

2025:PHHC:021984-DB



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

**FAO-90-2025 (O&M)  
Date of Decision: 15.02.2025**

**Maharam** ..... Appellant(s)  
**Vs.**  
**Poonam Kumari** ..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Jagjeet Beniwal, Advocate  
for the appellant.

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**LISA GILL, J.**

1. This appeal has been filed by appellant-husband (arrayed as respondent before learned Family Court) for setting aside judgment and decree dated 06.11.2024, passed by learned Principal Judge, Family Court, Gurugram, whereby petition under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955 (hereinafter referred to as the Act), filed by respondent-wife, seeking dissolution of her marriage with the appellant-husband, has been allowed.

2. Brief facts necessary for adjudication of the matter are that petitioner-wife (reference is made to the parties as arrayed before learned Family Court) filed petition under Section 13 of the Act, seeking dissolution of her marriage with present appellant-husband by way of decree of divorce. Marriage between parties was stated to have been solemnized on 19.05.2009 according to Hindu rites and ceremonies with no child being born from the wedlock. It is stated that sister of the wife was also married on the same day

with elder brother of present appellant. It is further pleaded that wife was only 14 years old at the time of marriage. She was sent to her matrimonial home on 11.05.2012, after *Gona* ceremony. Allegations of respondent and his family members quarreling with her right from the beginning is pleaded. It is pleaded that respondent was jobless and was not earning in 2012. Petitioner-wife was pressurized to bring money from her parental home. It is averred that respondent-husband got a job in June, 2012 with a company in village Neemdiwali, Bhiwani on a salary of Rs.4,500/- per month. However, he was not regular in performance of his duties or in respect of his duties in the agricultural fields, which led to arguments between respondent and his elder brother namely Bheem Singh. Allegations of ill-treatment of petitioner at the hands of respondent and her brother-in-law are levelled. It is further alleged that petitioner fell ill in June, 2012 and was diagnosed with kidney stone. Cost of her treatment was borne by her parents with the respondent not contributing thereto in any manner. It was pleaded that petitioner would often be sent to her matrimonial home at Bhiwani without any reason, leading to a situation where she would spend about 20 days at her parental home in a month and only 5 – 6 days with respondent. Petitioner further pleaded that she applied for JBT in July, 2012. Respondent did not accompany her for the counseling and she was accompanied by her brother-in-law Bheem Singh who even physically abused her on the way for having forgotten her passport size photographs. Various other allegations have been raised in respect to petitioner being forced to do all the household work and non-cooperation of in-laws with her. She claimed that expenses for JBT course etc. were borne by her parents. Respondent was thrown out of his job in October, 2015, which again led to further ill-treatment of petitioner. He

obtained a job at Neemrana, Rajasthan at a salary of Rs.9,000/- per month. Petitioner was taken to Neemrana by respondent to look for a job. In December, 2015 petitioner secured a job of helper with one M/s. T.S. Tech Pvt. Ltd., on a salary of Rs.8,000/- per month but she continued with the job for about three months only. In March, 2016 result of SSCGD was declared and petitioner was selected for taking written and physical test. Behaviour of respondent changed for the better when he came to know that she may get a Government job. However, when petitioner was not selected in the result declared in February, 2017, respondent again ill-treated the petitioner. She thereafter appeared for physical test at Delhi Police on 27.03.2017. She was not accompanied by anybody at that time and when she returned after the test, she was physically abused by respondent, who also raised a question-mark upon her character on having gone for the physical test on her own. Petitioner claimed that she was thrown out of her matrimonial home in 2017 at about 10:00 P.M. at night. She came to her parental home at Manoharpura. She was taken back to her matrimonial home by respondent, who apologized for his behavior. Still, petitioner, in order to save her marriage, came back to matrimonial home but she was again thrown out and was not allowed to enter the matrimonial home thereafter. She also suffered a miscarriage thereafter on account of ill-treatment by respondent. It is pleaded that petitioner then shifted her focus and prepared with total dedication for written examination for selection to Delhi Police. Examination was held in December, 2017 and she was selected in February, 2018. She joined Delhi Police as Constable in June, 2018. Petition seeking decree of divorce was thus filed on the basis of cruelty and desertion.

