

***Before Rajan Gupta & Manjari Nehru Kaul, JJ.***

**LAKHVIR SINGH—Appellant**

*versus*

**KARAMJIT KAUR—Respondent**

**FAO No.7340 of 2017**

November 01, 2019

***Hindu Marriage Act, 1955— S.13—Husband’s divorce petition on grounds of cruelty and desertion—Dismissed by the trial Court—Appeal—Sweeping allegations of cruelty without any shred of evidence—Husband’s case negated by his own witnesses—Allegations of attempted suicide against wife also not proved—Panchayats too failed to reconcile due to husband’s behavior—S.9 restitution petition by wife shows her willingness to join husband’s company —Held, it was the husband alone who by his conduct left the wife with no option but to stay away, and was unwilling to accept her back — Appeal dismissed.***

*Held* that perusal of the evidence and other material available on record reveals that the appellant-husband has made sweeping allegations of cruelty against the respondent-wife, which are not supported by any shred of convincing much less cogent evidence. The case of the appellant-husband is in fact negated by his own witnesses PW-2 Jugraj Singh and PW-3 Gamdoor Singh, who have admitted to the factum of the marriage having been solemnized at Sadiq in a marriage palace and not at village Mumara as pleaded by the appellant-husband. Further, it is very evident and rather lends credence to the submissions of the respondent-wife that the dispute between the parties started soon after the birth of their daughter as the same stands admitted by PW-3 Gamdoor Singh also in his cross-examination. The allegations of the appellant-husband against the respondent-wife indulging in rude behaviour is not at all convincing so as to entitle him to a decree of divorce on grounds of cruelty. Further, a perusal of the testimonies of both witnesses PW-2 Jugraj Singh and PW-3 Gamdoor Singh reveals a lot of gaping holes. .... Hence, in this background, the story of the appellant-husband that she had attempted suicide and thus, subjected him to cruelty, deserves to be discarded. It is the husband and husband alone, who by his misconduct left the respondent-wife with no other option but to stay away from him. Not only the panchayats convened to

bring about a reconciliation between the parties proved futile due to the behaviour of the appellant-husband but the fact that the respondent-wife filed a petition under Section 9 of the Act goes a long way to prove that she was still willing to join the company of her husband and return to the matrimonial home but it was the husband, who was unwilling to accept her back.

(Para 8)

Sukhmeet Singh, Advocate  
*for the appellant.*

Ashish Gupta, Advocate  
for respondent.

### **MANJARI NEHRU KAUL, J.**

(1) The instant appeal has been preferred by the husband – Lakhvir Singh to impugn the judgment and decree dated 14.09.2017 passed by District Judge, Family Court, Faridkot whereby his petition under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') was dismissed.

(2) Few facts necessary for adjudication of the instant appeal as pleaded in the petition filed by the appellant-husband before the learned Court below may be noticed. Marriage between the parties was solemnized on 16.02.2008 as per Sikh rites and ceremonies at village Mumara, Faridkot. Two daughters were born out of the said wedlock. The marriage was a simple one sans any dowry. The respondent-wife was ill-tempered and of a quarrelsome nature, who would humiliate and maltreat the appellant-husband and his family despite the fact that she was treated with utmost love and respect. She would go to her parental home without informing the appellant-husband and each time would be brought back to the matrimonial home only with the intervention of respectables and relatives. The appellant-husband continued to tolerate her unbecoming behaviour in the hope that good sense would prevail upon her one day. On being compelled by the respondent-wife, he shifted to a separate accommodation from his parents but the behaviour of the wife remained the same as before. She attempted suicide by consuming a poisonous substance for which she was hospitalised on 11.10.2011. In the month of January, 2012 after picking up a fight, she left the matrimonial home along with her daughters and also took along all her valuables. She flatly refused to return to the matrimonial home on being requested by the appellant-husband. Rather she filed an

application before the police against the appellant-husband and his family, which was found to be false. Thereafter she filed a petition under Section 125 Cr.PC on false allegations. She also filed a petition under Section 9 of the Act, which was dismissed in default on 17.04.2015. Despite all earnest efforts made by the appellant-husband to resolve their differences, it proved to be a futile exercise. He thus, prayed for dissolution of his marriage with respondent-wife as he had been treated with mental cruelty and deserted by her.

