

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

2025:PHHC:030872-DB



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**FAO No.1869 of 2024 (O&M)  
Decided on :03.03.2025**

**Binny Sachdeva @ Rachna**

**.....Appellant**

**VERSUS**

**Sandeep Sachdeva**

**....Respondent**

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

Present: Ms. Mannat Anand, Advocate as Amicus Curiae  
for the appellant-wife.

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**SUDHIR SINGH**

Challenge in the present appeal is to the judgment and decree dated 14.02.2024 passed by the learned Additional Principal Judge, Family Court, Ludhiana (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 has been allowed and the marriage between the parties has been 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 respondent-wife was solemnized on 20.06.2005 as per Hindu Rites, and out of the said wedlock a daughter namely, Bhoomika @ Bhoomi was born on 20.04.2006. It was further alleged that the appellant-wife had

started abusing the respondent-husband on one pretext or the other and her behaviour towards the minor daughter also became cruel and terrible. She threatened the respondent-husband to implicate him in criminal cases. She had also poured kerosene oil upon herself and tried to jump from the terrace to create terror in the minds of the respondent-husband and his family. It was further pleaded that during the proceedings in FIR No.130 of 2007 registered under Sections 498-A, 406 and 506 IPC, both the parties had been directed to live together for 50 days. In April, 2007, the appellant-wife left the matrimonial house saying that she had got fed up with the respondent-husband. A Panchayat was convened, but to no avail. She had also filed against respondent-husband and his family members as many as four FIRs and besides that other civil and criminal cases were also filed by her. It was, thus, pleaded that the acquittal of the respondent-husband in the criminal cases clearly fortified that the appellant-wife had committed cruelty against him. It was further pleaded that the parties had been living separately since year 2007. The respondent-husband had also to remain in jail in the false criminal cases got registered by the appellant-wife. Terming the aforesaid acts on the part 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. However, it was alleged by her that the respondent-husband had already been married to one Usha at the time of his marriage with appellant-wife and that he was having two daughters from the said wedlock. It was further pleaded that the appellant-wife and the minor

child had been turned out of the matrimonial house by respondent-husband and his family members and the dowry articles had been usurped by them. Thereafter, he filed a petition on the ground of cruelty and desertion which was withdrawn by him in 2015. Again, a fresh petition on the ground of adultery was filed by him, but the same was also withdrawn in 2022. In the proceedings under Section 9 of the Act, the stand of the respondent-husband was that he would not rehabilitate the appellant-wife. The registration of the criminal cases was termed to be on true facts. It was yet further pleaded that it was the respondent-husband who had treated the appellant-wife with cruelty.

4           On the basis of the pleadings of the parties, the following issues were framed:-

- (i) Whether respondent had treated petitioner with cruelty? OPP
- (ii) If so, whether petitioner is entitled for a decree of divorce?OPP
- (iii) Whether petitioner has not come to the Court with clean hands as he has concealed the true and real facts?OPR
- (iv) Whether the petition is not maintainable in the present form?OPR
- (v) Relief.

5           In evidence, the respondent-husband appeared as PW1 and on the other hand, the appellant-wife had examined herself as RW-1.

6           Learned Family Court, after taking into consideration the rival contentions and the evidence on record, allowed the divorce petition and dissolved the marriage by a decree of divorce on the ground of cruelty, as noticed above.

7           Learned counsel appearing for the appellant-wife has vehemently contended that the judgment and decree passed by learned

Family Court is based on conjectures and surmises. It is further argued that while passing the impugned judgment and decree, the learned Family Court did not take into consideration the past conduct of the respondent-husband, in respect of filing divorce petitions containing the same allegations and subsequently, withdrawing the same. It is further argued that the respondent-husband and his family members had turned the appellant-wife along with minor child out of matrimonial house and the respondent-husband did not pay even a single penny towards the maintenance of the appellant-wife and the minor child. It is also argued that the respondent-husband could not have been allowed to take benefit of his own wrongs. Still further, it is argued that the learned Family Court has failed to take into consideration that the father of the respondent-husband in connivance with the respondent, had taken a loan of Rs.12 lakhs from her to construct a house, but they did not return the same and rather, usurped the said amount. It is, thus, prayed that the impugned judgment and decree passed by the learned Family Court be set aside.

