

2025:PHHC:015244-DB



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

FAO-616-2025 (O&M)

Date of decision: 31.01.2025

Kulwinder Singh alias Kulavinder SinghAppellant

Versus

Ninderpal KaurRespondent

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

Present: Mr. Shubham Saini, Advocate,
and Mr. Narender Sidhu, Advocate,
for the appellant-husband.

SUDHIR SINGH, J.

The present appeal has been filed against the judgment and decree dated 02.01.2025 passed by the learned Principal Judge, Family Court, Faridkot (for short 'the Family Court'), whereby the petition under Section 13 of the Hindu Marriage Act, 1955 (for brevity 'the Act') filed by the respondent-wife was allowed and marriage between the parties was dissolved on the ground of cruelty.

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 28.11.2013 as per Sikh rites and 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 articles 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 started harassing and humiliating the respondent-wife for bringing insufficient dowry. It was further asserted that the appellant-husband was a drunkard and used to take liquor, intoxicant pills etc. It was further pleaded that the appellant-husband had pressurized the respondent-wife to bring Rs.2 Lakh from her parents in order to start some business and when she expressed her inability to fulfil his demand, the appellant-husband became cruel and gave her beatings. He also started selling gold ornaments and other household articles in order to fulfil his lust of liquor and other intoxicants. On 12.01.2020, the appellant-husband gave the respondent-wife beatings 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 to no avail. Previously, a complaint was made before the police on 10.10.2017, but the same was withdrawn by the respondent-wife and thereafter, she filed a complaint under the Protection of Women from Domestic Violence Act, 2005 besides a petition under Section 125 Cr.P.C. However, the

same were also dismissed as withdrawn pursuant to a compromise effected between the parties. Later on, she was compelled to file another petition under Section 125 Cr.P.C. 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 of cruelty made in the petition. It was pleaded that from the very inception of marriage, the behaviour of respondent-wife towards the appellant-husband and his family members was rude and arrogant. It was further pleaded that after marriage, the respondent-wife, under the influence of her parental family, started pressurizing the appellant-husband to live separately from his parents. In order to save his marital life, the appellant-husband started residing along with the respondent-wife in a separate accommodation, but even thereafter, her behaviour did not change and she used to quarrel with the appellant-husband on petty matters. Ultimately, on 02.06.2020, the respondent-wife left her matrimonial home along with her father without the consent of the appellant-husband. Despite his efforts to reconcile the matter, she 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 dissolution of marriage on account of cruelty committed by respondent? OPP
2. Whether the petitioner is entitled to dissolution of marriage on the ground of desertion committed by respondent? OPP.
3. Whether the petition is maintainable in the present form? OPP
4. Whether the petition has been filed on false and frivolous grounds? OPR
5. Relief.

5. In evidence, the respondent-wife herself appeared as PW-1 and had also examined PW-2 Sarabjit Singh, PW-3 Geja Singh and PW-4 Krishan Singh. On the other hand, the appellant-husband failed to lead any evidence and vide order dated 09.12.2024, his evidence was closed by order.

6. The learned Family Court, after taking into consideration rival contentions of the parties 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, could specify the time and place of the alleged 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 yet further submitted that despite his attempts for reconciliation, the respondent-wife avoided living with respondent-husband. It is further argued that the learned Family Court had wrongly disbelieved the affidavit dated 25.10.2018, Mark-X, proved by the appellant-husband, wherein it was mentioned that the appellant-husband had given Rs.2,50,000/- to his father-in-law (i.e. father of respondent-wife) for domestic purpose. Thus, it is submitted that while passing the impugned judgment and decree, the learned trial Court, has totally ignored the aforesaid vital aspects of the matter.

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 the same. In fact, he himself did not appear into the witness box. Thus, the entire evidence led by the respondent-wife remained un rebutted. The Family Court further found that the appellant-husband had failed to prove on record the affidavit dated 25.10.2018 Mark-X, as the respondent-wife though admitted her photographs on the same, yet she denied her signatures thereon. It was further found that there was no love and affection left between the parties to save their relationship. It was found that the respondent-wife was dealt with cruelty at the hands of the appellant-husband, which became the reason for her living separately from him. Thus, the case set up by the appellant-wife 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 light of the aforesaid judgments 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.

The appellant-husband had failed to appear in the witness box to prove his case. In such circumstances, the evidence led by the respondent-wife remained unrebutted.

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 the 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 do 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**

**(SUKHVINDER KAUR)
JUDGE**

31.01.2025
Ajay Prasher

- *Whether speaking/reasoned:* Yes/No
- *Whether reportable:* Yes/No