

2025-PHHC-042800-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-159-2025 (O&M)

Date of decision: 19.03.2025

ANJU

.....Appellant

Versus

KULDEEP KUMAR

.....Respondent

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

Present:- Mr. Arjun Dhingra, Advocate for the appellant.

SUDHIR SINGH, J.

Challenge in the present appeal is to the judgment and decree dated 29.10.2024 passed by learned Additional Principal Judge, Family Court, Camp Court, Sub Division, Bilaspur (for short the 'Family Court'), whereby the petition under Section 13 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*, pleading therein that his marriage with the appellant-wife was solemnized on 06.03.2011, according to Hindu rites, and out of the said wedlock, one child was born on 04.12.2011. It was further asserted that from the very beginning of the marriage, the behaviour of the appellant-wife was not cordial and she used to

disrespect and humiliate him and his family. She never performed any household work and was adamant to reside separately from his parents. In 2016, the appellant-wife levelled false allegations against his brother-in-law (jija) of the respondent-husband to the effect that he had tried to outrage her modesty. She also lodged FIR(s) containing similar allegations against one Satbir Singh and Dharambir Sarpanch on 01.07.2016 and 04.07.2016, respectively, and later on, the matter was compromised. On 22.04.2018, the appellant-wife left the matrimonial home in the absence of respondent-husband and thereafter, started threatening to implicate him and his entire family in false criminal cases. Thereafter, the appellant-wife moved a false complaint against him, his parents, his sister and brother-in-law vide FIR No. 182 dated 22.08.2018 u/s 323, 406, 498-A and 506 IPC was registered. Further, he had been facing agony of trial Court since 2018. 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 child. It was, however, alleged that the respondent-husband and his family members were not satisfied with the dowry given in the marriage and when the appellant-wife was not able to fulfill their illegal demands, she had been harassed, humiliated and beaten by them. On 12.08.2014, they again demanded Rs. 3 lakhs from her, but when she showed her inability, she was given merciless beatings and under compelling circumstances, she called the police, but on 26.08.2014 they admitted their guilt and the matter was compromised.

It was also alleged that in 2016, her brother-in-law (nandoi) tried to outrage her modesty. Further, on 21.04.2018 at 10:00 PM, her father-in-law gagged her mouth and tried to outrage her modesty. On 22.04.2018 respondent-husband left her at parental home along with minor child. On 22.08.2018 the appellant-wife registered the aforesaid FIR against the respondent-husband and his family members. She also filed a petition Under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the respondent-husband and his family. Besides that, a petition Under Section 125 Cr.P.C. was also filed by her. The allegations regarding the cruelty had been denied.

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

- “1. Whether petitioner is entitled for a decree of divorce by dissolution of marriage dated 06.03.2011 solemnized between the parties, on the grounds mentioned in the petition?
OPP
2. Whether the petition is not maintainable?
OPR
3. Relief.”

5. In evidence, the respondent-husband appeared as PW-1 besides tendering document Ex.P1. On the other hand, the appellant-wife examined herself as RW1.

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 it was the respondent-husband, who had subjected the appellant-wife to the mental harassment, agony and torture. It is also argued that in the complaints filed by the appellant-wife before the police, the respondent-husband had undertaken to rehabilitate her in the matrimonial home, but to no avail. Learned counsel further argues that no cogent or convincing evidence had been placed on record by the respondent-husband in support of the allegations levelled by him in the divorce petition. It is further argued that the FIR registered by her was in respect of her legal rights against the atrocious acts on the part of the respondent-husband and his family members and the same could not be treated to be cruelty. It is also argued that as the respondent-husband had ousted the appellant-wife from the matrimonial home and didn't make any effort to rehabilitate her, the finding of the learned family court that appellant-wife had been living separately from respondent-husband without any justified cause is totally illegal and untenable in the eyes of law. It is, thus, argued that the judgment and decree passed by the learned Family Court, is based on conjectures and surmises and the same is liable to be set aside by this Court.

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. The learned Family Court has found that admittedly, after investigation the allegations qua outraging the modesty were found false by the police, and even the allegations of cruelty; demand of dowry; breach of trust etc. were found to be false during investigation. Further, after facing trial for almost five years, the respondent-husband was acquitted of charges under Sections 323, 406, 498-A and 506 by the trial Court. It is, thus, evident that appellant-wife is habitual of moving false complaints against various persons including her husband and in-laws. Further, in her cross-examination she admitted that she had been living separately since 2018 and that she had never tried to reconcile the matter and also stated she didn't want to live with the respondent-husband. Undoubtedly, levelling false allegations against the respondent-husband and his family members; making them face the agony of trials for a long period finally resulting in acquittal, and not giving access to the respondent-husband to the matrimonial bliss amounts to cruelty. It was found that the appellant-wife had not been successful in establishing the allegations qua the harassment, beatings for the demand of dowry and other FIR(s). On the basis of the cumulative effect of the aforesaid observations, it was found that the respondent-husband had been treated with cruelty by the appellant-wife.

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.

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, in levelling false allegations of dowry and outraging of her modesty, certainly amounts to cruelty. It is also observed that the appellant-wife had levelled the allegations against the character of her brother-in-law (nandoi) and also against her father-in-law with regard to having an evil eye upon her and attempt of outraging her modesty, but said allegations could not be substantiated by her by leading any

evidence on record. Such allegations without any evidence to corroborate the same, would definitely amount to cruelty to the respondent-husband. Still further, the learned Family Court has noticed that the allegations regarding demand of dowry were also not proved by the appellant-wife and even the allegations levelled by in her written statement were not corroborated by any of the witnesses. Besides that, it was also found that the appellant-wife didn't examine her parents or any of the relatives to corroborate her version contained in written statement.

13. We find that the findings recorded by the learned Family Court are based on evidence and do not suffer 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. Pending application(s), if any, shall also stand disposed of.

17. At this stage, we may notice that while passing the impugned judgment and decree, no permanent alimony was granted to the appellant-wife by learned Family Court. Therefore, we grant liberty to the appellant-wife to move an appropriate application before learned Family Court for grant of 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.

[SUDHIR SINGH]
JUDGE

[SUKHVINDER KAUR]
JUDGE

19.03.2025

Himanshu(p)

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No