3. Reply was filed by respondent denying all allegations levelled in the petition while stating that he was ready and willing to cohabit with petitioner. Petition under Section 9 of the Act was filed (since dismissed on 07.10.2022). It is pleaded that on her selection as Constable with Delhi Police, petitioner no longer wished to live with him whereas he had provided the wherewithal, expenses for her education, coaching and a conducive environment in which she could participate in the selection process. It is pleaded that petitioner always wanted to live in a metropolitan city, she used filthy language with respondent and his family members, insulted him before his friends, never cooked meals, did not behave properly and displayed no interest in matrimonial obligations. Various Panchayats were convened to make the petitioner understand and live properly in the matrimonial home but to no avail, in fact petitioner's mother demanded money for sending her back to the matrimonial home. Dismissal of petition was sought.

4. Following issues were framed from pleadings of the parties:-

1. Whether the marriage between the parties is liable to be dissolved by passing a decree of divorce on the grounds mentioned in the petition? OPP
2. Whether the petitioner is stopped by her own act and conduct from filing the present petition? OPR
3. Relief.

5. Parties led evidence in support of their respective claims. Petitioner, in order to prove her case, stepped in the witness box as PW-1 and also examined Main Pal, her matrimonial uncle (Mausa) as PW2 and Ram Swaroop as PW3, apart from placing on record certain documents.

6. Respondent-husband testified as RW-1 besides examining Rohtash Singh and Abhay Singh as RW-2 and RW3, respectively and tendered documents.

7. Learned Family Court after considering the evidence on record, facts and circumstances, decided issue no.1 in favour of petitioner (wife) and allowed petition under Section 13 of the Act, on the ground of cruelty, thereby dissolving marriage solemnized between the parties. Decree of divorce was accordingly granted. Aggrieved therefrom, present appeal has been filed by appellant-husband.

8. Learned counsel for appellant vehemently argued that learned Family Court has proceeded on the basis of conjectures and surmises to allow the petition filed by petitioner-wife, without appreciating the evidence on record in correct perspective. Evidence on record, does not in any manner prove cruelty on the part of present appellant which would entitle the petitioner to a decree of divorce. Appellant at all times had afforded support and cooperation to the wife. He also provided necessary environment and wherewithal for her to be selected to the post of Constable with Delhi Police. Expenses for her education and coaching at various Centers were borne by him. It is only after joining Delhi Police that she herself left the company of appellant and has filed divorce petition in the month of February, 2020 on false and frivolous grounds. In fact respondent-wife would quarrel with him and his family members on small issues. She never prepared meals and was not respectful. She should not be permitted to take benefit of her own wrong. Petition in question was filed only to harass and humiliate the appellant. It was, thus, prayed that this appeal be allowed.

9. We heard learned counsel for petitioner at length and have also perused copies of the petition filed by petitioner-wife, written statement filed by the husband and evidence led by parties, copies of which were furnished in Court by learned counsel for appellant.

10. Marriage of petitioner with present appellant, while she was a minor, is a matter of record. Learned Family Court has referred to various instances of cruelty as detailed in the petition and affidavit Ex.PW1/A tendered by petitioner-wife. It is noted that not even a suggestion has been put to the petitioner in this regard in her cross-examination. It is pertinent to note that appellant in his written statement as well as affidavit Ex.RW1/A, specifically stated that petition had been filed only to harass and humiliate him and drag him in unnecessary litigation. Petitioner is stated to be a lady of autocratic thoughts and under the influence of her mother and other family members. It is stated that she would always quarrel with him and his family members on petty matters, did not cook meals for him and his family members and never showed any interest in matrimonial obligations besides using filthy language with the appellant and his family members. He further stated that petitioner insulted the respondent in presence of his relatives and friends and never behaved properly and would pick-up quarrels with him on unnecessary issues. He was pressurized to shift to Delhi and when he refused, she herself left the matrimonial home. Various Panchayats were convened but she refused to join his company.

