

FAO-2328 of 2013 (O&M)

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

FAO-2328 of 2013 (O&M)
Date of decision: 16.05.2022

Smt. Rajni

.....Appellant-Wife

Versus

Sanjay Kumar

.....Respondent-Husband

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

Present: - Mr. Dinesh Arora, Advocate,
for the appellant-wife.

Mr. Vikram Singh, Advocate,
and Mr. Abhinav Sood, 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 26.03.2013 passed by the District Judge (Family Court), Sonipat, 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] Marriage between the parties was solemnized on 20.04.2008. As per respondent-husband, appellant-wife came to matrimonial home on 21.04.2008 and kept on sleeping throughout the day. Respondent and his family members were under the impression that on account of hectic

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schedule in the marriage, the appellant might have got tired. She got up and after having meal during the night when the petitioner was waiting for consummation of marriage, appellant-wife started behaving in abnormal manner. She raised hue and cry and started running in the house and tried to come in the street without any *dupatta* or *chunni* but to avoid social defamation, respondent and his family members caught hold of her and gave her sleeping tablets and thereafter she slept. On 22.04.2008, brother of the appellant was informed telephonically about the act and conduct of the appellant, who assured that appellant will get well within day or so as she was behaving like this due to sleeplessness. However, appellant kept sleeping throughout the day and even did not consummate the marriage. After about ten days, brother of the appellant, namely, Raj Kumar visited Gohana and all the facts were narrated to him. Brother of the appellant took her to her parental home with the undertaking that she will be sent back only when she will be alright. After about 20 days brother of the appellant brought the respondent to Gohana and assured the respondent and his family members that she was alright and will not disturb the peace of their family. However, she again created scenes. Family members of the respondent locked the appellant in a room to avoid social defamation. Appellant stayed only for ten days and was again sent to Sonipat on 02.06.2008 and thereafter she did not come back. On 10.11.2008 a police constable visited the residence of the respondent and from a news item they came to know that appellant had taken some poisonous substance and was taken to Sonipat for treatment. On the statement of appellant, FIR No.56 dated 09.11.2008 under Sections 498-A and 307 read with

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Section 34 IPC was registered at Police Station City Gohana against the respondent and his parents despite the fact that appellant had already left the respondent's company on 02.06.2008. However, during investigation, it was found by the police that no offence under Section 307 IPC was made out, therefore, Section 307 IPC was deleted and challan under Section 498-A, 406 read with Section 34 IPC was presented in the Court. On account of false case, respondent had to remain in custody for three days and his family members had to sought anticipatory bail, resulting into great mental as well as physical cruelty. Appellant-wife also filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the respondent-husband and his father. During her short stay of 20 days at her matrimonial home, appellant treated the respondent with cruelty; did not help in domestic affairs; did not consummate the marriage and family members of the respondent were defamed and cheated.

[3] Heard learned counsel for the parties at length.

[4] The marriage between the parties was solemnised on 20.04.2008. Appellant-wife stayed at matrimonial home only for 20 days and there is no child from the said wedlock.

[5] Learned counsel for the respondent has produced copy of the judgment dated 26.03.2015 passed by the trial Court whereby respondent and his family members have been acquitted of the charges under Sections 498-A, 406 and 34 IPC in FIR dated 09.11.2008 and copy of the judgment dated 31.08.2015 passed by the Additional Sessions Judge, Sonapat, whereby appeal preferred by the appellant-wife against the

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judgment dated 26.03.2015 of the trial Court, has been dismissed. As of today the proceedings in the criminal case have attained finality and the appellant along with his family members stands acquitted.

[6] The above-said facts are sufficient to return a finding that respondent-husband has been met with mental as well as physical 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.

[7] 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. 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.”

[8] 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

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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.

[9] In the facts of the present case, as per details given above, on account of registration of false case against the respondent-husband and his family members, enough mental cruelty has been caused to the respondent.

[10] In view of the above, the appeal is dismissed. However, respondent-husband is directed to give ₹5,00,000/- as permanent alimony to the appellant-wife.

	(Ritu Bahri) Judge	(Ashok Kumar Verma) Judge
May 16, 2022		
R.S.		

Whether speaking/reasoned	Yes
Whether Reportable	Yes