

FAO-M-106-M of 2005 (O&M)

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

FAO-M-106-M of 2005 (O&M)  
Date of Decision: 25.05.2022

Asha Rani

...Appellant-Wife

Versus

Om Parkash

....Respondent-Husband

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI  
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present:- None for the appellant-wife.  
Mr. L.S. Sandhu, Advocate, for the respondent-husband.

**ASHOK KUMAR VERMA, J.**

[1] The appellant-wife has come up in appeal before this Court seeking setting aside of judgment and decree dated 29.03.2005 passed by the Additional District Judge, Sirsa, whereby petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'the HMA') for dissolution of marriage has been allowed.

[2] Brief facts of the case are that marriage between the parties was solemnized on 20.02.1992 according to Hindu rites and ceremonies by way of Anand Karaj at village Ahli Sadar, Tehsil and District Fatehabad. Marriage was duly consummated but no child was born from their wedlock. As per respondent-husband, from the very inception of the marriage appellant-wife was in the habit of raising quarrels on trivial issues and her behaviour towards him and his family members was cruel. On request of respondent to the appellant to behave properly, appellant disclosed that she was not interested in marrying the respondent rather she

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wanted to marry a boy of her village. In the year 1998, appellant left the matrimonial home with an excuse to pay condolence on the death of her cousin but did not return and stayed with her parents at village Ahli Sadar, Tehsil and District Fatehabad. When respondent along with respectables went to take back the appellant, she and her father levelled allegations against the respondent of being impotent. However, on being medically examined, respondent was found fit for cohabitation. Thereafter, again respondent convened a panchayat wherein appellant agreed to stay with him but after a short stay, appellant threatened the respondent and his family members to implicate in false case of demand of dowry. Respondent also filed a petition under Section 9 of the HMA for restitution of conjugal rights wherein appellant agreed to reside with him but left the matrimonial home without any rhyme and reason. Thereafter, respondent filed petition under Section 13 of the HMA for dissolution of marriage but with the intervention of the respectables same was dismissed as withdrawn. Respondent again filed petition under Section 9 of the HMA. However, appellant refused to join the matrimonial home and she lodged FIR No.267 dated 14.09.1999 under Sections 498-A/406/34 IPC at Police Station Sadar, Fatehabad against the respondent and his family members. Thus, respondent again filed petition under Section 13 of the HMA for dissolution of marriage with the appellant.

[3] On notice, appellant-wife filed written statement to the petition alleging that respondent and his family members treated her with cruelty. They were demanding more and more dowry. After the compromise in the Court, appellant returned to the matrimonial home on 19.05.1999 and

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started residing with the respondent but on 21.07.1999 respondent left her at the bus stand of village Dariyapur, District Fatehabad, and demanded a scooter and ₹50,000/- in cash for allowing her to live with him. Appellant denied all the allegations levelled by the respondent and prayed for dismissal of the petition.

[4] Respondent-husband filed replication controverting the allegations of the written statement and reiterating his stand in the petition.

[5] On the pleadings of the parties, following issues were framed:

- “1. Whether the respondent treated the petitioner with cruelty and if so, to what effect? OPP*
- 2. Whether the respondent deserted the petitioner without any reasonable case and if so to what effect? OPP*
- 3. Relief.”*

[6] Both the parties led evidence in support of their respective contentions.

[7] After hearing learned counsel for the parties and considering the evidence on record, petition filed by the respondent-husband under Section 13 of the HMA was allowed and decree of divorce was passed in his favour.

[8] The marriage between the parties was solemnised in February, 1992 but no child was born from the said wedlock.

[9] Perusal of record shows that respondent and his parents were convicted by the trial Court, Fatehabad under Sections 498-A, 406 read with Section 34 IPC vide judgment of conviction dated 19.10.2007 and order of sentence dated 20.10.2007. During the pendency of present

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appeal, learned counsel for the respondent placed on record judgment dated 02.04.2009 (Annexure A-1) of the appellate Court, Fatehabad whereby appeal filed by the respondent and his family members was accepted and they were acquitted of the charges. Subsequently, appellant-wife filed CRR-710 of 2010 before this Court against the judgment dated 02.04.2009 of the appellate Court, which has also been dismissed vide order dated 26.08.2011 (Annexure A-2). As of today, the proceedings in the criminal case have attained finality and the respondent along with his family members stands acquitted.

[10] The above-said facts are sufficient to return a finding that respondent-husband has been met with cruelty by the appellant-wife. The Hon'ble Supreme Court has held that even one complaint lodged by the wife found to be false against the husband and his family members amounts to cruelty.

[11] Hon'ble Supreme Court in ***K. Srinivas Rao vs. D.A. Deepa, (2013) 5 Supreme Court Cases 226*** held that making false criminal complaints or registration of FIR against the husband or his family members under Section 498-A IPC would amount to mental cruelty. In paragraph 13 and 14 the Hon'ble Supreme Court held as under: -

*“13. In Naveen Kohli the wife had filed several complaints and cases against the husband. This Court viewed her conduct as a conduct causing mental cruelty and observed that the finding of the High Court that these proceedings could not be taken to be such which may warrant annulment of marriage is wholly unsustainable.*

*14. Thus, to the instances illustrative of mental cruelty noted in Samar Ghosh, we could add a few more.*

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*Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing of 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.”*

[12] Even if husband and wife are staying together and wife does not speak to the husband, it would cause mental cruelty and a spouse staying away by sending vulgar and defamatory letters or notices or filing complaints containing indecent allegations or by initiating number of judicial proceedings can make the life of other spouse miserable.

[13] We do not find any illegality or infirmity in the impugned judgment and decree which calls for interference by this Court.

[14] Consequently, this appeal is dismissed.

[15] In view of disposal of the appeal, civil miscellaneous application, if any pending, also stands disposed of.

**(Ritu Bahri)**  
**Judge**

**(Ashok Kumar Verma)**  
**Judge**

**May 25, 2022**  
**R.S.**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No