2025:PHHC:108234-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6631-2023 (O&M)
Date of Decision: 19.08.2025

Sabir Khan @ Shabbir …Appellant

Versus

Sapeena ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. Farukh Abdullah, Advocate,
for the appellant.

GURVINDER SINGH GILL, J.

1. Appellant – Sabir Khan @ Shabbir assails order dated 25.09.2023 passed by learned Principal Judge, Family Court, Nuh vide which a petition for grant of divorce filed by respondent/wife – Sapeena under provisions of Mohammedan Law for Dissolution of Marriage has been accepted ex parte and the marriage has been ordered to be dissolved by a decree of divorce.

2. As per the case set up by the respondent/wife, her marriage with Sabir Khan (appellant herein) was solemnized on 02.08.2019 according to Muslim rituals, wherein huge money was spent and dowry articles were also given to her husband and other members of his family. But despite the same, her husband and other members of his family were not satisfied. It is further the case of the respondent/wife that right from the very inception of marriage, her husband started misbehaving with her and taunted her for having brought less dowry and also demanded a bullet motor-cycle and an amount of Rs.50,000/- in cash. Upon refusal for the same by the respondent/wife, she was given

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beatings by her husband and other members of his family. She further averred that all her gold and silver ornaments were also snatched by her husband and that he refused to maintain her. Although several Panchayats were convened, but to no avail and her husband did not mend his ways. The respondent/wife further pleaded that her husband and his family members had created an environment full of physical and mental torture and it became difficult to live with him.

3. The appellant/husband in his reply denied all the material averments made in the divorce petition and took a plea that in fact his wife has left the matrimonial home on her own accord and had taken away all the gold and silver ornaments.

4. The parties were put to prove on the following issues:

    1. Whether the petitioner-wife is entitled to get a decree of divorce in her favour on the grounds of cruelty and desertion, as alleged? OPP
    2. Whether the petition is neither maintainable nor tenable in the eyes of law? OPR
    3. Relief.

5. While the respondent/wife herself stepped into witness-box as PW-1 and also examined her father Majid as PW-2, the appellant/husband did not lead any evidence and was in fact proceeded against ex parte vide order dated 15.07.2023.

6. The Family Court while considering the evidence on record, which was mainly in the shape of statements of respondent/wife and also her father, held that the evidence had remained unrebutted and consequently, while accepting the petition ex parte, granted divorce in favour of the respondent/wife.

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7. Learned counsel for the appellant while assailing the impugned judgment and decree submitted that the trial Court fell in error in passing ex parte judgment and decree against the appellant/husband, whereas in fact it is a case where the entire case of the respondent/wife is based on falsehood and it is the respondent/wife, who had taken away all the gold and silver ornaments as well as valuables from her matrimonial home, which would disentitle her for grant of divorce.

8. We have considered the aforesaid submissions and have also gone through the impugned judgment and decree.

9. The specific case set up for grant of divorce is that the appellant/husband had treated the respondent/wife with cruelty and had also deserted her. While the respondent/wife has not only specifically averred in her petition that she was treated with cruelty by her husband and his family members, who used to demand dowry and also used to create an atmosphere full of physical and mental torture, but has also stated so categorically in the witness-box while appearing as PW-1. Her statement is duly corroborated by the testimony of her father, who appeared as PW-2. Although both the witnesses were cross-examined on behalf of the appellant/husband, but nothing substantial could be elicited during the course of their cross-examinations. The appellant/husband did not lead any evidence to rebut the evidence led on behalf of the respondent/wife and was in fact later proceeded against ex parte. The Family Court apparently was left with no option, but to proceed against the appellant/husband ex parte when he did not choose to associate with the proceedings.

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10. The fact that the appellant/husband after appearing initially before the Family Court, later chose to remain absent and was proceeded against ex parte, shows that he himself was never serious in maintaining matrimonial relations with the respondent/wife. As already discussed above, the evidence led by the respondent/wife regarding her ill-treatment by the appellant has remained unrebutted.

11. Under these circumstances, the findings as recorded by the Family Court to the effect that the appellant/husband had treated the respondent/wife with cruelty and as regards her entitlement for a decree for divorce, do not call for any interference and are hereby affirmed. Finding no merit in the instant appeal, the same is dismissed.

(GURVINDER SINGH GILL)
JUDGE

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(DEEPINDER SINGH NALWA)
JUDGE

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

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