

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

**FAO No.1767-2017 (O&M)
Date of Decision: September 23 ,2021**

Smt.Veena

...Appellant

VERSUS

Shri Naveen

...Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Sanjeev Kumar Aggarwal, Advocate
for the appellant.

Mr.Gaurav Sharma, Advocate
for the respondent.

ARCHANA PURI, J.

Challenge in the present appeal, is to the judgment dated 08.02.2017 passed by learned District Judge, Family Court, Rohtak, whereby the petition under Section 13 of the Hindu Marriage Act, filed by the respondent-husband was allowed, on the ground of cruelty.

Background facts in nutshell are as follows:-

Respondent-petitioner Naveen had filed a petition under Section 13 of Hindu Marriage Act, thereby alleging that his marriage with Veena (appellant) was solemnized on **23.02.2012** at village Karor, District Rohtak as per Hindu rites and ceremonies. From their wedlock, one son namely Ansh was born. After marriage, Naveen and his family members gave full love and affection to Veena. However, Veena is a lady of

quarrelsome nature. Just after the marriage, the family members of Veena started interfering in their matrimonial life. Veena was not happy to live in the joint family of Naveen, in the village and started pressuring him to arrange separate accommodation at Rohtak, far away from his parents. When Naveen showed his inability to arrange separate accommodation, Veena became annoyed and started extending threat to implicate Naveen and his family members, in a false dowry case. In order to pacify the matter, the parents of the Naveen, arranged a rental accommodation in Rohtak, so that Veena may live peacefully with Naveen. However, brothers of Veena started frequently visiting the house of Naveen and when he objected to the same, Veena became more arrogant and started causing cruelty, harassment and torture to him and his family members, on one pretext or the other.

On **07.04.2012**, brothers of Veena came to the house of Naveen and without any reason, subjected Naveen and his father to merciless beatings. Veena used to visit her parental home, without prior permission or knowledge of Naveen. Whenever Naveen had tried to make her understand, she became annoyed and had also stated to Naveen that he has no right to interfere in her personal life. On **20.04.2012**, Veena went to the house of her uncle, where Naveen was called and cousin brothers of Veena maltreated and gave merciless beatings to him, without any reason and turned him out from the house. On **05.05.2012**, Veena's brothers came to the house of Naveen, in his absence and Veena left the house with all jewellery and ornaments, in the company of her brothers, without any permission of Naveen or his parents.

Veena lodged a complaint before CAW Cell, Rohtak on

02.02.2013 against Naveen and his family members. She also lodged an

FIR No.92 of 2013 under Sections 406, 498-A, 34 IPC, at police Station Sampla, Rohtak against Naveen and his family members. On **29.03.2013**, Veena came to the house of Naveen at village Kharkara, with her brothers and aunt with the help of Rajbir S/o Rampal and forcibly trespassed his house by breaking open the locks. Upon the receipt of this information, Naveen's father immediately reported the matter to police station Meham and got the locks opened of the property of Naveen's father except one room for living of Veena. In the first week of **June 2013**, Veena, her brothers and aunt tried to forcibly occupy the agricultural land of father of Naveen at village Kharkhara and the matter was reported to the Police Station Meham, and Veena, her brothers and aunt felt sorry, in writing in police station Meham and matter was compromised. Even, Veena had filed a complaint under Section 12 of the Domestic Violence Act against Naveen and his family members and also filed petition under Section 125 Cr.P.C. Due to the act and conduct of Veena, Naveen had suffered mental and physical cruelty, torture and harassment. As such, Naveen filed the petition for decree of divorce.

