconcile the dispute, we are of the view that it is the husband, who wants to get rid of his wife, one way or the other.

Finding no merit in this appeal, we dismiss the same in limine, leaving, however, the parties to bear their own costs.