

RESERVED ON : 17.04.2026

PRONOUNCED ON : 10.07.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO. 5097 OF 2019 (FC)

BETWEEN:

ARUN KUMAR JAISWAL R
S/O RADHESHYAM JAISWAL
AGED ABOUT 31 YEARS
R/AT NO.1296, 12TH CROS, 1ST STAGE,
1ST PHASE, CHANDRA LAYOUT,
BANGALORE - 560 072.

...APPELLANT

(BY SMT.MAINA VARMA, ADVOCATE)

AND:

PRACHI JAISWAL
W/O ARUN KUMAR JAISWAL
D/O ROSHANLAL JAISWAL,
AGED ABOUT 27 YEARS
R/AT DOOR NO.34, NAKODA NAGAR
BEHIND BSNL TELECOM LTD.,
NEAR DR. RAJUL SONI HOUSE,
KHANDWA,
MADHYA PRADESH - 450 001.

...RESPONDENT

(BY SRI.K.P.BHUVAN, ADVOCATE)

THIS MFA FILED U/S.19(1) OF THE FAMILY COURT ACT,
AGAINST THE JUDGMENT AND DECREE DT.27.04.2019 PASSED
ON MC NO.4108/2018 ON THE FILE OF THE II ADDITIONAL

PRINCIPAL JUDGE, FAMILY COURT, BENGALURU, DISMISSING THE PETITION FILED U/S.13(1)(ia) OF HINDU MARRIAGE ACT.

THIS APPEAL HAVING BEEN RESERVED FOR JUDGMENT COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT IS DELIVERED/ PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE T.M.NADAF

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M NADAF)

This appeal is by the petitioner - husband, assailing the Judgment and Decree dated 27.04.2019, passed by the II Addl. Principal Judge, Family Court, Bengaluru¹ in M.C.No.4108/2018.

2. By means of the impugned Judgment and Decree, the Family Court dismissed the petition filed by the husband under Section 13(1)(1a) of the Hindu Marriage Act, 1955 seeking divorce on the ground of Cruelty.

3. The parties are referred to as per their ranking before the Family Court.

¹ the Family Court, for short

4. Facts germane to file the present appeal are as under:

As per petitioner:

4.1 The petitioner and the respondent are husband and wife. Their marriage was solemnized on 23.11.2016 at Sisodia Resort, Indore Road, Khandwa, Madhya Pradesh as per Hindu rites and customs. After the marriage, the respondent joined the matrimonial home. She was given all liberty and freedom in the matrimonial home.

4.2 After marriage, they went to several places and returned to Bengaluru on 19.12.2016. The respondent was careless, dominating and displayed authoritarian over petitioner's parents and his younger brother by name Varun Jaiswal. She never conducted herself to be part of the family and the household and whole day she would do nothing, causing irritation to his mother and even disobeyed lawful and legitimate requests. There were maid employed to do day to day household work, but the

respondent failed to supervise them. Within a span of 15 days, she had turned the atmosphere of the home into a war field.

- 4.3 Within a year of marriage, the respondent was frequently visiting her parents and whenever she left matrimonial home to go to her parental home, never returned despite several requests. The petitioner had to travel all the way to Khandwa to console and solace her and bring her back after so many requests. Immediately thereafter, she would express the tendency of moving back to her parental home. After her return, on 19.01.2017, she confined herself in a solitary life and never allowed the petitioner to have cohabitation with her. She used to pick up quarrels with him and his parents and even abused his parents in filthy language. In the meanwhile, she became pregnant, however terminated the pregnancy without the knowledge of the petitioner. She was always insisting for separate home and separate business, though the petitioner tried to

convince her that he is not having any monetary backup to start business. Despite all his care and love, the respondent used to dictate and impose her wishes, which though complied invariably, she used to threaten that she will go back to her father. All her behavior has been intimated to her parents, though her parents advised her to lead a decent life, however the respondent did not improve her behavior and the relationship became strained.

