



CGHC010234292021

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Judgment reserved on 29.06.2026

Judgment pronounced on 24.09.2026

Judgment uploaded on 24.09.2026

FA(MAT) No. 47 of 2021

Smt. Shoshan Tirki W/o K. Sagar, Aged About 28 Years D/o. Adalram, R/o. Street No. 11, Qt. No 2c, In Front Of Ispat Club, Section-1, Bhilai, Tehsil And District And District Durg Chhattisgarh

... Appellant**versus**

K. Sagar S/o K. Elisa Joseph, Aged About 28 Years R/o H. No. 168, Ward No. 22, Sundar Nagar, Camp-1, Near Shiv Mandir, Jalebi Chowd, Bhilai, District Durg Chhattisgarh

... Respondent

For Appellant : Mr. Curtis Collins, Advocate

For Respondent : Mr. Purnendra Khichariya, Advocate

DB: Hon'ble Shri Justice Parth Prateem Sahu**Hon'ble Shri Justice Sachin Singh Rajput****Per Sachin Singh Rajput, J**

This is an appeal by the appellant/wife against the judgment and decree dated 07.08.2021 passed by III Additional Principal Judge, Family Court, Durg, CG in Civil Suit No. 298-A/2018 dissolving the marriage between the parties.

2. Appellant in this appeal shall be referred to as "wife" and the respondent as "husband" for convenience. They both are stated to belong to Christian Community.

3. Marriage between the parties had taken place on 25.7.2016 as per the Special Marriage Act 1954 (for short "Special Act") at Durg whereas as per the social customs prevailing it was performed on 24.02.2017 in Christian Community Church, Sector-6, Bhilai. Wife is said to be the cousin of sister-in-law of the husband. Wife is stated to be a railway employee whereas the husband happens to be an employee of CBI department. After marriage, the behaviour of the wife was not good towards the parents of the husband. She used to force the husband to live separately from his parents. When the wife did not return to her matrimonial home even after four months, the parents of the husband went to her maternal home to take her back but hurling abuses she drove them away. As stated, the same thing she did towards the sister and brother-in-law of the husband when they went to her parents' house to pacify her, saying that she would not like to live in the 'pig house', and she being a government servant can do everything. Living away and thus depriving him of sexual relations, the wife is said to have thus caused cruelty to him. Finding thus it difficult to live with the wife, the husband sought the decree of dissolution of marriage.

4. In written statement the wife has admitted the factum of marriage with the husband though their family members did not agree to that, and stated themselves to be acquainted to each other even before marriage. Since their parents did not agree to their marriage, they got married by appearing before the District Magistrate, Durg but their status as husband and wife was not accepted by the parents of the husband, and for that their conjugal relations began at the place where she resided. At the instance of husband and his parents, the marriage was performed as per the socially accepted customs, but even thereafter she was not taken to her matrimonial home. It is she who used to bear all the household expenses and the husband did not spare even a single pie. She never misbehaved with the parents or relatives of the husband. She lived with the husband in her house at Bhilai for about 10 months and during this period became pregnant also, but there was no change in his behaviour, and that the ill treatment coupled with

jostling by husband resulted in her miscarriage. After this, he moved to his parents without informing her and thus deserted without any reasonable excuse. The say of the wife is that the parents of husband wanted him to keep her away and marry some other girl in their society. Divorce petition was thus prayed to be dismissed.

5. The issues framed by the Family Court with regard to cruelty caused by the wife to husband and whether the husband is entitled for decree of divorce against the wife have been held to be proved, and thus a decree of divorce was granted in favour of the husband. Hence this appeal by the wife.

6. Learned counsel for the appellant/wife would submit as under:-

- (I) that the judgment and decree passed by the learned Family Court is contrary to the pleadings, evidence and material available on record and is therefore liable to be set aside;
- (ii) that the Family Court has erred in holding that the allegation of cruelty against the wife stood proved merely on the basis of allegations made by the husband;
- (iii) that such serious allegations of matrimonial cruelty were required to be established by cogent and reliable evidence and mere assertions cannot constitute proof of cruelty;
- (iv) that the wife has always been willing to discharge her matrimonial obligations, and that the allegation that the wife had deserted the husband or had deliberately deprived him of matrimonial companionship is wholly misconceived;
- (v) that parents of the husband did not accept the appellant/wife and wanted him to marry another girl belonging to their society;
- (vi) that the learned Family Court has failed to properly appreciate the defence raised by the wife and has instead proceeded substantially on the allegations of the husband; and
- (vii) that the finding of cruelty is therefore perverse and unsustainable, and being so the appeal deserves to be allowed by setting aside the judgment and decree of divorce passed by the learned Family Court.

7. On the other hand, learned counsel for the respondent/husband would oppose the submissions made by counsel for the appellant/wife and submit that the findings recorded by learned Family Court granting decree of dissolution of marriage in favour of the respondent/husband are fully justified and based on proper appreciation of the material available on record. Being so, no interference is needed in the impugned judgment and decree and therefore the appeal be dismissed.

8. Heard counsel for the parties and perused the evidence on record.

9. The principal question that arises for consideration is whether the respondent/husband established that the appellant/wife had treated him with such cruelty as would entitle him to a decree of dissolution of marriage under the Special Marriage Act, 1954.

