



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 31st August, 2023

Pronounced on: 18th December, 2023

MAT.APP.(F.C.) 54/2020 & CM APPLs. 6450/2020, 44867/2023

POONAM VERMA

..... Appellant

Through: Mr. U.C. Gupta & Mr. Prashant Gupta, Advocates with appellant in person.

versus

RAJESH VERMA

..... Respondent

Through: Mr. Anuj Aggarwal, Mr. Abhishek Gupta, Ms. Reema Singh, Mr. Vineet Kumar Jain & Mr. Piyush Mehra, Advocates with respondent in person.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The present Appeal has been filed under section 28 of Hindu Marriage Act 1955 (*hereinafter referred to as "HMA, 1955"*) read with Section 19 of the Family Courts Act 1984, on behalf of the appellant/wife, against the impugned Decree/Order dated 22.11.2019 passed by the learned Principal Judge, Family Court, Delhi granting divorce on the ground of cruelty, in a petition filed by the respondent/husband under Sections 13(1)(ia) and 13(1)(ib) of Hindu Marriage Act, 1955.
2. **Briefly stated**, the parties got married on 23.11.2008 according to the Hindu rites and customs and one son, namely, Master Keshav was born from their wedlock on 31.12.2009.
3. **According to the respondent/husband**, the disruption and discord



began in the matrimonial relationship after three or four days of marriage when the appellant/wife started compelling the respondent/husband to claim his share in the property and also to arrange for the separate accommodation. The parents of the respondent/husband shifted them permanently to the third floor of the property in order to maintain peace in the family. However, the atrocities of the appellant/wife continued as she never accepted the respondent/husband and his family members.

4. It was claimed that the respondent/husband quarreled with the appellant/wife in the month of December, 2012 and went to her parental home but she came after about one week and apologised for her act. She thereafter, again quarrelled with the respondent/husband and threatened to make false complaints against him and his father. As a precautionary measure, the father of the respondent/husband lodged a Complaint dated 22.07.2015 *vide* DD No. 51B at Police Station Rohini.

5. The appellant/wife also lodged the various false complaints against the respondent/husband and his parents. The appellant/wife and the respondent/husband have been living separately since 01.02.2017. Hence, the respondent/husband sought divorce under Sections 13(1)(ia) and 13(1)(ib) of HMA, 1955.

6. **The appellant/wife, on the other hand, made similar allegations** of being subjected to cruelty for not having got sufficient dowry and being beaten for this reason on several occasions. The appellant/wife further alleged that the respondent/husband was addicted to drugs and alcohol and when she took an objection, she was beaten by the respondent/husband.

7. The appellant/wife also claimed that her father-in-law was having a bad eye on her and he always looked for an opportunity to get physical



relations with her and used to drag her close to him. With an illegal intention, the father-in-law would at times come to her bedroom without knocking the door which caused great discomfort to her. He even enquired from her about the size of her undergarments.

8. The appellant/wife claimed that she was not permitted to go to her parental home and was not given proper food. The appellant/wife tolerated the cruelty in an endeavour to save her matrimonial life.

9. The appellant/wife also claimed that the respondent/husband fought with her on 18.07.2015 and threw her out of the matrimonial home. She lodged a complaint in the CAW Cell on 22.07.2015, but the matter was compromised and she was taken back. However on 16.11.2016, the respondent/husband attacked the appellant/wife and minor child with a knife with an intention to kill them. The Police was called and the appellant/wife gave the Written Complaint dated 27.11.2016.

10. On 16.02.2017, the respondent/husband tried to strangulate the appellant/wife; the Police was again called, but the matter was compromised. However, on 17.02.2017, the appellant/wife gave the Written Complaint to the Police which was registered *vide* DD No. 43B.

11. Again, on 20.02.2017, the appellant/wife was beaten up by the parents of the respondent/husband for which the appellant/wife gave the Written Complaint dated 21.02.2017 which was registered *vide* DD No. 42B.

12. Thereafter, various other complains, including those dated 21.02.2017 and 26.04.2017 etc., were lodged in the Police Station.

13. The appellant/wife claimed that the family members of the respondent/husband intended to deprive her of her lawful rights and dispossess her from the matrimonial home. The appellant/wife has no



independent source of income and is unable to maintain herself. The appellant/wife claimed that the allegations made against her had no merit and the divorce petition was liable to be dismissed.

14. **The issues** were framed on 04.12.2018: -

“1. Whether the respondent has treated the petitioner with cruelty after solemnization of marriage? OPP.

2. Whether the respondent had deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the present petition? OPP.

3. Whether this petition is not maintainable in view of the preliminary objections taken by respondent? OPR.

4. Whether the petitioner is entitled to the relief claimed? OPP.”

15. The respondent/husband appeared as PW1, while the appellant/wife examined herself as RW1 in support of their rival contentions.

16. **The learned Principal Judge, Family Court** referred to the testimony of the respondent/husband, wherein he had deposed that since the beginning of their matrimonial life, the appellant/wife had started insisting on separating from the parents of the respondent/husband and for a separate residence to which ultimately, the parents of the respondent/husband agreed and gave them a separate third floor for residence. Now, the respondent/husband is residing on second floor, while the appellant/wife along with the son is residing separately on the third floor. It was thus, held that compelling a son to break away from the parents who were solely dependent upon him, is an act of cruelty.

17. **Further, learned Principal Judge, Family Court** referred to the **scandalous allegations made against the father of the respondent/husband and held that the conduct of the appellant/wife**



amounted to cruelty and thereby granted divorce on the ground of cruelty under Sections 13(1)(ia) of HMA, 1955.

