

2025.PHHC:011844-DB



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

**FAO-415-2025 (O&M)**

**Date of decision: 24.01.2025**

NAMITA ...Appellant

Versus

ASHISH PANNU ...Respondent

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

Present:- Mr. Shekhar Thakur, Advocate for  
Mr. Abhimanyu Singh, Advocate for appellant.

**SUDHIR SINGH, J.**

**CM-1331-CII-2025**

For the reasons given in application, same is allowed and delay of 55 days in filing the appeal is condoned, subject to all just exceptions.

**FAO-415-2025**

Challenge in the present appeal is to the judgment and decree dated 25.09.2024 passed by the learned Principal Judge, Family Court, Bhiwani (for short the 'Family Court'), whereby the petition under Section 13(1)(A) 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 grounds of cruelty and desertion.

2. The aforesaid petition had been filed by the respondent-husband, *inter alia*, asserting therein that his marriage with the appellant-wife was solemnized on 10.03.2016, according to Hindu rites, but no child was born out of the said wedlock. It was further alleged that the appellant-wife was a lady of ill-temperament and adamant nature and that she used to pick up quarrels with the respondent-husband and his family members on trivial issues. When the appellant-wife joined her services in L.N. Birla Naturopathy and Yoga Kendra at Pilani, the respondent-husband raised objections to that whereupon, the appellant-wife started abusing him and his family members and ultimately, left the matrimonial home on 30.09.2017. Efforts were made to bring her back, but to no avail. Lastly on 26.03.2018, the respondent-husband and his family members visited the parental home of the appellant-wife to bring her back, but she and her family members had manhandled his parents. The respondent-husband had filed a petition under Section 9 of the Act and as a counterblast to the said petition, the appellant-wife had moved a false complaint before the Women Cell, Bhiwani. The Police had called the appellant and his family members, where the appellant-wife had abused, slapped, kicked and further pulled the hair of his mother in the presence of their relatives. It was further alleged that the appellant-wife and her cousin Ved Singh also gave merciless beating to the respondent-husband and his parents. Subsequently, thereafter, the appellant-wife got registered a false criminal case under Sections 354, 406, 498-A and 506 IPC read with Section 34 IPC against the respondent-husband and his family members. In the said case, the

respondent-husband and his father were arrested. Later on, the petition under Section 9 of the Act, filed by the respondent-husband, was withdrawn by him. The appellant-wife had also filed a petition under Section 125 Cr.P.C. Terming the aforesaid acts on the part of the appellant-wife as cruelty and desertion, a decree of divorce was sought for.

3. Upon notice, the appellant-wife entered appearance and filed her written statement, admitting the factum of marriage. It was alleged that she had been harassed and tortured for demands of dowry. It was further alleged by her that the respondent-husband and his family members had pressurized her to bring cash amount of Rs.50 lakh for the purpose of construction of a villa at Kutch in the State of Gujrat and that in July, 2016, her father gave a Grand i10 car to the respondent-husband. It was further alleged that the father of the respondent-husband was a man of bad character and that he had also snapped some photographs and got prepared a clip/film of the appellant-wife while she was taking bath. It was further alleged that she along with her father, had visited Kutch (Gujarat), where the respondent-husband was serving, but they were ousted by him and it seemed that he was having extra marital relations and he wanted to get rid of the appellant-wife.

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

- “1. Whether the petitioner is entitled to a decree for dissolution of his marriage with respondent, as prayed for, on the grounds as alleged in the petition? OPP

2. Whether the present petition is not maintainable? OPR
  3. Whether the petitioner has no cause of action to file the present petition ?OPR
  4. Relief.”
5. In evidence, the respondent-husband appeared as PW1; PW2-Krishna; PW3- Ravinder son of Mahabir Singh (his friend) and PW4-Ravinder son of Ramehar (his relative). On the other hand, the appellant-wife examined herself as RW1.
6. The learned Family Court, after taking into consideration the rival contentions and findings on record, decreed the petition filed by the respondent-husband, as noticed above.
7. Learned counsel for the appellant-wife has vehemently contended that while passing the impugned judgment and decree, the learned Family Court, did not appreciate the evidence on record. It is further argued that it was due to the atrocious acts of the respondent-husband and his family members that the appellant-wife had to lodge an FIR under Sections 354, 406, 498-A and 506 read with Section 34 IPC against the respondent-husband and his family members and that the respondent-husband had withdrawn the petition under Section 9 of the Act, under the belief that the appellant-wife would also withdraw the aforesaid FIR. It is further argued that merely because the respondent-husband was acquitted in the aforesaid FIR is no ground to hold that the appellant-wife had treated him with cruelty. It is further argued that the findings recorded by the learned Family Court, are based on conjectures and surmises and the same are liable to be set aside by this Court.

8. We have heard learned counsel for the appellant-wife 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 learned Family Court requires any interference.

10. The learned Family Court has found that the allegations levelled by the appellant-wife regarding demands of dowry could not be substantiated by her and rather, the FIR lodged by her for various offences, including the offence under Section 498-A IPC, had culminated into the acquittal of the respondent-husband vide judgment Ex.P1, whereas the proceedings against another accused (father of the respondent-husband) were dropped due to his death. It was further found that the respondent-husband was able to prove through the testimony of his witnesses, the averments made in the divorce petition. It was, thus, found that levelling of false allegations by the appellant-wife, including the character assassination of the father of the respondent-husband and acquittal of the respondent in the criminal case lodged by the appellant-wife, amounted to 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 the aforesaid judgments of the Hon'ble Apex Court, it would come out that the respondent-husband was able to prove through cogent and convincing evidence that the appellant-wife had treated him with cruelty. Learned counsel for the appellant-wife could not show that the finding of acquittal recorded in the FIR lodged by the appellant-wife, has been altered or modified in an appeal or revision. Thus, the fact remains that the only defence of the appellant-wife before the learned Family Court that she had been tortured or

humiliated on the ground of demand of dowry, did not find any favour with the learned Family Court and rather, as noticed above, the FIR lodged by her, culminated in the acquittal of the respondent-husband.

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. The instant case is squarely covered by the said judgment of the Hon'ble Supreme Court.

13. In view of the above, we do not find any illegality or perversity in the impugned judgment and decree passed by the learned Family Court. It could not be pointed out that any evidence has been misread or not taken into consideration.

14. Finding no merit in the present appeal, the same is hereby dismissed.

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

**[ SUDHIR SINGH ]**  
**JUDGE**

**[SUKHVINDER KAUR]**  
**JUDGE**

24.01.2025  
Himanshu

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No