

2025:PHHC:022905-DE



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

**FAO-4878-2024 (O&M)**

**Date of Decision: 03.02.2025**

**Mandeep Kaur**

...Appellant

Versus

**Jaswant Singh**

...Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH  
HON'BLE MR. JUSTICE SUMEET GOEL**

Present:- Mr. Vikas Gupta, Advocate  
for the appellant.

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**SUDHIR SINGH, J.**

Challenge in the present appeal is to the judgment and decree dated 19.07.2024 passed by the Principal Judge, Family Court, Tarn Taran (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 grounds of cruelty and desertion.

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

11.02.2012 as per Sikh rites. Out of this wedlock, one male child was born. It was averred by the respondent-husband that from the very inception of marriage, the behaviour of the appellant-wife towards him and his family members had been harsh, stubborn and cruel and she used to quarrel with him on petty matters. The respondent-husband further pleaded that the appellant-wife refused to perform the household chores. She started uttering derogatory words against the respondent-husband and his family members at the instigation of her relations. It was further pleaded that the appellant-wife was a Government Lecturer (Chemistry) at SGAD Senior Secondary School, Tarn Taran and used to reside at her parental house. She joined the matrimonial home only for weekend days. She used to pressurize the respondent-husband to reside separately from his parents or to live as a *Ghar Jawai* at her parental house at Tarn Taran. Even, upon insistence of the appellant-wife, the respondent-husband had to leave his job at Gurugram. Thereafter, he started working as a lecturer in Lovely University, Jalandhar. It was further pleaded that on 03.03.2013, the appellant-wife left her matrimonial home without the consent of the respondent-husband by locking the main door of the house and took along all her belongings and gold items.

She told the respondent-husband that she would not live in her matrimonial house in the company his parents. She further told the respondent-husband that in case, he wanted to join her company then he had to reside at Tarn Taran. It was further pleaded that in the month of October, 2013, the appellant-wife filed a false application to the police against the respondent-husband levelling false allegations of beating and demand of dowry. However, after a thorough inquiry conducted by the police, all the allegations were found false. It was further pleaded that due to the mental harassment caused by the appellant-wife, father of the respondent-husband died on 01.07.2014. The respondent-husband brought her back to the matrimonial home so many times after a great persuasion. It was further stated in the petition that on 14.01.2016, the appellant-wife, her mother-Kuldeep Kaur, brother Amandeep Singh, uncle Lakhbir Singh, aunt (*chichi*) Kashmir Kaur along with 5/6 unidentified persons forcibly entered the house of the respondent-husband and inflicted injuries on the person of the respondent-husband and his family members. They had also damaged the household articles of the respondent-husband and forcibly taken away the custody of minor child, namely, Ishnoor Singh. There had been no cohabitation between the parties since 14.01.2016. It

was further pleaded that the appellant-wife had got registered an FIR against the respondent-husband at Police Station, City Tarn Taran, District Tarn Taran. However, vide judgment dated 09.04.2021 passed by the Chief Judicial Magistrate, Tarn Taran, the respondent-husband has been acquitted of the charges framed against him.

3. Upon notice, the appellant-wife entered appearance and filed her written statement denying all the allegations levelled in the petition. It was further pleaded that the respondent-husband and his family members treated the appellant-wife with cruelty. It was asserted by the appellant-wife that after the marriage, the respondent-husband and his family members were not happy with the appellant-wife due to insufficient dowry and that she had been harassed, humiliated and pressurized to bring more dowry. It was further pleaded that the respondent-husband was having extra marital affairs with one girl, namely, Sukhpreet Kaur and he had never cared about the appellant-wife and her minor son. It was further pleaded that after being subjected to constant cruelty, the appellant-wife approached the police authorities many times, but the respondent-husband and his family members managed to escape being influential persons. She denied having pressurized

the respondent-husband to reside separately from his parents. Accordingly, a prayer was made for dismissal of the petition.

4. On the basis of the pleadings of the parties, the following issues were framed by the Family Court:-

1. Whether the petitioner is entitled to decree of divorce on the ground of cruelty? OPP
2. Whether the petitioner is entitled to decree of divorce on the ground of desertion? OPP
3. Whether the present petition is not maintainable? OPR
4. Relief.

5. In evidence, the respondent-husband himself appeared as PW-1 and examined PW-2 Harjit Kaur and PW-3 Pargat Singh, besides tendering some documentary evidence. On the other hand, the appellant-wife examined herself as RW-1 and had also examined Ranjit Singh as RW-2.

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-husband, as noticed above.