- 4.4 On 31.03.2018 and 01.04.2018, there was a big quarrel by the respondent against the petitioner and his mother and even she had gone to the extent of assaulting the petitioner and his mother, which made them to take treatment at Guru Shree Hospital. On the following day i.e., on 02.04.2018, the mother and brother of the respondent came to Bengaluru. The respondent expressed that she do not wish to live with the petitioner and therefore, she went along with them with all her belongings stating that she would never step into the matrimonial home again in

her life. Several attempts were made by the petitioner to reconcile and reunion, but failed and the relationship between the parties reached a point of no revival. As per the petitioner, this conduct of the respondent amounts to cruelty both mental and physical caused to him and his family members, which made him to file the petition seeking divorce on the ground of cruelty.

As per the respondent:

4.5 The respondent, in response to the notice, appeared through her counsel and filed statement of objections, denying the entire averments made in the petition. She has specifically contended that the parents as well as the petitioner, demanded dowry from her parents and they have fulfilled all the demands and marriage was performed in a grand scale in Sisodia resort at Madhya Pradesh. When she joined the matrimonial home, the petitioner and his family members inflicted so much cruelty on her and all her dreams of happy marital life were shattered

within a span of 15 days of the marriage. She was made to work in the matrimonial home as a bonded labor. The petitioner and his family members were demanding dowry from her. Her mother-in-law was finding fault in each and every acts of the respondent and also in preparation of food and instigate the petitioner to beat her badly, which made her extremely sick.

- 4.6 It was contended that even the petitioner and his parents refused to get her proper treatment when she became pregnant, as they were not happy with the news and increased torture, which has gone beyond limit and led to miscarriage. Though she was extremely bleeding, she was not given any medical treatment immediately by the petitioner and in-laws. The petitioner and his parents demanded Rs.10,00,000/- in cash and 10 Tolas of gold and a car and threatened her that if the demand were not fulfilled and they will send her out of the matrimonial home. Though the respondent tolerated all these

cruelty, there was no change in the behavior of the petitioner and his parents. She was made to serve her father-in-law drinks, to which she was never accustomed. This made her to call her parents and take her to the parental home. At that time, the petitioner and his parents stated that they would come and take her back after sometime. However none turned despite several requests to take her back. The respondent is ready and willing to lead happy marital life with the petitioner, however it is the petitioner and his family members refusing the respondent to join the matrimonial home to lead happy marital life.

- 4.7 It is also contended that the petitioner is carrying on business at Bengaluru in the name and style of Arun Bankers and Enterprises and Ganesh Jewellery and Pawn Broker in his own shop and earning more than Rs.3,00,000/- to Rs.4,00,000/- per month. However, not taken any steps to maintain the respondent. She has filed a petition at Khandwa under Section 125 of

Cr.P.C for maintenance and the same is pending consideration. There is no cause of action to file the petition as it is the petitioner who caused cruelty on her rather the respondent on her husband as alleged in the petition. She filed a petition before the Hon'ble Supreme Court seeking transfer of petition to Khandwa, Madhya Pradesh. The petition was disposed of directing the Family Court to dispose of the matter within 6 months. With this the respondent sought to dismiss the petition.

4.8 The Family Court after completion of pleadings, framed the following points for consideration:

1. *Whether the petitioner proves that respondent has treated the petitioner with cruelty after solemnization of marriage?*
2. *Whether the petitioner is entitled for decree of divorce U/s 13(1)(ia) of Hindu Marriage Act?*
3. *What decree or order?*

4.9 The petitioner, in order to prove his case, examined himself as PW.1, his mother as PW.2 and three witnesses as PW.3 to 5 and produced 10 documents

marked as Ex.P1 to P10. The respondent examined herself as RW.1 and examined her mother as RW.2. They produced 6 documents, marked as Ex.R3 to R8. Documents at Ex.R1 and R2 were confronted in the cross-examination of PW.1 and 2.

4.10 The Family Court answered both the points for consideration in the negative and proceeded to dismiss the petition as the petitioner has failed to prove cruelty by the respondent towards him and his family members.

