

**(2003) 04 P&H CK 0028**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** First Appeal Order No. 118-M of 2000

Lakhwinder Singh

APPELLANT

Vs

Hardish Kaur

RESPONDENT

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**Date of Decision:** April 23, 2003

**Acts Referred:**

- Hindu Marriage Act, 1955 - Section 13

**Citation:** (2004) 136 PLR 256 : (2003) 4 RCR(Civil) 353

**Hon'ble Judges:** Hemant Gupta, J

**Bench:** Single Bench

**Advocate:** G.S. Nagra, for the Appellant; Kuldeep Sanwal, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

Hemant Gupta, J.

The present appeal is directed against the judgment and decree passed by the District Judge, Gurdaspur whereby his petition for dissolution of marriage u/s 13 of the Hindu Marriage Act was dismissed.

2. The marriage between the parties was solemnised on 7.12.1989 and two children, one daughter and one son, was born out of the said wedlock on 25.1.1991 and 19.6.1993, respectively. The appellant has alleged that the relations between the parties remained cordial for a couple of month and thereafter the bickering started. The behaviour of the wife is alleged to be rude and she used to quarrel with the appellant even on petty matters. The respondent-wife is employed as Gram Sewika whereas appellant-husband is a Constable. It is alleged that the respondent is graduate and sophisticated lady whereas appellant is even not matriculate. In these circumstances, the appellant alleged that the respondent used to say that the appellant was not of her liking. The appellant tolerated the respondent with the hope that good sense will prevail upon her but she did not mend her ways and in December, 1994, after abandoning the children, she had left the matrimonial home.

She had taken away her precious clothes and gold ornaments. Efforts were made for reconciliation but she had not agreed. It is further alleged that the Doctor has found that the respondent was suffering from tuberculosis and, therefore, she left the matrimonial home for treatment.

3. Respondent-wife controverted the allegations. She stated that the appellant has been harassing her ever since their marriage by demanding various items including cash and she was ill-treated by the appellant and even rebuked by the father of the appellant. It is also stated that the petition filed by the appellant was just to get rid of her as she was an ugly woman. She was thrown out of the house by the appellant in her wearing apparels in January, 1997.

4. The husband has appeared as his own witness and examined Jagdish Singh, PW2, Surat Singh, PW3 and Harbhajan Singh, PW4. On the other hand, respondent herself appeared as RW2 and examined Dr. H.S. Bajwa as RW1. 5. The learned trial court found that the witnesses produced by the appellant are not relatives of the parties but merely neighbours or acquaintances and concluded that when the facts are seen in its entirety, the version of the wife appears to be more probable. Her version that the husband did not like her; she was suffering from tuberculosis and was turned out of the house, is reliable and consequently, the petition for divorce was dismissed.

6. When the matter came up before this Court on 12.3.2003, efforts for reconciliation were made, keeping in view the facts that there are two children aged 12 and 10 years and the statement of the wife that she is ready to reside with the appellant unconditionally. The appellant has also undertaken to take the wife from the Court itself, the case was adjourned. However, the wife has moved an application dated 28.3.2003 pointing out that the husband has refused to take her along with him to his village and stepped out of the bus at Batala bus stand. Since the appellant has stepped out of the bus, so she went to her parents village. It was thus sought to be contended that the appellant is not ready and willing to take the wife and his children.

7. I have heard the counsel for the parties and with their assistance have gone through the record of the case.

8. The instances of cruelty detailed by the appellant are only vague. To say that the respondent is graduate and sophisticated lady whereas appellant is matriculate and Constable and thus the respondent did not like him are based upon assumed presumption of the appellant. None of the witnesses have deposed to prove that they had ever seen the conduct of the respondent to that effect. On the other hand the categorical statement of the appellant is that he is not ready and willing to take the respondent to matrimonial home in any circumstance and at any costs. The reasoning given by the trial court is possible reasoning in law on the basis of evidence on record. There is nothing on record to take a different view that the one

taken by the trial Court.

Consequently, I find no merit in the present petition and the same is hereby dismissed.