

2025:PH-FC:023359-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-585-2025 (O&M)

Date of decision: 03.02.2025

Harmanjot Singh Walia

....Appellant

Versus

Bhawna Puri

....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Maneesh Bali, Advocate,
for the appellant-husband.

SUDHIR SINGH, J.

CM-1840-CII-2025

For the reasons mentioned in the application, same is allowed and the delay of 62 days in filing of the appeal is condoned, subject to all just exceptions.

FAO-585-2025

The present appeal has been filed against the judgment and decree dated 01.10.2024 passed by the learned Principal Judge, Family Court, Jalandhar (for short 'the Family Court'), whereby the petition under Section(s) 13(1)(ia) and 13(1)(b) of the Hindu Marriage Act, 1955 (for brevity 'the Act') filed by

the respondent-wife was allowed and marriage between the parties was dissolved by a decree of divorce on the grounds of cruelty and desertion.

2. The aforesaid petition had been filed by the respondent-wife, *inter-alia*, pleading therein that her marriage with the appellant-husband was solemnized on 19.10.2008 as per Sikh rites but no child was born out of the said wedlock. It was pleaded that though at the time of marriage, the parents of respondent-wife had given sufficient dowry i.e., gifts and gold jewellery etc. to the appellant-husband and his family members, yet they were not satisfied with the same. It was further pleaded that soon after the marriage, the appellant-husband and his family members, including sisters-in-law of the respondent-wife, started harassing and humiliating her for bringing insufficient dowry. It was pleaded that the appellant-husband was a drunkard and used to take liquor, intoxicant pills etc. It was further pleaded that the respondent-wife was forced to do the entire household work and was not allowed to call her parents or watch TV. It was further pleaded that appellant-husband had pressurized the respondent-wife to do the IELTS, so that she could go abroad, but the respondent-wife was not willing to do so. However, under the pressure of the appellant-husband, she appeared in the IELTS examination twice, but she could not

get the requisite bands. Due to this reason, the appellant-husband humiliated the respondent-wife by saying that she had wasted the entire coaching fee. It was further pleaded that the appellant-husband and his family members used to comment that the respondent-wife was less beautiful than the appellant-husband. On 10.08.2010, the respondent-wife told her in-laws that she had conceived from the loins of the appellant-husband, but instead of being happy, they got furious and levelled false allegations on her character. Thereafter, she was given beatings by her sister-in-law, Jot Money as well as the appellant-husband, as a result of which, she had to suffer a miscarriage. It was further pleaded that the appellant-husband and his family members were demanding a car from the parents of the respondent-wife and when she expressed her inability to fulfil the said demand, the appellant-husband became cruel and gave beatings to her. On 16.08.2010, the appellant-husband gave beatings to the respondent-wife and turned her out of the matrimonial home at the instance of his family members. It was further asserted that the parents of the respondent-wife convened several *panchayats* seeking her rehabilitation, but the appellant-husband remained adamant. The respondent-wife filed a petition under Section 125 Cr.P.C. before the Court of Judicial Magistrate Ist Class, Jalandhar, whereupon maintenance of Rs.5000/- per

month was granted in her favour. Terming the aforesaid acts and conduct of the appellant-husband as cruelty, a decree of divorce was sought for.

3. Upon notice, the appellant-husband entered appearance and filed his written statement admitting the factum of marriage but denying the allegations made in the petition. It was pleaded that earlier also, the respondent-wife had filed a divorce petition against the appellant-husband, which was dismissed by the Court. It was further stated that the respondent-wife had not come to the Court with clean hands and suppressed the true and material facts. It was further pleaded that no such acts/incidents, as alleged in the divorce petition, had been committed by the appellant-husband or any of his family members. It was further pleaded that the appellant-husband was still ready and willing to take the respondent-wife to her matrimonial house without any condition. It was further stated that the respondent-wife had herself left the matrimonial home without any reasonable cause and refused to join the company of appellant-husband. Earlier, the appellant-husband had filed a petition under Section 9 of the Act, but the respondent-wife refused to join his company. Despite his efforts to reconcile the matter, she purportedly avoided living with him.

4. From the pleadings of the parties, the trial Court, framed the following issues:-

1. Whether the petitioner is entitled to the dissolution of the marriage by decree of divorce on the grounds of cruelty and desertion? OPP
2. Whether present petition is maintainable? OPP.
3. Relief.

5. In evidence, the respondent-wife herself appeared as PW-1 and had also examined PW-2 Kritika Garg, PW-3 Rajni Puri and PW-4 Naveen Julka. On the other hand, the appellant-husband failed to lead any evidence.

6. The learned Family Court, after taking into consideration the rival contentions and evidence on record, allowed the petition filed by the respondent-wife, as noticed above.

7. Learned counsel for the appellant-husband has vehemently argued that the finding of the learned Family Court as regards the cruelty committed by him to the respondent-wife is patently illegal. He has further argued that none of the witnesses examined by the respondent-wife had specified the time and place of the alleged acts of cruelty committed by the appellant-husband. Learned counsel for the appellant-husband has further argued that the allegations levelled by the respondent-wife in the divorce petition, were general and vague in nature and the same could not be proved by way of any cogent and convincing evidence. It is further argued that despite his attempts for

reconciliation, the respondent-wife avoided living with respondent-husband. Thus, it is submitted that while passing the impugned judgment and decree, the learned trial Court, has totally ignored the aforesaid vital aspects.