18. *However, it was held that no desertion was made out and the divorce on the ground of desertion was denied.*

19. Aggrieved by the Decree/Order dated 22.11.2019, the present Appeal has been preferred by the appellant/wife.

20. Submissions heard from the learned counsels for the parties and the documents as well as the evidence perused.

21. Admittedly, the parties got married on 23.11.2008 and had one son, Master Keshav from their wedlock.

22. According to the respondent/husband, barely two or three days after the marriage, the appellant/wife started insisting on separate residence and also claimed a share in the property. Consequently, they were shifted to the third floor of the matrimonial home. Though the appellant/wife had denied all these allegations, but has failed to explain the circumstances in which they were put up in independent residence on the third floor of the house. In the ordinary course no parent would separate the newly wed son and his wife unless there were some compelling circumstances. It is evident that the claim of the respondent/husband is truthful or else there was no reason for the parents to have separated the respondent/husband and the appellant/wife from them.

23. The respondent/husband had asserted that he was the only son of his parents and his wish and desire to reside with them and to take care of them cannot be considered unwarranted. At the time of marriage, appellant/wife would have been aware that she was going to her matrimonial home, where she would be residing along with her parents-in-law. Insistence on separate



residence immediately after the marriage, got the respondent caught in a catch -twenty two situation, putting him in a precarious situation of drawing a balance between the desires of his wife on one hand and his obligation towards his parents on the other hand. Since the beginning, the matrimonial relationship started on acrimony and dissatisfaction which obviously would have led to anxiety and trauma to the respondent.

24. The respondent/husband may have given-in to maintain peace and to nurture the matrimonial relationship, but when viewed with the other conduct of non-accommodation and non-settlement of the appellant/wife in the matrimonial home, as is established from the frequent complaints that were being made, it can be one factor coupled with others which became an act of cruelty towards the respondent/husband.

25. The other serious allegations made by the appellant/wife are of the respondent/husband being addicted to drugs and alcohol and even tried to strangle the appellant/wife. Merely making such bald averments while not being able to prove by any cogent evidence also highlights the cruel conduct of the appellant/wife.

26. Furthermore, the appellant/wife made several complaints to the police against the respondent and his family members regarding infliction of cruelty for dowry demands, physical violence etc. but without support of adequate evidence. Making such reckless and baseless allegations against the respondent/husband again reflects not only that the appellant/wife had no trust and faith in him, but also establishes that making such allegations is an act of cruelty towards the respondent/husband.

27. The final act of cruelty are the allegations made against the father-in-law of having a bad eye on her and or trying to get close to her or



pull her in an attempt that he got an opportunity, which appellant has miserably failed to prove. These serious and defamatory allegations made by appellant/wife, not only in the Written Statement but even in the present Appeal, are not substantiated by any evidence or any specific incident. Merely stating that the father of the respondent/husband was having bad eyes on her and used to drag the respondent closed to him and used to ask size of undergarments of the respondent, is clearly an act of causing immense humiliation and embarrassment to not only the husband but also his family members.

28. In the case of K. Srinivas Rao v. D. A. Deepa (AIR 2013 SC 2176), it had been held by the Supreme Court that making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings amount to causing mental cruelty to the other spouse.

29. The Supreme Court in the case of Raj Talreja v. Kavita Talreja, (supra) , while relying on Ravi Kumar v. Julmidevi (2010) 4 SCC 476, has categorically held that “reckless, false and defamatory allegations against the husband and family members would have an effect of lowering their reputation in the eyes of the society” and it amounts to cruelty. Similar observations were made by the coordinate bench of this court in the case of Rita v. Jai Solanki 2017 SCC OnLine Del 9078.

30. In the case of K. Srinivas Vs. K. Sunita X (2014) SLT 126 the Supreme Court held that filing of the false complaint against the husband and his family members also constitutes mental cruelty for the purpose of Section 13 (1) (ia) of the Hindu Marriage Act. Similarly, it has been held by the Supreme Court in Mangayakarasi v. M. Yuvaraj (2020) 3 SCC 786, that an unsubstantiated allegation of dowry demand or such other allegations



made against the husband and his family members exposed them to criminal litigation. Ultimately, if it is found that such allegations were unwarranted and without basis, the husband can allege that mental cruelty has been inflicted on him and claim a divorce on such a ground.

31. We thus, conclude that in the present case as well, the leveling of said allegations must have caused immense cruelty to the respondent/husband. The learned Principal Judge, Family Court has rightly observed that “*making such scandalous, defamatory, unsubstantiated allegations against the father of the respondent/husband and the respondent/husband regarding the character of the respondent/husband and also that the respondent/husband had tried to kill her without any evidence amounts to cruelty*”.

32. **In view of the foregoing discussions, we observe that there is no infirmity in the Decree/Order dated 22.11.2019 passed by the learned Principal Judge thereby granting divorce on the ground of cruelty under Section 13(1)(ia) of HMA, 1955.**

33. A prayer has also been made by the appellant/wife that she may be granted permanent alimony. The appellant/wife is at liberty to agitate the same by moving an appropriate application before the Family Court.

34. We find no merit in the present Appeal along with the pending application(s), in any, is hereby dismissed.

**(NEENA BANSAL KRISHNA)
JUDGE**

**(SURESH KUMAR KAIT)
JUDGE**

DECEMBER 18, 2023
S.Sharma/Jn