

2025:PHHC:026653-DB



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

**FAO-414-2025 (O&M)**

**Date of decision: 11.02.2025**

JYOTI .....Appellant

Versus

SONU .....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH  
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. Naveen S. Bhardwaj, Advocate for the appellant.

**SUDHIR SINGH, J.**

Challenge in the present appeal is to the judgment and decree dated 18.11.2024 passed by learned Principal Judge, Family Court, Karnal (for short the 'Family Court'), whereby, the petition under Section 13(i)(a) of the Hindu Marriage Act, 1955 (for short 'the Act') filed by the respondent-husband, was allowed, and the marriage between the parties was dissolved by a decree of divorce on the ground of cruelty.

2. The aforesaid petition had been filed by the respondent-husband, *inter alia*, averring therein that his marriage with the appellant-wife was solemnized on 26.11.2016, according to Hindu rites and out of the said wedlock, two daughters were born, who were residing with the appellant-wife. It was further alleged that from the very beginning of the marriage, the appellant-wife was very rude

towards the respondent-husband and his family members. She had threatened to implicate him and his family members in false criminal cases. It was further alleged that in order to keep peace and harmony in the family, the respondent-husband and his family got separated. It was further alleged that the appellant-wife used to waste the income of the respondent-husband on luxurious items and had always refused to do the household work. The appellant-wife had always stopped the respondent-husband from meeting his parents and insisted to settle at Kurukshetra. She used to leave the house without informing the respondent-husband and upon enquiry, she would tell him that he should not interfere in her personal life. She had also extended threats to kill him. On 20.03.2018, the appellant-wife left the house in his absence and had also taken along with her the cash amount, gold and silver ornaments. She refused to rejoin his company, which led to the filing of the petition under Section 13 of the Act, but with the intervention of the near relatives and close family friends, a compromise was arrived at between the parties and the said petition was dismissed as withdrawn on 06.07.2018. However, the appellant-wife had again started maltreating and misbehaving with him, on one pretext or the other and had also slapped him. It was further asserted that the appellant-wife had raised demand of Rs.3 lakh and when the respondent-husband refused to do so, he was abused by her. On 01.02.2021, the appellant-wife left the house taking all valuable clothes and ornaments with her. On 08.02.2021, the respondent-husband applied for a personal loan and withdrew an amount of Rs.5 lakh and gave Rs.2 lakh to the brother of the appellant-wife but

despite that, she refused to join his company. A Panchayat was also convened, but to no avail. Terming the aforesaid acts and conduct of the appellant-wife as cruelty, a decree of divorce had been sought for.

3. Upon notice, the appellant-wife entered appearance and filed her written statement admitting the factum of marriage and birth of the children. However, it was alleged by her that the appellant-wife and sister of the respondent-husband used to instigate him to cause cruelty to the appellant-wife for not bringing sufficient dowry and not giving the birth of a male child. It was further asserted that the respondent-husband deserted the appellant-wife on 15.02.2021 and since then, she along with her two daughters, had been residing at her parental home. The allegations regarding the picking up quarrel with the parents of the respondent-husband were denied. It was further asserted that she had never called the respondent-husband not being a man of her liking and had never refused to establish physical relations with her. It was further asserted by her that she had forced the respondent-husband to live separately at Kurukshetra. Rather, it was pleaded that the respondent-husband, being an employee of the Indian Railways, was settled at a place wherever he found himself comfortable with his family. The allegations regarding leaving the house along with the cash and jewellery on 20.03.2018 were denied. It was alleged that the said jewellery was sold by the parents and sister of the respondent-husband. There was no demand to Rs.3 lakh as projected by the respondent-husband. The respondent-husband used to give her beatings and his father used to do obscene acts with her and he had also tried to outrage her modesty. It was further alleged that

when these acts on the part of his father, were brought to the notice of the respondent-husband and his mother, they instead of supporting her, had asked her to tolerate the same, if she wanted to live with them in their house. The respondent-husband used to give her beatings and committing unnatural sex with her. All the ornaments and *Istridhan* were sold by the respondent-husband and his family members by hatching up a criminal conspiracy. The allegations of cruelty were denied.

4. On the pleadings of the parties, the learned Family Court framed the following issues:-

- “1. Whether petitioner is entitled to a decree of divorce on the grounds of cruelty and desertion, as alleged by him in the petition? OPP
2. Whether the petitioner has sufficient cause of action to file and maintain the instant petition? OPP
3. Whether the petition is legally maintainable ?OPR
4. Whether the petitioner has suppressed true and material facts from the Court, if so, its effect ?OPR
5. Whether the petition is false and frivolous and liable to be dismissed as such?OPR
6. Relief.”

