

2025.PHHC.047105-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1600-2025 (O&M)

Date of decision: 24.03.2025

RAJNI

.....Appellant

Versus

RAJ KUMAR MIDHA

.....Respondent

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

Present:- Mr. B.S. Mittal, Advocate for the appellant.

SUDHIR SINGH, J.

Challenge in the present appeal is to the judgment and decree dated 05.02.2025 passed by learned Principal Judge, Family Court, Sirsa (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 16.05.2017, according to Hindu rites, but no issue was born out of the said wedlock. 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. On 18.05.2017, just after two days of

the marriage, the father of the respondent-husband passed away and while all the family members were under a shock, the appellant-wife kept pressurizing the respondent-husband for a honeymoon trip. She never performed any household work and was adamant to reside separately from his family members. On the demand of the appellant-wife, the brother of respondent-husband left the house along with his wife and started living in a rented accommodation however, the appellant-wife was still unsatisfied and she remained adamant on her demand of not residing with his old aged mother. The appellant-wife also levelled false allegations in regard to the respondent-husband's having illicit relations with his *Bhabhi* and him being under her influence. On 16.03.2018, the appellant-wife left the matrimonial home and when the respondent-husband asked her to rejoin his company, she demanded for the construction of residential building over the shop located at Meena Bazar. Thereafter, she also lodged FIR No. 1021 dated 11.10.2018 u/s 323, 406, 498-A and 506 IPC against the respondent-husband and his family members with a sole objective of harassing and humiliating them. It was further the case of the respondent-husband had filed a petition u/s 9 of the Act, but the appellant-wife refused to join his company. 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. 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 was turned out of the matrimonial home. It was alleged, that respondent-husband was under the influence of his *Bhabhi*, and he used to act as per the directions given by her. It was further asserted that she never refused to join the company of respondent-husband, and rather, it was him, who was not ready to keep and maintain her unless she fulfilled his illegal demand of dowry. It was further the case of the appellant-wife that if there had been any sincere intention of the respondent-husband, once he had filed a petition u/s 9 of the Act, there was no requirement for him filing the divorce petition. The allegations regarding the cruelty had been denied with the prayer for dismissal of the petition.

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

- “1. Whether petitioner is entitled to decree of divorce from the respondent on the grounds mentioned in the petition, as alleged? OPP
2. Whether the petition is not maintainable in the present form? OPR
3. Relief.”

5. In evidence, the respondent-husband appeared as PW-1 and had also examined PW2-Ashok Kumar. On the other hand, the appellant-wife examined herself as RW1 besides tendering documents Ex.R1; Mark-A, Mark-B and EX. PA.

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. Learned counsel further argues that no cogent or convincing evidence had been led by the respondent-husband in support of the allegations levelled by him in the divorce petition. It is further argued that FIR no. 1021 dated 11.10.2018 u/s 323, 406, 498-A and 506 IPC registered by her was in respect of her legal rights against the atrocious acts on the part of the respondent-husband and the same could not be treated to be cruelty and the learned Family Court has failed to consider the fact that the proceedings in the said FIR are yet to attain finality and in the absence of any finding of acquittal by the court concerned, no finding of cruelty could have been returned on the basis thereof. It is also argued that as the respondent-husband had ousted the appellant-wife from the matrimonial home and had made no effort to rehabilitate her, the finding of the learned Family Court that the 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 also argued that in view of the admission of respondent-husband and his witness, it was proved on record that there was a close proximity between the respondent-husband and his *Bhabhi* and no woman would bear the factum of her husband being in the close proximity of another lady. It is, thus, argued that the impugned 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-wife 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 false allegations levelled by the appellant-wife with regard to respondent-husband having relations with his *Bhabhi* without any cogent and convincing evidence, amounts to cruelty. These allegations and further admission on the part of appellant-wife in the cross-examination that she always had a suspicion that respondent-husband was having relations with his *Bhabhi*, laid the foundation of the ground of cruelty. She further admitted that the respondent-husband never caused her beatings and she lodged false complaint u/s 498-A IPC against the respondent-husband due to their above dispute. Further, the parties had been living separately since 2018, and she had never tried to reconcile the matter with the respondent-husband. It was further found that undoubtedly, levelling false allegations against the respondent-husband and his family members; making them face the agony of trial and not giving access to the respondent-husband to the matrimonial bliss, amounted to cruelty. It was also found that the appellant-wife had not been successful in establishing the allegations qua the harassment, beatings for the demand of dowry and other allegations in

FIR by leading any evidence on record. 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 allegation of extra marital relationship against respondent-husband constitute a grave assault on his character, honour, reputation and certainly amounts to cruelty. It is also observed that the appellant-wife had levelled the allegations against the character of respondent-husband, but said allegations could not be substantiated by leading any evidence on record. Such allegations without any material to corroborate the same, would definitely amount to cruelty. Still further, the learned Family Court has noticed that the allegations regarding demand of dowry were also not proved and were admitted to be false, by the appellant-wife in her cross-examination and even the allegations levelled by her in the written statement were not corroborated by examining any of the witness. Besides that, it was also found that the appellant-wife did not examine her parents or any of the relatives to corroborate her version contained in the written statement.

13. We find that the findings recorded by the learned Family Court are based on evidence on record 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. 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

24.03.2025

Himanshu(p)

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No