

2025.PHHC.033562-DB



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

FAO-1074-2025 (O&M)

Date of decision: 24.02.2025

REENA

.....Appellant

Versus

KARAMVEER

.....Respondent

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

Present:- Mr. Aman Pal, Advocate for the appellant.

SUDHIR SINGH, J.

Challenge in the present appeal is to the judgment and decree dated 17.01.2025 passed by learned Additional Principal Judge, Family Court, Camp Court, Indri (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 22.02.2014, according to Hindu rites, and out of the said wedlock, two male children were born on 16.11.2014 and 24.07.2017 respectively. It was further asserted that from the very beginning of the marriage, the behaviour of the

appellant-wife was not cordial; she was a very quarrelsome lady and used to pick up the issues without any rhyme and reasons. She never served the old parents other family members of the respondent-husband and had always insulted them. She told the respondent-husband that she was in relation with another boy and did not want to reside with him. She, with the intention to meet her boyfriend, used to leave the matrimonial home in a secret manner. After the birth of the first child, the appellant-wife and her parents had quarrelled with the respondent-husband and his family members. They took the appellant-wife and the minor child to her parental home and had demanded that the respondent-husband should live separately from his parents. Because of the acts and conduct of the appellant-wife, the respondent-husband usually remained mentally and physically ill. He got himself examined from the Karnal Nursing Home, Indri and thereafter, got treatment from Dr. Ram Manohar Lohia Hospital, New Delhi and Govind Ballabh Pant Hospital, New Delhi. During examination, the Doctor asked him whether he used to take intoxicants and at that time the respondent-husband realized that the appellant-wife had mixed some intoxicant in his food due to which his health went down day by day. In February, 2016, the appellant-wife left the matrimonial home and started residing at her parental home. On the demand of the appellant-wife, the respondent-husband started residing separately from his family members to save his matrimonial life. However, in 2017, after the birth of the child, she left the matrimonial home and again started residing at her parental home. He was not allowed to meet his ailing child when the child was admitted in the hospital. The

respondent-husband filed a petition under Section 9 of the Act in July, 2018 and as a counterblast thereto the appellant-wife had moved a false application to the SHO, Indri levelling false and bogus allegations. In the said application an amicable settlement was arrived at between the parties. She again filed an application to the Women Police Station, Karnal, but during investigation, all the allegations were found to be vague; her application was sent to the Mediation Centre and that finally, the matter was disposed of. Thereafter, the appellant-wife had filed a application under the Protection of Women from Domestic Violence Act, 2005. On 16.09.2018, the attempt of the appellant-wife and her brother to snatch the elder son from the custody of the respondent-husband remained unsuccessful. In an application moved by the father of the respondent-husband to the police, a compromise was effected wherein the appellant-wife clearly stated that she did not want to live in the company of the respondent-husband. Later on, the respondent-husband had withdrawn the petition under Section 9 of the Act. It was yet further alleged that she had been residing separately since 15.04.2018 at her parental home. 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 children. It was, however, alleged that the mother of the respondent-husband used to taunt her saying that she belonged to very poor family and even the beggars were better than her. It was further 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 and humiliated by them. Even during her pregnancy, she was given beatings. It was further alleged that the respondent-husband was a Government employee, but he did not bother to take care of and maintain the appellant-wife and the minor children. The respondent-husband had misused the Istridhan by converting it to his own use. The respondent-husband used to remain under the influence of liquor and on the instigation of his parents and brother, he would give her merciless beatings. It was further alleged that on 16.03.2018, the appellant-wife along with the minor child was turned out of the matrimonial home. It was further alleged that before the police, the matter was compromised and respondent-husband and his family members had agreed to rehabilitate the appellant-wife but they did not honour their undertaking. The allegations regarding her telling the respondent-husband that she was in relationship with some other boy were denied. It was further alleged that in the petition under Section 9 of the Act filed by the respondent-husband, the appellant-wife appeared and had made a statement that she was ready to live in his company, but instead of taking him back, the said petition had been withdrawn. The allegations regarding the cruelty have been denied.

