

2025.PHHC-033299-DB

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

FAO-1383-2025 (O&M)

Date of decision: 06.03.2025

REETUAppellant

Versus

PARVEENRespondent

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

Present:- Mr. Rahul Makkar, Advocate for the appellant.

SUDHIR SINGH, J.

Challenge in the present appeal is to the judgment and decree dated 13.12.2024 passed by learned Principal Judge, Family Court, Jhajjar, Camp Court, Bahadurgarh (for short the 'Family Court'), whereby the petition under Section 13(1)(ia) 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 and the appellant-wife was held entitled to a permanent alimony of Rs.2 Lakh.

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 29.02.2017, according to Hindu rites and out of the said wedlock, one son was born, who was in the custody of the appellant-wife. It was further asserted that the appellant-wife was an arrogant lady and non co-operative towards the respondent-husband. She would utter filthy and un-parliamentary

language towards him in front of the neighbours and relatives, which had caused him mental cruelty. The appellant-wife had ousted the respondent-husband from his house just after 10 days of the marriage. She had always misbehaved with him but he kept on tolerating her behaviour in order to save his marriage. She had also issued threats to commit suicide and implicate the respondent-husband and his family members in false criminal cases. In August, 2017, the appellant-wife left the matrimonial home without the consent of the respondent-husband and his family members. Thereafter, the respondent-husband along with respectables visited the parental house of the appellant-wife and after persuasion, she came back to matrimonial home, but her behaviour did not change. She refused to feed the infant saying that it might adversely affect her figure. On 17.04.2018, the appellant-wife along with the minor child left the matrimonial home without the consent of the respondent-husband. Again after persuasion, she was brought back, but her behaviour did not change. She even did not allow the respondent-husband to establish physical relations with her. She used to address the respondent-husband as “haramjada”, “pagal”, “kala”, “badsurat” and “namard”. In February, 2019, a Panchayat was convened for reconciliation, but the appellant-wife issued threats to implicate him and his family members in a false case and had refused to join his company. On 05.05.2019, the appellant-wife asked him to give her a share in his property, failing which she had threatened to lodge an FIR against him. Terming the aforesaid acts on the part 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 child. It was alleged that the respondent-husband used to abuse and beat the appellant-wife mercilessly, forcing her to leave the matrimonial home and that her in-laws used to instigate the respondent-husband against her. Upon the death of the grandfather of the appellant-wife, the respondent-husband refused to go to her parental house nor did he visit her parental home to bring her back. In the month of May, 2018, she had been beaten by him and none of the family members of the respondent-husband came forward to rescue her and she had been rescued by the neighbours. After the birth of the child, the respondent-husband did not take care of the appellant-wife. She started remaining ill and her health had deteriorated. Her sister-in-law dragged the appellant-wife by pulling her hair. The respondent-husband always threatened to take divorce from her, in case, she had revealed about his misconduct to her parents. On 12.02.2019, her sister-in-law revealed about the love affair of the respondent-husband with some girl working in his store for the last five years. The appellant-wife asked the respondent-husband to end his relationship with aforesaid girl, but he did not pay any heed to that, which had resulted into a discord. She had been pressurized by the respondent-husband to bring money from her parents. Despite his assurance, the respondent-husband did not sever his ties with the aforesaid girl. On 17.04.2019, the respondent-husband in collusion with his family members asked the appellant-wife to visit her parental home along with the minor child with an assurance that he would bring her back

after 15-20 days. After 20 days, the parents of the appellant-wife tried to contact the respondent-husband and his family members telephonically, but they did not respond and always disconnected the phone calls. On 16.05.2019, she received a phone call from the respondent-husband, who told her that he had filed a divorce petition against her. The parents of the appellant-wife took her to the matrimonial home, but the family members of the respondent-husband refused to allow her to reside there. In June, 2019, she received notice of the divorce petition. On 21.06.2019, she sent a legal notice to the respondent-husband calling upon him to take her back to the matrimonial home, which was not replied to. Having been compelled, she filed a complaint to Dwarka Police on 26.07.2019, where efforts were made for re-union of the parties. On 11.08.2019, she visited her matrimonial home, but her sister-in-law did not open the door saying that her parents had already disowned the respondent-husband. With the intervention of the neighbours, she had been allowed to enter the matrimonial home, but on the very next day i.e., 12.08.2019, the respondent-husband and his family members again started abusing, quarrelling and beating her and thereafter, they turned her out of the matrimonial home.