10. The factum of marriage between the parties is not in dispute. It is also not in dispute that the parties had initially solemnized their marriage under the Special Marriage Act on 25.07.2016 at Durg and thereafter it was performed according to the social customs prevailing in the Christian community on 24.02.2017 at Christian Community Church, Sector-6, Bhilai. The parties were admittedly acquainted with each other before their marriage. According to the wife, the allegation of cruelty made by the husband principally relate to the misconduct and ill-treatment of the wife towards his parents and relatives, her insistence that he should live separately from his parents, her refusal to return to the matrimonial home, the alleged abuses hurled by her against his parents and relatives, and her alleged deprivation of matrimonial companionship and sexual relations. It has already been judicially pronounced by the Supreme Court on numerous occasions that cruelty with regard to matrimony cannot be presumed merely from the existence of differences between spouses or from the fact that the spouses have been living separately. The conduct complained of must be proved and must be of such a nature that the matrimonial relationship has become reasonably impossible to continue. The burden to establish

this initially lies upon the spouse who seeks dissolution of marriage on the ground of cruelty.

11. In the present case, the allegations regarding the wife abusing the parents and relatives of the husband and describing the matrimonial house as a “pig house” are serious allegations. However, allegations of this nature require proper corroboration. Merely reproducing such allegations in the petition or repeating them in evidence does not by itself amount to proof. The Family Court was required to examine whether the allegations were supported by independent or otherwise reliable evidence and whether the surrounding circumstances established a consistent course of conduct amounting to matrimonial cruelty. Here in this case, the defence of the wife cannot be brushed aside merely because she disputes the allegations of the husband. She has specifically stated that after marriage she was not accepted by the parents of the husband, that she and the husband lived together at her residence at Bhilai for about ten months, that she became pregnant during that period, and that she was subjected to ill-treatment by the husband. She has further alleged that the husband thereafter left her and went to reside with his parents without informing her. According to her, the parents of the husband were opposed to the marriage and wanted him to marry another woman belonging to their community. These pleadings assume significance because the alleged separation of the parties cannot be viewed in isolation. If the wife was in fact residing separately because she was not accepted by the husband's family, or because the husband himself failed to take her to the matrimonial home, such separation could not automatically be characterized as an act of cruelty on her part.

12. The allegation that the wife deliberately deprived the husband of sexual relations also requires careful consideration. Mere absence of cohabitation or physical relations without proof that such refusal was deliberate, unjustified and persistent, cannot automatically constitute cruelty. It is equally important that cruelty is not to be determined by applying an abstract or isolated standard to every disagreement between spouses. Occasional feud, incompatibility, differences

regarding residence with in-laws, or occasional quarrels cannot, without something more plausible, furnish a ground for dissolution of marriage. The conduct must be assessed cumulatively and from the perspective whether the continuation of the matrimonial relationship has become reasonably intolerable. The fact that the parties had differences with regard to residing with the husband's parents also cannot, by itself, establish cruelty. A wife expressing a desire to have a separate matrimonial residence does not necessarily amount to cruelty, particularly where there is a dispute as to whether she was welcomed or accepted by the husband's family. The husband was required to establish that the conduct of wife was unjustified and of such a grave nature that it made continuation of matrimonial life impossible. If the cross examination of the wife is seen, she has clearly stated that after marriage she was always insisting the husband to take her either to his parents' house or at the place where he was posted which is indicative of the fact that she is still ready and willing to live in the company of her husband. From the evidence of appellant/wife it is also evident that as the respondent/husband had told her about his right to record anybody's phone calls, but as the SIM was issued by her department and she was afraid of her confidential official conversation being leaked, a report was made by her. Further, there is an admission on her part that she had made a complaint saying that she would not live in her matrimonial home but if her parents-in-law want, they could live in Sector-1 house Bhilai. However, in paragraph No. 25 of her deposition she has stated that she would like to live in her matrimonial home. In paragraph No. 31 she is admitted to have expressed herself during conciliation proceedings about seeking divorce from the respondent/husband, but all this is stated to have been uttered in anger. Other witnesses examined by her have also stated in the same line. If the cross-examination of the respondent/husband is seen, in paragraph No. 30 he has stated that the appellant/wife wants to live with him but for several reasons which make him live separately. In paragraph No. 34 he went on to admit that there was no dispute or quarrel between him and the appellant/wife.

13. Thus on an overall consideration of the material stated in the present case, the findings of the Family Court appear to have proceeded substantially upon the allegations made by the husband without adequately testing those allegations against the defence version and the surrounding circumstances. The material placed before the Court, as earlier stated, does not furnish a sufficiently reliable basis for concluding that the wife has committed cruelty within the meaning of the Special Marriage Act. The assertion of the wife that she was willing to discharge her matrimonial obligations, coupled with her allegation that the husband left her and resumed residence with his parents, creates a serious dispute regarding the cause of the parties' separation. This Court is also conscious of the fact that a decree of divorce cannot be granted merely on the ground that the matrimonial relationship has become strained.

14. Consequently, this Court is of the considered opinion that the respondent/husband failed to establish the alleged cruelty by the appellant/wife to the standard required for granting a decree of dissolution of marriage. The findings recorded by the Family Court on the issue of cruelty are therefore unsustainable and warrant interference in this appeal. Being this, the appeal is allowed. The judgment and decree passed by the learned Family Court dissolving the marriage between the parties is set aside. Appeal thus stands allowed. There shall be no order as to costs. Decree be drawn accordingly.

Sd/-

(Parth Prateem Sahu)
Judge

Sd/-

(Sachin Singh Rajput)
Judge