In pursuance to the notice issued, Veena (present appellant) made appearance and filed reply, wherein, the fact of marriage and birth of one son, from the said wedlock, as such, has not been disputed. However, it is averred that at the time of marriage, parents of Veena had spent a huge amount in marriage and costly dowry articles were given but however, Naveen and his family members were not satisfied with the same. FIR No.92 under Sections 498-A, 406, 34 IPC, Police Station Sampla, was got registered against Naveen and his family members on **23.03.2013**, which is

by Naveen, has been specifically denied. Veena is still residing in her matrimonial home at village Kharkhara. Further, it is averred that Naveen's father arranged rented accommodation at Rohtak, due to their family need, as father of Naveen is serving in Haryana Roadways and posted at Rohtak. Also, brother of Naveen, is working as a lecturer in P.D.M. College, Bahadurgarh. Accommodation was arranged, so that, he can easily commute to his college. It is denied that Naveen arranged rented accommodation, only to satisfy Veena. It is also denied that Veena's brothers have visited the house of Naveen. Rather, it is stated that they are law abiding persons. It is also denied that brothers of Veena ever visited the house of Naveen and subjected him and his father to beatings. It is further stated that Veena is still ready to live with Naveen, without any demand. In fact, it is averred that she was kicked out in three clothes and some dowry articles were recovered by the police, during the investigation in the case. Parents of Veena, several times had visited and requested Naveen to save matrimonial life of their daughter and allow her to live in the matrimonial home. However, it is admitted that she has filed a complaint in CAW Cell, Rohtak against Naveen and his family members. CAW Cell, Rohtak, tried to settle the matter, so that matrimonial tie can be saved but due to the adamant attitude of Naveen and his family members, a case was registered against them. Even, complaint under Domestic Violence Act was filed on **19.02.2013** and interim relief was granted by the Court vide order dated **13.06.2013**. Also, it is admitted that Veena had filed a suit for permanent injunction and that she is using her legal rights, which does not amount to cruelty on her part. As such, a prayer was made for dismissal of petition

From the pleadings of the parties, following issues were framed:-

1. *Whether the petitioner is entitled to a decree of divorce by way of dissolution of his marriage with the respondent on the grounds as mentioned in the petition as alleged?OPP*
2. *Whether the present petition is not maintainable?OPR*
3. *Whether the petitioner has concealed the material facts from the court?OPR*
4. *Relief.*

To substantiate his claim, besides himself stepping into witness box as PW-1, Naveen has examined PW-2 Ishwar Singh, PW-3 Satyawar Singh, PW-4 Jagminder Singh, PW-5 Suresh, PW-6 Head Constable Parmod Kumar, PW-7 Constable Sanjay Kumar, PW-8 Constable Tejbir and documentary evidence was also adduced.

On the other hand, Veena herself stepped into witness box as RW-1 and also examined her maternal aunt Nirmla RW-2 and closed the evidence.

After hearing learned counsel for the parties and on appraisal of the evidence, brought on record, vide impugned judgment dated 08.02.2017, the petition under Section 13 of the Hindu Marriage Act was allowed on the ground of cruelty.

Feeling aggrieved by the impugned judgment, appellant-wife Veena has filed the present appeal.

We have heard learned counsel for the parties and with their able assistance, have gone through the evidence, adduced in the case.

Undisputedly, marriage between the parties took place on

is evident that on **05.05.2012**, the appellant left the matrimonial home, with her brothers, which fact, she has admitted in the witness box. Also, it is evident that thereafter, there were multiple complaints/applications made by the appellant. She made a complaint before CAW Cell, Rohtak on **02.02.2013**. FIR No.92 of 2013 under Sections 406, 498-A, 34 IPC, police Station Sampla, Rohtak was got registered. Besides the same, there are allegations against appellant-wife along with her brothers having come to the house of the respondent-husband and subjected him and his father to beatings. Furthermore, in the first week of **June 2013**, appellant, her brothers and aunt, tried to forcibly occupy the agricultural land of father of the respondent-husband and they felt sorry, in writing, in the police station and the matter was compromised. Only thereafter, a divorce petition was filed by the respondent-husband Naveen on **13.07.2017**.

At the very outset, thus, it is pertinent to mention that the parties to the lis, stayed together for less than three months. Rather, appropriate time was also not given, in an attempt to make the marriage workable. Soon, after stepping away from the matrimonial home, appellant-wife indulged in rounds of complaints/applications against the husband and his family members. Very true, as now pointed out by learned counsel for the appellant that trial of FIR No.92 of 2013 under Sections 406, 498-A, 34 IPC, police Station Sampla, Rohtak, was still going on, at the time of filing of the divorce petition filed by the husband and that he had not been acquitted. In view of the same, learned counsel submits that the same does not amount to cruelty. Rightly so pointed out, however, the Court is not only required to look into the fact of registration of FIR, for the demand of

into consideration, various other applications/complaints, lodged against the husband and his family members, at the instance of the appellant-wife.