11. Bare perusal of cross-examination of the appellant-husband, who deposed as RW1, decimates the stand taken above. Appellant while deposing as RW-1 stated in cross-examination that abusive language was never adopted by petitioner and neither is she under the influence of her

mother or other family members. He further admitted that behaviour of petitioner qua him was proper and that petitioner's mother at no point of time demanded any money from him, for sending back his wife. He further admitted that there is no specific date on which any Panchayat may have been convened. He further admitted that there is nothing on record to show that he had borne expenses for education or coaching of the wife. At one stage, he stated that the wife had never taken up any job after coming to her in-laws family whereas subsequently in the cross-examination he admitted that she had worked for about three months with M/s. T.S. Tech Pvt. Ltd. while she was with him. He further admitted that his wife had never at any stage taunted that he was unemployed while she was serving the Delhi Police. He admitted that he had never accompanied his wife to any examination centre for interview or physical examination and thereafter in the next breath said that he did go with her but no such fact is mentioned in his written statement. Cross-examination of appellant RW-1, by itself reveals the truth in the averments in the petition filed by petitioner, in respect to cruelty meted out to her. Such conduct on the part of husband, is in itself reflective of cruelty towards the wife.

12. At this juncture, it is pertinent to note that there is no specific definition of the term 'cruelty' in the Hindu Marriage Act, 1955. Cruelty may be physical, mental or emotional. Factum of cruelty has to be determined in any given factual situation, keeping in view the sensitivities and sensibilities of the parties involved, their environment etc.

13. It has been held in a plethora of cases that there is no strait jacket formula to define cruelty. Hon'ble Supreme Court in ***Praveen Mehta Vs. Inderjit Mehta, 2002(5) SCC 706***, held as under:-

“The legal conception of cruelty and the kind of degree of cruelty necessary to amount to a matrimonial offence has not been defined under the Act. Probably, the Legislature has advisedly refrained from making any attempt at giving a comprehensive definition of the expression that may cover all cases, realising the danger in making such attempt. The accepted legal meaning in England as also in India of this expression, which is rather difficult to define, had been 'conduct of such character as to have caused danger to life, limb or health (bodily or mental), or as to give rise to a reasonable apprehension of such danger' (*Russel v. Russel*, 1897 AC 395 and Mulla Hindu Law, 17th Edition, Volume II page 87). The provision in clause (ia) of Section 13(1), which was introduced by the Marriage Laws (Amendment) Act, 68 of 1976, simply states that "treated the petitioner with cruelty". The object, it would seem, was to give a definition exclusive or inclusive, which will amply meet every particular act or conduct and not fail in some circumstances. By the amendment the Legislature must, therefore, be understood to have left to the Courts to determine on the facts and circumstances of each case whether the conduct amounts to cruelty. This is just as well since actions of men are so diverse and infinite that it is almost impossible to expect a general definition which could be exhaustive and not fail in some cases. It seems permissible, therefore, to enter a caveat against any judicial attempt in that direction (Mulla Hindu Law, 17th Edition, Volume II, page 87).”

14. In *A. Jayachandra Vs. Aneel Kaur*, 2005(1) RCR (Civil) 309, it has been held by the Hon'ble Supreme Court that

"The expression "cruelty" has not been defined in the Act. Cruelty can be physical or mental. Cruelty which is a ground for dissolution of marriage may be defined as wilful and unjustifiable conduct of such character as to cause danger to life, limb or health, bodily or mental, or as to give rise to a

reasonable apprehension of such a danger. The question of mental cruelty has to be considered in the light of the norms of marital ties of the particular society to which the parties belong, their social values, status, environment in which they live. Cruelty, as noted above, includes mental cruelty, which falls within the purview of a matrimonial wrong. Cruelty need not be physical. If from the conduct of the spouse, same is established and/or an inference can be legitimately drawn that the treatment of the spouse is such that it causes an apprehension in the mind of the other spouse, about his or her mental welfare then this conduct amounts to cruelty. In a delicate human relationship like matrimony, one has to see the probabilities of the case. The concept proof beyond the shadow of doubt, is to be applied to criminal trials and not to civil matters and certainly not to matters of such delicate personal relationship as those of husband and wife. Therefore, one has to see what are the probabilities in a case and legal cruelty has to be found out, not merely as a matter of fact, but as the effect on the mind of the complainant spouse because of the acts or omissions of the other. Cruelty may be physical or corporeal or may be mental. In physical cruelty, there can be tangible and direct evidence, but in the case of mental cruelty there may not at the same time be direct evidence. In cases where there is no direct evidence, Courts are required to probe into the mental process and mental effect of incidents that are brought out in evidence. It is in this view that one has to consider the evidence in matrimonial disputes.