7. Learned counsel for the appellant-wife has vehemently contended that the appellant-wife had proved on record that the respondent-husband and his family members had treated her with cruelty. Learned counsel has further submitted that the respondent-husband could not prove, by leading any cogent and convincing

evidence that it is appellant-wife, who had treated the respondent-husband with cruelty and rather, she was subjected to cruelty at the hands of the respondent-husband and was forced to leave her matrimonial home. It is further argued that merely because the respondent-husband has been acquitted in the criminal case registered by the appellant-wife for the matrimonial offences, is no ground to hold that he had been treated with cruelty, particularly, when the standard of proof in a criminal case stands on a different footing than the civil case. Thus, a prayer has been made for setting aside of the impugned judgment and decree passed by the learned Family Court.

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 issue that requires 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 appellant-wife had made bald allegations against the respondent-husband that he was having extra marital relations with other girl/woman and she could not

produce any evidence in that regard, which had caused great mental cruelty to the respondent-husband. It was further found that the appellant-wife had filed false complaints against the respondent-husband, which also amounted to mental cruelty to the husband. The learned Family Court has yet further found that the respondent-husband had been able to prove the cruelty and desertion on the part of the appellant-wife.

11. 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”.

Still further in **Malathi Ravi v. B.V. Ravi**, (2014) 7 SCC 640, it has been held by the Hon'ble Supreme Court that desertion in its essence means the intentional permanent forsaking and abandonment of one spouse by the other without the consent of the other spouse. It was held as under:-

“ 20. In the said Savitri Pandey's case (2002) 2 SCC 73, reference was also made to Lachman Utamchand Kirpalani case (AIR 1964 SC 40) wherein it has been held that desertion in its essence means the intentional permanent forsaking and abandonment of one spouse by the other without that other's consent and without reasonable cause. For the offence of desertion so far as separation, and (2) the intention to bring cohabitation permanently to an end (animus deserandi). Similarly two elements are essential so far as the deserted spouse is concerned.: (1) the absence of consent, and (2) absence of conduct giving reasonable cause to the spouse leaving the matrimonial home to form the necessary intention aforesaid. For holding desertion as proved the inference may be drawn from certain facts which may not in another case be capable of leading to the same inference; that is to say the facts have to be viewed as to the purpose which is revealed by those acts or by conduct and expression of intention, both anterior and subsequent to the actual acts of separation.”

12. It is settled law that where the wife launches criminal prosecution against the husband and his family members for the various offences, including the matrimonial offences, and ultimately, the husband is

acquitted by the Court finding that the allegations levelled were false and baseless, the same amounts to cruelty.

In **Narsimha Sastry Vs. Suneela Rani, (2020)18 SCC 247**, the Hon'ble Supreme Court has held that once the husband is acquitted in the criminal prosecution initiated by the wife, the same amounts to cruelty and a divorce can be granted by the Court on the said ground itself. It was held as under:-

"13. In the present case, the prosecution is launched by the respondent against the appellant under Section 498-A of IPC making serious allegations in which the appellant had to undergo trial which ultimately resulted in his acquittal. In the prosecution under Section 498-A of IPC not only acquittal has been recorded but observations have been made that allegations of serious nature are levelled against each other. The case set up by the appellant seeking decree of divorce on the ground of cruelty has been established. With regard to proceeding initiated by respondent under Section 498-A of IPC, the High Court made following observation in paragraph 15:

"15.....Merely because the respondent has sought for maintenance or has filed a complaint against the petitioner for the offence punishable under Section 498-A of IPC, they cannot be said to be valid grounds for holding that such a recourse adopted by the respondent amounts to cruelty."

The above observation of the High Court cannot be approved. It is true that it is open for anyone to file complaint or lodge prosecution for redressal for his or her grievances and lodge a first information report for an offence also and mere lodging of complaint or FIR cannot ipso facto be treated as cruelty. But when a person undergoes a trial in which he is

acquitted of the allegation of offence under Section 498-A of IPC, levelled by the wife against the husband, it cannot be accepted that no cruelty has meted out on the husband. As per pleadings before us, after parties having been married on 14.08.2005, they lived together only 18 months and thereafter they are separately living for more than a decade now.”

13. If the findings recorded by the learned Family Court are examined in the light of the above said judgments of the Hon’ble Supreme Court, it would come out that the learned Family Court has rightly found that the appellant-wife had treated the respondent-husband with cruelty. As found by the learned Family Court, the appellant-wife did not examine any close family member of hers to corroborate her version, especially when it was the version of the appellant-wife that she had been living at her parental house along with her mother. Still further, it is not disputed that in the criminal case got registered by the appellant-wife for the matrimonial offences, the respondent-husband has since been acquitted and it could not be shown that the finding of acquittal has been altered or modified in an appeal or revision filed by the appellant-wife.

14. We find that the findings recorded by the learned Family Court do not suffer from any illegality or perversity, warranting any interference by this Court.

15. No other point has been urged.

16. 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**

**[ SUMEET GOEL ]  
JUDGE**

03.02.2025

Ajay Prasher

*Whether speaking/reasoned* : Yes/No

*Whether reportable* : Yes/No