Veena had lodged a complaint before CAW Cell, Rohtak on **02.02.2013** against husband and his family members, after which FIR No.92 under Sections 498-A, 406, 34 IPC, Police Station Sampla, was got registered. It is also asserted in the petition filed by the husband that on **29.03.2013**, the wife came to his house at village Kharkhara with her brothers Vikram, Sonu, Sunil and aunt with the help of Rajbir and forcibly trespassed in his house, by breaking open the lock. Further, it is also the version of respondent that in the first week of **June 2013**, Veena with her brothers and aunt, came and tried to forcibly occupy the agricultural land of his father at village Kharkhara and the matter was reported in the police station Meham. The aforesaid complaints, as such, have been duly proved before learned lower Court. It thus shows that the wife indulged in filing of complaints against the husband and his family members. In the complaint filed before CAW Cell, Rohtak, the appellant-wife had stated about her husband along with Suresh, having come to her house and that Suresh is not a man of character and he kept a bad eye on her. She also stated in the complaint, so made, thereby asking the police officials, not to harass her unnecessarily, as she is fighting for rights of women as well as herself. However, statement of appellant-wife was recorded, which is **Ex.P2**, wherein, apart from contents of the application **Ex.P1**, she had also stated that Satyawan, maternal uncle of her husband, had tried to outrage her modesty. Even, statement of one Sonu, who is son of maternal aunt of appellant, was also recorded. The matter was enquired into and in the report

family, that false allegations have been levelled by the appellant and as such, complaint was opined to be filed. Not only this, even, she had filed another complaint **Ex.P3** and has filed another application **Ex.P6**, for initiation of action against her husband and his family members, wherein, she had stated that her father-in-law Ishwar Singh had tried to outrage her modesty, while in the process of snatching her child, during the Court proceedings. Also, this matter was probed into and vide enquiry report **Ex.P7**, it was held that appellant Veena was not inclined to get the medical examination of her son and she had raised false implications. There was no truth found in the allegations and the complaint was closed.

The appellant did not stop here. There was another complaint filed by the appellant-wife against her brother-in-law Amit, thereby stating about Amit to have chased her on motorcycle. Even, this complaint was enquired into and the contents of the same were found to be baseless and the police had reached the conclusion that there was no reason to further investigate the matter and it was closed. Thus, it seems that appellant-wife, apart from causing harassment, in one matter or the other, to the respondent-husband, had also attempted to exploit herself, being woman and played a card of menfolk of her in-laws side, having an evil eye on her. Above all, when closure of the complaints, so made, was ordered, seemingly, no step had been taken by the appellant to challenge the same before the higher authorities. In fact, she had so admitted in her cross-examination that she had not reached the higher authorities.

Besides the same, there is another complaint filed by the appellant addressed to SP, Rohtak and various other authorities against

presently residing at Bahadurgarh and this complaint is dated **09.10.2014**. It was given by Veena to the police, thereby alleging that some days ago, her father-in-law had given a complaint to DSP, Meham, in which the matter was compromised and as per the compromise, she was allowed to cultivate paddy field on land, which has not been sold by Ishwar. At the instance of Ishwar Singh, she (Veena) had cultivated the crop and the crop was standing. On **08.10.2014**, when she went to the fields, she saw Santra and Ishwar as well as Naveen and Amit, damaging the crop. On the basis of these allegations, she alleged destroying of crop and also alleged that they had caused loss of Rs.40,000/-. On these accusations, complaint case No.5 dated **06.01.2015** under Sections 427, 447, 506 and 34 IPC was registered. However, qua this complaint, report **Ex.P13** is there, which shows that investigation was carried, after the registration of the FIR. It was concluded therein that Veena had made complaint after about three months of the incident and no evidence or photographs were produced by Veena, regarding destroying of the crops and hence, cancellation report was filed by the police vide **Ex.P14**. Veena had also filed civil suit along with the son against her husband Naveen and father-in-law Ishwar, which is **Ex.PAA**. The suit had been was dismissed. Even, the appeal, as such, had also been dismissed. It is pertinent to mention that in the civil suit, which is **Ex.PAA**, she had claimed to have been cultivating the suit land, but however, in her cross-examination dated 15.09.2016, in the present case, she denied to have been cultivating the land. Not only this, even Veena had stated in the civil suit, so filed, and in the complaint under the Domestic Violence Act, about the demand of car made by Naveen and her family members, at the time of her *phera* ceremony. However, she had stated in