To constitute cruelty, the conduct complained of should be "grave and weighty" so as to come to the conclusion that the petitioner spouse cannot be reasonably expected to live with the other spouse. It must be something more serious than "ordinary wear and tear of married life". The conduct taking into consideration the circumstances and background has to be examined to reach the conclusion whether the conduct complained of amounts to cruelty in the matrimonial law.

Conduct has to be considered, as noted above, in the background of several factors such as social status of parties, their education, physical and mental conditions, customs and traditions. It is difficult to lay down a precise definition or to give exhaustive description of the circumstances, which would constitute cruelty. It must be of the type as to satisfy the conscience of the Court that the relationship between the parties had deteriorated to such extent due to the conduct of the other spouse that it would be impossible for them to live together without mental agony, torture or distress, to entitle the complaining spouse to secure divorce. Physical violence is not absolutely essential to constitute cruelty and a consistent course of conduct inflicting immeasurable mental agony and torture may well constitute cruelty within the meaning of Section 10 of the Act. Mental cruelty may consist of verbal abuses and insults by using filthy and abusive language leading to constant disturbance of mental peace of the other party.

The Court dealing with the petition for divorce on the ground of cruelty has to bear in mind that the problems before it are those of human beings and the psychological changes in a spouse's conduct have to be borne in mind before disposing of the petition for divorce. However, insignificant or trifling, such conduct may cause pain in the mind of another. But before the conduct can be called cruelty, it must touch a certain pitch of severity. It is for the Court to weigh the gravity. It has to be seen whether the conduct was such that no reasonable person would tolerate it. It has to be considered whether the complainant should be called upon to endure as a part of normal human life. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty. Cruelty in matrimonial life may be of unfounded variety, which can be subtle or brutal. It may be words, gestures or by mere silence, violent or non-violent."

15. Gainful reference can also be made to the judgment of the Hon'ble Supreme Court in *Samar Ghosh Vs. Jaya Ghosh, 2007(4) SCC 511*. In the instant appeal, conduct of appellant-husband, which is duly proved on record, indicates his cruel behaviour, which doubtlessly entitles the wife for a decree of divorce. Argument raised by learned counsel for appellant that there is no medical or any other evidence on record to show that she was beaten or physically abused, therefore, such allegations are not justified, is devoid of any merit, hence rejected. His conduct itself is proved to be an act of cruelty, giving cause of action to the respondent-wife to seek a decree of dissolution of marriage. Admittedly petitioner-wife was married at the age of 14 years (when she was a minor) on account of some customs and was brought to the matrimonial home at the age of 17 years. Appellant-husband tried to demonstrate that petitioner-wife has changed after being selected with the Delhi Police, however, ground reality which emerges from the evidence on record is contrary thereto. Petitioner-wife on the touchstone of preponderance of probabilities successfully proved that married as a minor she suffered atrocities at the matrimonial home and was repeatedly humiliated. By virtue of hard work and sheer perseverance she was able to achieve self reliance. Conduct and behaviour of appellant does not indicate even a basic affection and respect for the spouse which is essential in marital relationship. To the contrary cruelty on the part of appellant by way of his conduct and behaviour is succinctly proved on record.

17. Keeping in view the evidence on record it is apparent that appellant-respondent has meted out cruelty to the petitioner-wife, which entitles her to the decree of divorce, which has been correctly afforded to her by learned Family Court, Gurugram.

18. Learned counsel for the appellant is unable to point out any illegality, infirmity or irregularity in the impugned judgment and decree dated 06.11.2024, passed by learned Principal Judge, Family Court, Gurugram, which calls for any interference by this Court in this appeal.

19. No other argument has been raised.

20. Appeal is accordingly dismissed with no order as to cost. Judgment and decree dated 06.11.2024, passed by learned Principal Judge, Family Court, Gurugram, is accordingly upheld.

**(LISA GILL)**  
**JUDGE**

**(ALOK JAIN)**  
**JUDGE**

**15.02.2025**

Sunil

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