4.11 The Family Court after going through the entire evidence led by the respective parties, both oral and documentary and on the pleadings, formed an opinion that there is no cogent evidence produced by the petitioner to substantiate the allegations of cruelty by the respondent on him and his family members. The Family Court was of the opinion that the petitioner is residing in Bengaluru, the respondent came all along from Khandwa, Madhya Pradesh to Bengaluru after the marriage. As she is

not having any relatives in Bengaluru, was completely depended on the petitioner and his family members, but was treated with cruelty by the petitioner and his family members. The Family Court held that the evidence led by the petitioner himself falls short to support the contentions raised in the petition. Even the mother of the petitioner has admitted in the cross-examination the amount paid in lakhs, gold and silver in several grams by the parents of the respondent.

4.12 The mother of the petitioner who has been examined as PW.2 in her cross-examination admitted the suggestions regarding payment of cash, silver and gold ornaments at Paragraph Nos.6 and 7, which reads as under:

"6. Before the marriage there is a ceremony call Lagaanki Rasam were in the party of the bride will approach the bridegroom party. It is not true to suggest that the respondent's family offered a sum of Rs.5 lakhs cash. It is true to suggest that Rs.1 lakh was paid for clothing's and 5 Silver coins. It is true to suggest that at the time of function their offered me One gold chain and

clothing's. It is not true to suggest that they have given me one pair Silver Payal and one pair Toe rings. It is not true to suggest that Rs.11,000/- to me. It is true to suggest that the respondent's family members have given gift to the petitioner Rs.2,51,000/- and 20 gram gold chain and one gold bracelet and silver articles as gift and gifted clothing's to the guest. It is not true to suggest that at the time of the Bidayi respondent family gifted a silver article of Ram Lakhsman Sita Statue (Silver Statue) to petitioner. The witness volunteers that she was not demanded any Ram Sita Statue. It is true to suggest that the respondent family members have attended the Reception at Bangalore. It is not true to suggest that they have gifted silver coins. The witness volunteers that one pair of silver Lighting. I am not aware of the travel expenses to Kerala was about Rs. 1.5 lakh. It is not true to suggest that I demanded Rs.1.5 Lakh from the respondent for the expenses of Kerala trip of petitioner and respondent and Neha and her husband.

7. *I have 2 sons. It is not true to suggest that we have 2 shops one at Mysore Road and one at Maruthi Nagar. The witness volunteers that we have only one shop in the name of the petitioner at Mysore Road Bangalore. Now I see the Visiting card of Arun Bankers and Enterprises and Ganesh Jewellery and Pawn Brokers and it is of My family and same is marked as Ex.R1. It is not true to suggest that we have given an advertisement in Jaiswal Samaj Charitable Trust (SI.No.351) along with this income."*

4.13 Further, she admits that the respondent became pregnant, however there was a miscarriage and admitted that she was not taken to hospital immediately on the said day on the premise that the day happens to be a Sunday, though she was bleeding heavily. She further admits that there are 3 to 4 doctors in their neighborhood, however the respondent was not taken to any doctor immediately, she started bleeding due to miscarriage. The Family Court considered all these materials on record and held that the petitioner though made several allegations against the wife on cruelty and allegations that she was frequently visiting her parents and refused to come back to matrimonial home, however had not placed any evidence to show that he made any attempts to bring her back seeking restitution of conjugal rights. The petition was filed within a period of 2 years from the date of marriage in an haste. On these reasoning, the Family Court dismissed the

petition. It is this Judgment and Decree passed by the Family Court is called in question in this appeal.

5. Heard, Smt.Maina Varma, learned counsel appearing for the petitioner-husband and Sri.K.P.Bhuvan, learned counsel appearing for the respondent-wife.