cross-examination that no quarrel had taken place. Likewise, even her maternal aunt Nirmala, who stepped into witness box as RW-2, had stated that the marriage between Naveen and Veena was solemnized happily and demand of car was made by Naveen, after four months of the marriage. Even, the timing of such alleged demand, so raised, does not correspond to the time, when appellant Veena, stayed in her matrimonial house.

Furthermore, it is pertinent to mention that even though, Veena, in her reply to the divorce petition, had categorically denied about brothers having come to the matrimonial house and having subjected Naveen to beatings but however, while facing cross-examination, she has stated that she does not remember, whether she along with her brothers had broken the lock of her matrimonial house or not. However, she admitted to be correct that her brothers had visited at Vishal Nagar, where quarrel had taken place between her, her husband and his family members. She further stated that she does not remember how many cousin brothers she have.

Besides the aforesaid, it is pertinent to mention that respondent-husband has also placed reliance upon the certified copy of the complaint obtained under RTI Act, which is **Ex.P1**, which shows that complainant Veena had given complaint to the Hon'ble Chief Justice and other authorities regarding harassment and torture and dispossessing her from the ancestral house, while stating that Naveen, Amit, Ishwar and Santra, had visited her place of residence. This complaint was with regard to harassment and torture caused to her and also dispossessing her from ancestral house. However, therein, the address of Veena is stated to be VPO Kharkada (Meham) and the complaint is dated **27.05.2013**. Though, it is the

granted to her on **13.06.2013** but before the grant of this relief, she had herself shown to be resident of Kharkhara. While in cross-examination, she has admitted that she stayed in Kharkhara only for 2-3 days of the marriage and thereafter, resided in Vishal Nagar, Rohtak and then at her paternal house, till the order in Domestic Violence Act case was passed. Also, she admitted in cross-examination that she is residing in matrimonial home and husband is residing in rented accommodation. The conduct of appellant, as detailed aforesaid, speaks volumes, about her being in an agitated state of mind and all out, to cause harassment to the husband and his family members.

As detailed aforesaid, the allegations levelled by the wife, by and large, have been found to be false. However, that did not give her a right to make defamatory accusations against her husband and his relatives. The falseness of the allegation is borne out from the fact that the police did not even find it a fit case to be tried and closed the cases. The wife took no steps to approach the higher authorities to redress her grievance of closure of the cases.

No doubt, as pointed out by learned counsel for the appellant that trial of the case under Sections 498-A, 406 and 34 IPC was still going on, at the time of filing of the divorce petition and verdict of acquittal had not come but however, solely accusations of demand of dowry and misappropriation of dowry articles, is not to be taken into consideration. However, act and conduct of the wife, as a whole, qua her husband and family members, is to be taken into consideration. As already observed aforesaid, various complaints/applications were made by the wife, which

to proceed further in the investigation, on such accusations.

At this juncture, it is important to make reference to the judgment passed by the Hon'ble Supreme Court in ***Raj Talreja vs. Kavita Talreja, Civil Appeal No.10719 of 2013, decided on 24.04.2017***, wherein, it was held that a false complaint was registered against the husband by the wife, after wife herself inflicted injuries on her person. In criminal proceedings, the husband had been acquitted and thereafter, proceedings against the wife were launched. On this account, the husband was held entitled to decree of divorce, on the ground of cruelty. It was further observed as herein given:-

“9. This Court in Para 16 of K. Srinivas Rao v. D.A. Deepa, 2013 (2) RCR (Civil) 232 has held as follows:

“16. Thus, to the instances illustrative of mental cruelty noted in Samar Ghosh v. Jaya Ghosh, 2007 (4) SCC 511, 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 Ravi Kumar v. Julmidevi, 2010 (2) RCR (Civil) 178, this Court while dealing with the definition of cruelty held as follows:

“19. It may be true that there is no definition of cruelty under the said Act. Actually such a definition is not possible. In matrimonial relationship, cruelty would obviously mean absence of mutual respect and understanding between the spouses which embitters the relationship and often leads to various outbursts of behaviour which can be termed as cruelty. Sometime cruelty in a matrimonial relationship may take the form of violence, sometime it may take a different form. At times, it may be just an attitude or an approach. Silence in some situations may amount to cruelty. 20. Therefore, cruelty in matrimonial behaviour defies any definition and its categories can never be closed. Whether the husband is cruel to his wife or the wife is cruel to her husband has to be

ascertained and judged by taking into account the entire facts and circumstances of the given case and not by any predetermined rigid formula. Cruelty in matrimonial cases can be of infinite variety-it may be subtle or even brutal and may be by gestures and words. That possibly explains why Lord Denning in Sheldon v. Sheldon, (1966) 2 WLR 993 held that categories of cruelty in matrimonial cases are never closed.

10. Cruelty can never be defined with exactitude. What is cruelty will depend upon the facts and circumstances of each case. In the present case, from the facts narrated above, it is apparent that the wife made reckless, defamatory and false accusations against her husband, his family members and colleagues, which would definitely have the effect of lowering his reputation in the eyes of his peers. Mere filing of complaints is not cruelty, if there are justifiable reasons to file the complaints. Merely because no action is taken on the complaint or after trial the accused is acquitted may not be a ground to treat such accusations of the wife as cruelty within the meaning of the Hindu Marriage Act 1955 (for short 'the Act'). However, if it is found that the allegations are patently false, then there can be no manner of doubt that the said conduct of a spouse levelling false accusations against the other spouse would be an act of cruelty. In the present case, all the allegations were found to be false. Later, she filed another complaint alleging that her husband along with some other persons had trespassed into her house and assaulted her. The police found, on investigation, that not only was the complaint false but also the injuries were self inflicted by the wife. Thereafter, proceedings were launched against the wife under Section 182 of IPC."

Likewise in ***Joydeep Majumdar vs. Bharti Jaiswal Majumdar, Civil Appeal Nos.3786-3787 of 2020, decided on 26.02.2021 (Law Finder Doc Id #1813316)***, where defamatory complaints had been made by wife to husband's superior officers and the complaint so made by the wife was held to have affected the career progress of the husband, the Hon'ble Apex Court held that it amounted to '**mental cruelty**' as the husband had suffered adverse consequences, in his life and career, on account of allegations, made by wife. The Family Court, had granted divorce to the husband, on the ground of cruelty. However, the High Court had reversed the finding of the

Family Court. The Hon'ble Apex Court, while deciding the matter, referred to another judgment passed in *Samar Ghosh vs. Jaya Ghosh, 2007 (4) SCC 511*, wherein, it was observed that in order to make out a case of mental cruelty, no uniform standard can be laid down and each case will have to be decided, on its own facts. Further, in Joydeep Majumdar's case (supra), it was observed as herein given:-

“11. The materials in the present case reveal that the respondent had made several defamatory complaints to the appellant's superiors in the Army for which, a Court of inquiry was held by the Army authorities against the appellant. Primarily for those, the appellant's career progress got affected. The Respondent was also making complaints to other authorities, such as, the State Commission for Women and has posted defamatory materials on other platforms. The net outcome of above is that the appellant's career and reputation had suffered.

12. When the appellant has suffered adverse consequences in his life and career on account of the allegations made by the respondent, the legal consequences must follow and those cannot be prevented only because, no Court has determined that the allegations were false. The High Court however felt that without any definite finding on the credibility of the wife's allegation, the wronged spouse would be disentitled to relief. This is not found to be the correct way to deal with the issue.