(3) Per contra, the respondent-wife in her written statement filed before the Court below, refuted and denied the allegations of the appellant-husband. She submitted that the petition under Section 13 of the Act had been filed by the appellant-husband as a counter blast to her petition filed under Section 9 of the Act. It was further submitted that at the time of her marriage sufficient dowry was given by her parents and her marriage was performed at Sadiq in a marriage palace. The appellant-husband and his family would continuously maltreat her. At the time of the birth of their first daughter, they heaped scorn upon her. They did not even get her medically examined or provide her with proper meals during her subsequent pregnancy as a result of which she lost her second daughter. She alleged that she would be mercilessly beaten up and subjected to acute harassment because of her inability to deliver a male child and for not being able to get a maruti car for the appellant-husband. She alleged that it was under these compelling circumstances she had been left with no other option but to live in her parental home with her daughter. A panchayat was convened by her parents wherein the appellant-husband was given an assurance that he would be given a car and was requested to resume cohabitation but he remained adamant and insulted her family. She claimed that she was ready to join his company and that is precisely the reason why she had filed a petition under Section 9 of the Act. She thus, prayed for dismissal of the petition.

(4) Both the parties adduced evidence in support of their respective stands. The appellant-husband himself stepped into the witness box as PW-1 and examined two other witnesses. On the other hand, respondent-wife stepped into the witness box as RW-1 and examined three other witnesses.

(5) On an analysis of the evidence led, the trial Court dismissed the petition filed by the appellant-husband by holding that the

appellant-husband was unable to prove desertion and cruelty by way of any cogent and convincing evidence against the respondent-wife.

(6) We have heard learned counsel for the parties and reappraised the evidence as well as other material available on record.

(7) It would be pertinent to mention that during the pendency of the instant appeal, the parties were referred to Mediation and Conciliation Centre of this Court to explore the possibility of an amicable settlement, however, all efforts failed miserably.

(8) A perusal of the evidence and other material available on record reveals that the appellant-husband has made sweeping allegations of cruelty against the respondent-wife, which are not supported by any shred of convincing much less cogent evidence. The case of the appellant-husband is in fact negated by his own witnesses PW-2 Jugraj Singh and PW-3 Gamdoor Singh, who have admitted to the factum of the marriage having been solemnized at Sadiq in a marriage palace and not at village Mumara as pleaded by the appellant-husband. Further, it is very evident and rather lends credence to the submissions of the respondent-wife that the dispute between the parties started soon after the birth of their daughter as the same stands admitted by PW-3 Gamdoor Singh also in his cross-examination. The allegations of the appellant-husband against the respondent-wife indulging in rude behaviour is not at all convincing so as to entitle him to a decree of divorce on grounds of cruelty. Further, a perusal of the testimonies of both witnesses PW-2 Jugraj Singh and PW-3 Gamdoor Singh reveals a lot of gaping holes. During their deposition both these witnesses stated that the respondent-wife was of a quarrelsome nature and would humiliate the appellant-husband and his family. However, on being cross-examined, they admitted that no quarrel had ever taken place in their presence or the respondent-wife had ever misbehaved with anybody in their presence. It is very apparent that both these witnesses were oblivious to the happenings inside the matrimonial home of the parties and had stepped into the witness box just to parrot the version of the appellant-husband. As far as the allegation of the respondent-wife attempting suicide is concerned, no doubt, she has admitted to having been hospitalised, however, as per her she was administered some poisonous substance by the appellant-husband and his family and it was in this background that she had to be hospitalised. Even the medical report Ex.P3, which is not disputed by either of the parties, reveals that it was not a case of attempted suicide but one of foul play. PW-3

Gamdoor Singh has also in his cross-examination admitted that he had got the respondent-wife admitted in the hospital and the respondent-wife had at that time filed a complaint against the appellant-husband for administering her with some poisonous substance. Hence, in this background, the story of the appellant-husband that she had attempted suicide and thus, subjected him to cruelty, deserves to be discarded. It is the husband and husband alone, who by his misconduct left the respondent-wife with no other option but to stay away from him. Not only the panchayats convened to bring about a reconciliation between the parties proved futile due to the behaviour of the appellant-husband but the fact that the respondent-wife filed a petition under Section 9 of the Act goes a long way to prove that she was still willing to join the company of her husband and return to the matrimonial home but it was the husband, who was unwilling to accept her back.

(9) As a sequel to the above discussion, we do not find any ground to interfere in the impugned judgment dated 14.09.2017 passed by the court below, which is well reasoned one.

(10) Consequently, the present appeal being devoid of any merit stands dismissed.

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*Tribhuvan Dahiya*