6. Smt.Maina Varma, with all vehemence submits that the marriage between the petitioner and respondent performed on 23.11.2016 turned to be unsuccessful due to the adamant behavior of the respondent. Within a span of 15 days, she has revealed her true colors with her adamant behavior treating the petitioner as well as in-laws with all sorts of cruelty both mental and physical. She even went to the extent of assaulting the petitioner and his mother, which made them to rush to Hospital for treatment. The documents produced i.e., Ex.P7 to 10 clearly show that the petitioner and his mother were assaulted by the respondent. The respondent wife never obliged to the matrimonial relationship on her part and never led a happy marital life, rather she is quarrelsome and picking up quarrel on every trivial matter, demanding

separate residence and asked the petitioner to do separate business leaving his parents and other relatives. The behavior of the respondent was increasing day by day and gone beyond all limits, which made the petitioner to file the petition within two years from the date of marriage seeking divorce on the ground of Cruelty. The evidence of PW.3 to PW.5 who were the neighbors of the petitioner clearly show the cruelty caused by the respondent on the petitioner and his family members. The Family Court has failed to consider these aspects of the matter.

7. Learned counsel further submits that both the petitioner and respondent are living apart since 2018 and it's almost eight years since then. The marriage between them has been miserably failed and broken down beyond repairs and the Family Court has failed to consider this while assessing the evidence led by the petitioner. The reasoning given by the Family Court falls short to the reasons under law. The marriage even lost its meaning due to long strained relationship and living apart, which amounts to desertion. The petitioner proved his case by

leading cogent evidence to prove the cruelty as well as desertion, however the Family Court has failed to consider these aspects of the matter and erroneously dismissed the petition. With this, she sought to set-aside the Judgment and Decree of the Family Court and allow the petition filed by the petitioner-husband.

8. Refuting the submissions, Sri.K.P.Bhuvan, with all vehemence submits that it is the petitioner who is guilty of cruelty against the respondent wife, rather the respondent as alleged in the petition. The mother of the petitioner who has been examined as PW.2, in her cross-examination has admitted the dates on which the respondent went to her parental house, they all happen to be the marriage of cousin brothers and sisters and other family functions and the same falsifies the allegations made in the petition that the respondent was frequently visiting her parental home without there being any reason. The admission of PW.2 in her cross-examination reads as under:

"2. My daughter-in-law's aunt was also stayed at Khandwa, her name is Sudha and the marriage of her son fixed on 18.01.2017. It is true to suggest that the respondent father came to Bangalore to take his daughter to attend the marriage of her Cousin on 18.01.2017 and he came on 09.01.2017 and returned with the respondent on 10.01.2017. It is true to suggest that her father give us Marriage Invitation card to attend the marriage. It is true to suggest that petitioner came to attend the marriage on 16.01.2017. It is true to suggest that after attending the marriage, the petitioner and respondent returned to Bangalore on the next day of the marriage.

2. It is true to suggest that respondent's father came to Bangalore on 17.03.2017 to take her to attend the marriage of Neha her cousin at Khandwa. Petitioner came to Khandwa on 16.04.2017 to attend the marriage of Neha on 17.04.2017. The witness volunteers that respondent did not returned to Bangalore after attending the marriage. It is not true to suggest that respondent conceived before the marriage of her cousin Neha in the month of April 2017.

3. I know Mr. Prakash and Bharathi of Bangalore. It is true to suggest that petitioner and respondent went for Lunch to the House of Mr.Praksh and Bharathi on 19.02.2017. It is true to suggest that the respondent complained about her stomach pain after returning from the lunch. It is not true to suggest that the respondent informed me that she has conceived. It is true to suggest that she told me to take her to a doctor for her stomach pain and I

told her that today is Sunday and I can not taken her Doctor, as Local Doctor not available. It is not true to suggest that I have intentionally not taken her to a doctor. It is not true to suggest that as I have not taken her to a Doctor and gave a massage to her stomach and that cause her to bleeding. It is not true to suggest that on 20.02.2017 we taken her to a doctor. It is not true to suggest that the doctor inform that there was a miscarriage due to bleeding.

I am not aware that the respondent had taken treatment at Khandwa for her ill health. It is not true to suggest that I have not taken any information about her health condition.

4. My in-law's are from Bilwara District, Suras. It is true to suggest that my husband went to see his mother on 24.05.2017. It is true to suggest that my husband stayed for dinner at Khandwa and returned to his mother place. It is true to suggest that while returning to Bangalore visiting to Khandwa and brought the respondent back to Bangalore.