13. Proceeding with the above understanding, the question which requires to be answered here is whether the conduct of the respondent would fall within the realm of mental cruelty. Here the allegations are levelled by a highly educated spouse and they do have the propensity to irreparably damage the character and reputation of the appellant. When the reputation of the spouse is sullied amongst his colleagues, his superiors and the society at large, it would be difficult to expect condonation of such conduct by the affected party.”

Now, adverting to the present case, it is pertinent to mention that after marriage having taken place on **23.02.2012**, the parties to the lis resided together only upto **05.05.2012**, the day when the wife had left the matrimonial house. Though, it is asserted by the wife in reply to the

petition that her parents had attempted to rehabilitate in the matrimonial house but however, no evidence has been adduced, to so substantiate this assertion. Rather, to support her version, no family member of the appellant-wife has been examined. Apart from her, she has solely examined her maternal aunt but her brother as well as parents have not been examined. There is nothing as such coming on record, about the appellant-wife side having made an attempt to make this marriage workable. Rather, as detailed aforesaid, the appellant-wife had attempted to initiate criminal proceedings in one form or the other. The complaint in CAW Cell, Rohtak was filed on **02.02.2013**. Even, complaint under Domestic Violence Act was filed on **19.02.2013**. Petition under Section 125 Cr.P.C. was filed. FIR No.92 of 2013, under Sections 406, 498-A, 34 IPC, police Station Sampla, Rohtak was got registered. Besides the same, also she trespassed into the property of her father-in-law and attempt was also made to occupy his agricultural land, relating to which, FIR under Sections 427, 447, 506 and 34 IPC was lodged, wherein, compromise was thereafter effected. She has not given any breathing time to her husband and his family members, to make an attempt to rehabilitate her. Rather, she had filed complaints, one after the other and the same, as observed aforesaid, were found to be false and baseless and the police never thought it appropriate to initiate investigation on the basis thereof. Some complaints were also filed thereby making an attempt to implicate menfolk of her in-laws' family in sexual harassment cases but in the same also, her version was disbelieved.

No doubt, some of the complaints were made after the filing of the divorce petition but however, fact remains that many complaints were made, prior to the filing of the divorce petition. Filing of the complaint for

the initiation of criminal proceedings, which were found to be baseless and false, do cause harassment and torture to the husband and his family. One such complaint is sufficient to constitute matrimonial cruelty. In this regard, reference is made to ***K. Srinivas vs. K. Sunita, 2014 (16) SCC 34.***

In ***K. Srinivas Rao vs. D.A. Deepa, 2013 (2) RCR (Civil) 232,*** the Hon'ble Supreme Court had examined a complaint, where the wife had raised allegation that mother of her husband had asked her to sleep with father of her husband. This allegation was found to be false and it amounted to extreme mental cruelty to the husband. Ultimately, divorce was granted to the husband. The Hon'ble Supreme Court therein observed as herein given:-

“28. In the ultimate analysis, we hold that the respondent-wife has caused, by her conduct, mental cruelty to the appellant-husband and the marriage has irretrievably broken down. Dissolution of marriage will relieve both sides of pain and anguish. In this Court, the respondent-wife expressed that she wants to go back to the appellant-husband, but, that is not possible now. The appellant-husband is not willing to take her back. Even if, we refuse decree of divorce to the appellant-husband, there are hardly any chances of the respondent-wife leading a happy life with the appellant-husband because a lot of bitterness is created by the conduct of the respondent-wife.”

Applying the ratio of aforesaid judgments of the Hon'ble Supreme Court to the facts of the present case, it stands established as detailed aforesaid that the appellant-wife, after leaving the matrimonial home in less than three months of the marriage, indulged in filing of the applications/complaints against her husband and his family members, while being in an agitated mood, she had made defamatory complaints against her husband and his family members and the same were found to be false and the police did not find it fit case to be tried. Considering the same in totality,

the act and conduct of the appellant-wife, definitely caused mental cruelty to

the husband.

In the light of aforesaid discussion, learned Family Court has rightly allowed the divorce petition filed by the husband and the impugned judgment calls for no interference in the present appeal.

Resultantly, the present appeal is hereby dismissed.

(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

September 23, 2021
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
Yes