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

- “1. Whether petitioner is entitled to claim decree of divorce by dissolution of marriage

on the grounds as alleged in the petition?
OPP

2. Whether the petition is not legally maintainable in the present form? OPR
3. Whether the petitioner is estopped by his own act and conduct from filing and maintaining the present petition?OPR
4. Whether the petitioner has not come to the Court with clean hands and has suppressed true and material facts from the Court?OPR
5. Relief.”

5. In evidence, the respondent-husband appeared as PW-1 and had also examined PW2-Neelam; PW3-Mohit Kumar, Reader, DDPO, Karnal and PW4-Renu Bala, Head Constable, P.S. Indri, besides tendering documents Ex.P1; Ex.PW3/A to Ex.PW3/D and Ex.PW4/A and Ex.PW4/B. On the other hand, the appellant-wife examined herself as RW1 besides examining RW2-Rajesh Kumar; RW3-Mahender Pal (wrongly mentioned as PW3) and RW4-Satpal, and had also tendered documents Ex.R1 to Ex.R10; Ex.RX and Ex.RW3/B. In rebuttal evidence, the respondent-husband tendered documents Ex. PA to Ex.PC and Mark-A to Mark-M.

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 further argued that she had been forcibly thrown out of the matrimonial home and the entire *Istridhan* had been misappropriated by the respondent-husband for his own use. It is also argued that the acts and conduct of the respondent-husband had also deprived the minor son of the parties of the motherly love and affection as the said child had been forcibly retained by the respondent-husband, while throwing the appellant-wife and another child out of the matrimonial home. It is also argued that in the petition under Section 9 of the Act filed by the respondent-husband, the appellant-wife had appeared and made the statement that she was ready to live in his company but the respondent-husband, instead rehabilitating her in the matrimonial home, had withdrawn the said petition. It is also argued that in the complaints filed by the appellant-wife before the police, the respondent-husband had undertaken to rehabilitate the appellant-wife 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. Still further, it is argued that the respondent-husband had failed to prove the allegations regarding the infidelity on the part of the appellant-wife and so were the allegations regarding her having mixed the intoxicating substance in the food of the respondent-husband. 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 the respondent-husband, while appearing in the Court as PW1, deposed about the telephonic conversation of the appellant-wife with a boy. It was also found that on the basis of the testimony of PW1 (respondent-husband) and PW2-Neelam, it was proved on record that despite Panchayats having been convened, the appellant-wife had refused to join the company of the respondent-husband. The learned Family Court has also found that while appearing as RW1, the appellant-wife in her cross-examination deposed that she remained in the matrimonial home from 2014 to 2018, but during the said period, she did not file any complaint against her husband qua the demand of dowry. The testimony of RW2-Rajesh Kumar and RW3-Mahender Pal was also found to have not supported the stand of the appellant-wife. It was also found that though in an earlier complaint filed by the appellant-wife with the police, a compromise (Ex.P1) was arrived at, yet she had again moved a complaint on 08.02.2019. In the said complaint, the Protection Officer had reported that the respondent-husband was not residing with her. Thus, it was found that the appellant-wife had not been successful in establishing the allegations qua the harassment, taunting and beatings for the demand of dowry. It was also found that in her cross-examination the appellant-wife deposed that in her

statement given in the Women Cell, she had levelled the allegations regarding illicit relations of her husband with the wife of her Devar, but no evidence to that effect had been adduced. Apart from that, the learned Family Court has found that in a complaint Ex.PW3/A filed by the appellant-wife against the respondent-husband and his brother, proceedings under Sections 107/150 Cr.P.C. were initiated, but later on the said proceedings were ordered to be filed. Even the complaint Ex.PW4/A, which was given by the appellant-wife regarding the beatings given to her and theft of child, was also ordered to be filed. 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-husband.

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 a dowry; theft of child and mental harassment certainly amounts to cruelty. It is also observed that the appellant-wife had levelled the allegations against the very character of the respondent-husband by alleging that he had illicit relations with the wife of her Devar and that her Devar was also having an evil eye upon her, 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 the witnesses examined by her.

13. We find that the findings recorded by the learned Family Court, which 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. 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.

17. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[SUKHVINDER KAUR]
JUDGE

24.02.2025

himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No