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

- “1. Whether the marriage of the parties is liable to be dissolved on the grounds in the petition? OPP

2. Whether this petition is not maintainable in the present form? OPR

3. Relief.”

5. In evidence, the respondent-husband appeared as PW-1 and had also examined PW2- Jitender, besides tendering documents Ex.P1 to P5 and Mark-A to Mark-E. On the other hand, the appellant-wife examined herself as RW1 and had also examined RW2-Rajwanti.

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 treated the appellant-wife with cruelty but the said fact has totally been ignored by the learned Family Court. It is further argued that the respondent-husband could not be allowed to take benefit of his own wrongs. It is further argued that the appellant-wife in her written statement had clearly stated that she was still willing to reside in the company of the respondent-husband. It is, thus, contended that when the appellant-wife had clearly expressed her intention to reside in the company of the respondent-husband, there was no occasion for the learned Family Court to return a finding that the marriage had irretrievably broken. It is further argued that the respondent-husband could not prove the cruelty on the part of the appellant-wife by leading cogent and convincing evidence. It is, thus, prayed that the impugned judgment and decree passed by the learned Family Court, be set aside.

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. It was found by the learned Family Court that PW2-Jitender had corroborated the version of the respondent-husband to the effect that the appellant-wife used to quarrel with him in the street i.e., within the public domain. It was further found that the said witness cannot be said to be tutored one. It was further noticed by the learned Family Court that the appellant-wife, while appearing as RW-1 had conceded that she had not been happy with her marriage with the respondent-husband. The learned Family Court, has further noticed the testimony of RW-2 Rajwanti (mother of the appellant-wife), who had deposed that had she seen the respondent-husband prior to the finalization of the match, she would have definitely refused for his match for her daughter. She further deposed that the respondent-husband was of dark complexion, fatty and like an ass. It was further found that the appellant-wife never tried to reconcile the dispute or rejoin the company of the respondent-husband and, thus, her stand that she was ready and willing to join the company of the respondent-husband was found to be a flimsy plea. It was further found that though the appellant-wife had levelled the allegations against the character of the respondent-husband, yet she could not lead any evidence to corroborate the same. In the criminal case bearing FIR No.475 dated 29.05.2020, the Investigating Officer had submitted

final report Ex.P3, wherein the allegations were found to be false. Thus, the learned Family Court has found that levelling of grave allegation by the appellant-wife, after the separation of the parties, amounted to mental cruelty to the respondent-husband. It was yet further observed that the averments of the appellant-wife regarding her having visited the matrimonial home on 11.08.2019 and then having been thrown out of it on 12.08.2019, were falsified by her testimony in the cross-examination, wherein she deposed that she had been residing in her parental home continuously since April, 2018. Still further, it was concluded that as the party had been living separately since 17.04.2018 and they had been into litigation since 2019, there was no chance of the parties living together. The marriage of the parties had become irreparable and unworkable.

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 reunion 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 facts of the present case and 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 the false and baseless allegations, were rightly held to be cruelty against the respondent-husband. On the basis of document Ex.P3, it was found that in the criminal case got registered by the appellant-wife, no substance was found in the allegations levelled by her against the respondent-husband and his family members. It may further be observed that it was the case of the appellant-wife that her husband had been having extramarital relations with another girl for years together, but she did not lead any evidence in that regard. In the instant case, the appellant-wife having failed to substantiate the allegations of character castration of the respondent-husband, the same amounts to mental cruelty to him. Concededly, the parties have been living separately since April, 2018. The divorce petition was filed on 08.05.2019, but

decree of divorce was granted on 13.12.2024. There is nothing on record to indicate that the after filing of the divorce by the respondent-husband, the appellant-wife had made any effort to either rejoin the company of the respondent-husband or to file a petition under Section 9 of the Act. The plea of the appellant-wife that she went to her matrimonial home on 11.08.2019 and was turned out of it on 12.08.2019 did not find favour with the learned Family Court for the reason that she had contradicted the same in her testimony before the Court.

13. In view of the above, we find that the findings recorded by the learned Family Court are the plausible findings and the same cannot be said to be illegal or perverse. It could not be shown 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. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[SUKHVINDER KAUR]
JUDGE

06.03.2025

himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No