5. In evidence, the respondent-husband examined himself as PW-1 and PW2-Ravi Chauhan, besides tendering documents Ex.P1 to P4; Mark-A and Mark-B. On the other hand, the appellant-wife examined herself as RW1 and RW2-Darshan and had also tendered documents Ex.R1 to Ex.R4.

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

7. Learned counsel for the appellant-wife has vehemently argued that the impugned judgment and decree passed by the learned Family Court is based on conjectures and surmises. It is further argued that the learned Family Court has totally ignored the fact that the respondent-husband to stay at different places due to his own job and convenience and that the appellant-wife had never compelled him to live at said place(s). It is also argued that the testimony of PW2-Ravi Chauhan suffers from contradictions. It is also argued that the respondent-husband did not produce any cogent and convincing evidence on record to prove that there was any demand of money by the brother of the appellant-wife, as projected by the respondent-husband. It is further argued that the appellant-wife along with the minor children has been living separately since 2021 and the respondent-husband did not make any effort to either rejoin her company or to meet the children and had only filed the petition under the Guardians and Wards Act, after the lapse of four years. It is, thus, argued that the impugned judgment and decree passed by the learned Family Court, is liable to be set aside.

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

9. The only question that arises for consideration by this Court is whether the impugned judgment and decree passed by learned Family Court, requires any interference.

10. Learned Family Court on the basis of the evidence led by the parties has found that while appearing in the Court as RW1, the appellant-wife had admitted in her cross-examination that prior to 15.02.2021 she came back to her home thrice on account of conflict between her and her husband. She also admitted that she resided at Nilokheri for 2-3 years and Ravi Chauhan (PW2) was their neighbour. It was also found that the appellant-wife could not controvert the allegations of her cruel behaviour towards the respondent-husband, as contained in Para Nos.5 and 6 of the divorce petition. It was also found that the appellant-wife had levelled allegations of molestation against her father-in-law, but from the document Ex.P3 (report under Section 173 Cr.P.C.), it was found that her father-in-law was exonerated by the police. It was also found that in the FIR lodged by the appellant-wife, the family members of the respondent-husband were exonerated by the police. It was also found that as per the testimony of the appellant-wife, her sister-in-law got married prior to her marriage and the appellant-wife had involved the family members of the respondent-husband in false cases. It was also found that the appellant-wife was not able to justify any of the counter allegations of cruelty against the respondent-husband and his family members.

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 reunion 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.

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”.

12. If the findings recorded by the learned Family Court are examined in the light of the aforesaid judgments of the Hon’ble Apex Court, it would come out that the acts and conduct of the appellant-wife, amounted to cruelty towards the respondent-husband. The appellant-wife had levelled the allegations of molestation against her

father-in-law. Apart from that, she had also got registered an FIR for matrimonial offences against her husband and his family members. The Police, while submitting the report under Section 173 Cr.P.C. had exonerated the family members of the dowry charges and had also exonerated her father-in-law of the molestation charges. This conduct of the appellant-wife in levelling serious allegations of molestation against her father-in-law certainly amounts to cruelty to the respondent-husband. Involving the family members in a false case of dowry demands also amounts to cruelty particularly when such allegations against the family members, are found baseless by the police during investigation. Apart from that, it was also found that in her cross-examination, the appellant-wife deposed that on 07.06.2020, when she had moved a complaint against her husband, she had mentioned that both the daughters were snatched from her, whereas the respondent-husband had filed a case for the custody of the children. The learned Family Court has rightly found that levelling of false allegations of dowry demands against her in-laws and married sister-in-law amounted to cruelty against the husband.

13. In our opinion, the findings recorded by the learned Family Court cannot be said to be suffering from any illegality or perversity. It could not be pointed out that any evidence has been misread or not taken into consideration.

14. No other point has been urged.

15. Finding no merit in the present appeal, the same is hereby dismissed.

16. Further, the appellant-wife will also be at liberty to make an application under Section 25 of the Hindu Marriage Act seeking permanent alimony. If any such application is filed by the appellant-wife, the same shall be considered and decided by the Court concerned, in accordance with law, preferably within a period of 06 months from the date of filing thereof.

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

**[ SUDHIR SINGH ]**  
**JUDGE**

**[ SUKHVINDER KAUR ]**  
**JUDGE**

11.02.2025  
himanshu

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No