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

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

10          Learned Family Court on the basis of the evidence led by the parties has found that the earlier petition(s) filed by respondent-husband was not disposed of on merits and as such, the second petition filed by him could not be said to be hit by the principle of *res-judicata*. It

was further found that the ground of adultery pleaded in the petition was withdrawn by the respondent-husband and the said move by the respondent-husband was not resisted by the appellant-wife. It was further found that the trial in the FIR No.130/2007 had concluded in the acquittal of the respondent-husband and his family members vide judgment Ex.P1. On the basis of the observation made by the Court in the said judgment, it was noticed by the Family Court that the allegations levelled by the appellant-wife were found to be false and baseless. Similarly, it was also noticed that in FIR No.269/2008 lodged by the appellant-wife against the respondent-husband and his family members, they were acquitted by the ACJM, Ludhiana vide judgment dated 30.08.2016 (Ex.P2). It was further found that FIR No.39/2010 had been cancelled by the Police and that the protest petition filed by the appellant-wife against the said cancellation report was not accepted by the Court. It was also found that the appellant-wife also initiated criminal case(s) against her own parents, members of the bar besides lodging FIR No.115 of 2022 under Section 376 IPC against Satnam Singh and others. Accordingly, it was concluded by the learned Family Court as under:-

“15. On account of the aforementioned admissions of the respondent, it has emerged that she has launched prosecution against the petitioner as well as his family members on number of occasions leveling serious allegations. The petitioner along with his family has already undergone trial in two FIRs as discussed above. In accordance with the same, this Court has reached to the conclusion that the petitioner remained successful in proving that the way respondent has treated the petitioner as well as his family has caused reasonable apprehension in his mind that it will be harmful or injurious to live with

the respondent. The repeated conduct of respondent has certainly caused much mental strain and agony upon the petitioner which is nothing but mental cruelty. Apparently, the physical violence is not absolutely essential to constitute cruelty. It is sufficient, if the conduct and behaviour of spouse towards the other is of such a nature that it causes reasonable apprehension in the mind of the latter that it is not safe for him/her to continue with the marital tie; 2022(1) CCC 692 (Kerala) DB relied upon. In accordance with the evidence led before this Court, it is evident that both the parties to the petition are living separately since year 2007. Both of them have already levelled allegations and counter allegations against each other which fortifies that there is no further chance of rapprochement. Accordingly, it is concluded that the petitioner has made out a case of grant of decree for dissolution of his marriage on the ground of cruelty.”

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 law of the aforesaid judgments of the Hon’ble Supreme Court, it would come out that the acts and conduct of the appellant-wife amounts to cruelty inasmuch as she had not only got lodged multiple FIRs against the respondent-husband and his family members but had also lodged criminal cases against Advocates and other relatives/colleagues of the respondent-husband and even against her own parents.

13. In **Rani Narasimha Sastry vs. Rani Suneela Rani, 2019 (Suppl.) Civil Court Cases 201**, it has been held by the Hon’ble Supreme Court that if the wife initiates criminal proceedings against the husband and his family members and if ultimately they are acquitted of the charges framed against them, the same amounts to cruelty and divorce can very well be granted on the said ground.

14. Learned counsel for the appellant-wife could not show that the finding of acquittal recorded in the FIR(s) lodged by the appellant-wife has been altered or modified in an appeal or revision as the case may be. Thus, the acquittal of the respondent-husband and his family

members in the criminal cases registered by the appellant-wife, has rightly been held to be cruelty by the learned Family Court.

15. No other point urged.

16. In view of the above, we do not find any merit in the present appeal, the same is dismissed, accordingly.

17. Pending application(s), if any, stands disposed of accordingly.

**( SUDHIR SINGH )**  
**JUDGE**

**( SUKHVINDER KAUR )**  
**JUDGE**

**03.03.2025**

*jyoti3/himanshu*

*Whether speaking/reasoned:*

*Yes/No*

*Whether reportable:*

*Yes/No*