8. We have heard learned counsel for the appellant-husband and have also gone through the impugned judgment and decree..

9. In our opinion, the only question that arises for consideration in the present appeal is whether the impugned judgment and decree requires any interference by this Court.

10. The learned trial Court has found that though the appellant-husband had denied the allegations of cruelty, levelled against him by the respondent-wife, yet he had failed to lead any evidence to rebut those allegations. In fact, he himself did not appear as a witness. Thus, the entire evidence led by the respondent-wife remained un rebutted. The Family Court has further found that the respondent-wife had successfully proved that she was dealt with mental and physical cruelty at the hands of the appellant-husband on various occasions, which became the reason for her living separately from him. Thus, the case set up by the appellant-husband was negated.

11. It is well settled that in order to constitute cruelty, the party alleging the same must prove on record

that the behaviour of the party complained against is or has been as such that it has made it impossible for the said party to live in the company of the party complained against. The acts of cruelty must be such from which it can be reasonably and logically concluded that there cannot be any re-union between the parties due to the said acts. The cruelty can either be physical or mental or both. Though there is no mathematical formula to devise the extent of cruelty alleged against, yet the facts and circumstances of each and every case must be examined in the light of the gravity contained in them.

12. In ***K. Srinivas Rao v. D.A. Deepa, 2013(2) RCR (Civil) 232***; Hon'ble Apex Court observed as under:-

“14. Thus, to the instances illustrative of mental cruelty noted in Samar Ghosh, we could add a few more. Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing notices or news items which may have adverse impact on the business prospect or the job of the spouse and filing repeated false complaints and cases in the court against the spouse would, in the facts of a case, amount to causing mental cruelty to the other spouse...”

In ***K. Srinivas v. K. Sunita, 2015(1) RCR (Civil) 38***, Hon'ble Apex Court observed as under:-

“6. Another argument which has been articulated on behalf of the learned counsel for the Respondent is that the filing of the criminal complaint has not been pleaded in the petition itself. As we see it, the criminal complaint was filed by the wife after filing of the husband's divorce petition, and being subsequent events could have been looked into by the Court. In any event, both the parties were fully aware of this facet of cruelty which was allegedly suffered by the husband. When evidence was

led, as also when arguments were addressed, objection had not been raised on behalf of the Respondent-Wife that this aspect of cruelty was beyond the pleadings. We are, therefore, not impressed by this argument raised on her behalf.

7. In these circumstances, we find that the Appeal is well founded and deserves to be allowed. We unequivocally find that the Respondent-Wife had filed a false criminal complaint, and even one such complaint is sufficient to constitute matrimonial cruelty.

8. We, accordingly, dissolve the marriage of the parties under Section 13(1)(ia) of the Hindu Marriage Act...”

In **Ramchander v. Ananta**, (2015) 11 SCC 539,

it has been held that cruelty has not been defined in the Act and the same is to be taken as the behavior by one spouse towards the other. The cruelty can be physical or mental, but such cruelty must be proved. It was held as under:-

“10. The expression “cruelty” has not been defined in the Hindu Marriage Act. Cruelty for the purpose of Section 13(1)(i-a) is to be taken as a behavior by one spouse towards the other, which causes a reasonable apprehension in the mind of the latter that it is not safe for him or her to continue the matrimonial relationship with the other. Cruelty can be physical or mental. In the present case there is no allegation of physical cruelty alleged by the plaintiff. What is alleged is mental cruelty and it is necessarily a matter of inference to be drawn from the facts and circumstances of the case. It is settled law that the instances of cruelty are not to be taken in isolation but to take the cumulative effect of the facts and circumstances emerging from the evidence on record and then draw a fair inference whether the plaintiff has been subjected to mental cruelty due to conduct of the other spouse. In the decision in Samar Ghosh case (Samar Ghosh v. Jaya Ghosh, (2007) 4 SCC 511) this Court set out illustrative cases where inference of “mental cruelty”

can be drawn and they are only illustrative and not exhaustive”.

13. If the findings recorded by the learned Family Court are examined in the lights of the aforesaid judgment of the Hon'ble Supreme Court, it would come out that the allegations of cruelty levelled by the respondent-wife were proved by her by way of cogent and convincing evidence. Moreover, the appellant-husband had himself failed to appear in the witness box to prove his case. In such circumstances, the evidence led by the respondent-wife remained unrebutted. There is no reason forthcoming on behalf of the appellant-husband as to why he did not appear as a witness in support of the stand taken by him in the divorce petition.

14. The findings regarding demand of dowry; maltreatment and cruelty committed by the appellant-husband cannot also be found fault with, especially when, it could not be shown by the appellant-husband that such findings are not based on evidence on record. It could not be shown that any evidence has been misread or not taken into consideration by the learned Family Court.

15. Thus, we find that the findings recorded by the learned Family Court, did not suffer from any illegality or perversity which may warrant interference by this Court in the present appeal.

16. In view of above, finding no merit in the present appeal, the same is hereby dismissed.

17. Pending application(s), if any, shall also stand disposed of.

**(SUDHIR SINGH)
JUDGE**

**(SUMEET GOEL)
JUDGE**

03.02.2025
Ajay Prasher

-	<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
-	<i>Whether reportable:</i>	<i>Yes/No</i>