5. We are staying in 1st floor. I am not aware of the tenants who are in the ground floor. My Neighbor is a teacher. I have no enmity with my Neighbors. There are 3 to 4 doctors in my Neighborhood and I am no enmity with any doctors."

9. The admissions of PW.2 in her cross-examination clearly show that there was a demand and fulfillment of the same by the parents of the respondent. Despite the same, the respondent was treated with all

sorts of cruelty. She became pregnant and lost the child due to miscarriage and though started bleeding extremely, she was not given any medical treatment on the same day, however she was taken to the hospital on the following day. This clearly shows the conduct of the petitioner and his family members. The Family Court having considered all these aspects of the matter, reasoned its judgment that the petitioner has failed to prove the ingredients of Cruelty as contemplated under Section 13(1)(ia) of the Hindu Marriage Act, 1955. The allegations of assault were not proved by producing cogent and corroborative evidence. This is to be considered as cruelty towards the respondent as the petitioner has tried to create document by making all sorts of engineered ideas only to suit their allegations and claim in the petition. As such, the Judgment and Decree passed by the Family Court refusing to grant divorce on the ground of Cruelty does not require any interference at the hands of this Court. With this, learned counsel for the respondent sought to dismiss the appeal.

10. Having considered the rival contentions, we have perused the entire appeal papers as well as the Trial Court record.

11. Though the petitioner made several allegations in the petition on cruelty against the respondent, however he has miserably failed to prove the same by leading cogent and corroborative evidence. The evidence led by him falls short to his theory of cruelty alleged in the petition. The admissions by the mother of the petitioner in her cross-examination which we have already extracted above clearly indicates that there was demand and fulfillment of the same by the parents of the respondent, though she has stated that there was no such demand in her evidence. All the witnesses of the petitioner have admitted that the marriage was performed on a grand scale.

12. The respondent is the native of Khandwa, Madhya Pradesh and the family of the petitioner is settled in Bengaluru, several kilometers away from the parental home of the respondent. The respondent after marriage

joined the matrimonial home with all fond hope of leading good and happy marital life. As per the evidence put forth by the respondent, all her dreams have been shattered within a span of 15 days. The allegations of cruelty made by the petitioner, remained as allegation and not turned into the proved facts. The evidence of the respondent even gains support from the admissions of PW.2 mother-in-law. This clearly shows that it is the petitioner who is causing cruelty on the respondent, rather the respondent on the petitioner as alleged in the petition.

13. Divorce is a capital punishment to the marital relationship between the husband and wife. It is an extreme step to end the marital relationship between the parties. The Courts must be vigilant while analyzing the evidence led before it in support of the contentions. The petitioner has miserably failed to prove the allegation of cruelty. In the absence of cruelty caused by the respondent to the petitioner and his family members, only self-serving testimony of the petitioner and his mother cannot be a basis for grant of divorce. The other witnesses

examined by the petitioner would not come to his aid to prove his allegations of cruelty against the respondent as their evidence were destroyed in the cross-examination. All the witnesses consistently have stated that the marriage was done in a grand scale and in the presence of evidence of PW.2 - mother-in-law, there was a demand of cash in lakhs, gold and silver ornaments in several grams, supports the case of the respondent.

14. So far as argument of learned counsel Smt.Maina Varma, with respect to living apart since 2018 is concerned, the same cannot be countenanced in the absence of any specific prayer to that effect under Section 13(1)(i-b) of the Act and the explanation provided therein. Mere living apart may not be a ground unless and until the same is proved in accordance with law with an animus to desert or withdraw the conjugal rights, without any reasons by a spouse against the another spouse complaining the same.

15. The institution of marriage is a sacramental tie, it cannot be disrupted in the absence of proof of

allegations on cruelty, which led to burn the bridge between the parties. We see no such infirmities in the Judgment and Decree passed by the Family Court, which call for any interference by us. The Family Court having considered the entire material placed before it, both oral and documentary, rightly dismissed the petition as the allegations made falls short of ingredients of Cruelty. In that view of the matter, we find no merits in the appeal and accordingly, it is ***dismissed***.

16. In view of dismissal of the appeal, pending interlocutory applications, if any, stand disposed of.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

TKN