



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3089-2021 (O&M)
Date of Decision: 31.05.2024

AMRITA BHADANA (alias AMRITA SINGH, AMRITA CHAUHAN)

...Appellant

Versus

MOHAK BHADANA

...Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Amit Jhanji, Senior Advocate
assisted by Ms. Priyanka Kansal, Advocate
and Mr. Abhinav Sood, Advocate
for the appellant.

Mr. Mohak Bhadana-respondent-in-person.

HARSH BUNGER, J.

Appellant-wife (Amrita Bhadana) has come up in this appeal against the judgment and decree dated 12.10.2021 passed by the learned Family Court, Faridabad; whereby the petition filed by the respondent-husband (Mohak Bhadana) under Section 13 of the Hindu Marriage Act, 1955 (in short '*the 1955 Act*') seeking dissolution of marriage by a decree of divorce has been allowed and divorce stands granted.

2. Succinctly, the marriage of appellant-Amrita Bhadana was solemnized with respondent-Mohak Bhadana on 27.11.2009 at A-1 Park, Gautam Budh Nagar, Noida, U.P., as per Hindu rites and ceremonies. Out of this wedlock, one daughter namely, Lunaasha was born on 26.11.2012.

3. The pleaded case of the respondent-husband in his petition under Section 13(1) (ia) and (ib) of the 1955 Act, was that the appellant-wife

has displayed violent behaviour on innumerable occasions. The respondent detailed various events in his divorce petition, which according to him, constituted cruelty. All the alleged acts of cruelty as stated by the respondent in his divorce petition are not being repeated herein for the sake of brevity; however, the sum and substance of the same are that the acts, conduct, attitude and behaviour of appellant-wife in respondent's home i.e. matrimonial home for about six years, made it unsafe for the respondent-husband and his family members, thus amounted to cruelty. It is stated that right from the very inception of the marriage, the conduct of the appellant has instilled a strong fear in the mind of respondent-husband given her affluent and influential background.

3.1 It was stated by the respondent-husband that on several occasions, appellant-wife had dragged him into shame and untold embarrassment causing immense mental agony and torture. It is further stated that the appellant-wife had insulted the respondent many times and threatened him and his parents to falsely implicate them under the provisions of the Protection of Women from Domestic Violence Act, 2005 and other criminal laws as she belongs to an influential family. Also the appellant-wife never visited her matrimonial home after the separation except on one occasion when she visited to collect some documents and she did not even let respondent husband meet his daughter. It was further stated that several efforts were made to compromise the matter and to make peace with the appellant-wife but of no result, which showed that the appellant has wilfully withdrawn from the company of respondent-husband without any reasonable excuse.

3.2 In this backdrop, the divorce petition was filed.

4. On the other hand, the appellant-wife contested the afore-said divorce petition, *inter alia*, on the plea that the respondent-husband has levelled false allegations against her, which are general in nature. It was further contended that the respondent-husband cannot seek divorce on false and baseless allegations, especially without taking into account the potential adverse effects it would have on their minor daughter. It was next contended that the allegations against the appellant-wife pertained to the period which is prior to the birth of the child, hence, the allegations of cruelty stands condoned by the birth of the child.

4.1 The alleged acts of cruelty with regard to the assault on the father of the respondent and in respect of keeping the LPG Gas knob 'ON', were denied. The appellant claimed that the respondent-husband never wanted to bring her back. The appellant-wife contended that rather she was treated with cruelty. It was alleged that the father of the respondent-husband shouted and slapped her on the face, in a fit of rage, which he later admitted and apologised. The appellant-wife also contended that she never left the matrimonial home on her own and was rather forced to leave the same against her will.

4.2 With the afore-said submissions, the appellant sought dismissal of the divorce petition.

5. On the basis of the pleadings of the parties, the following issues were framed:-

"1. Whether the petitioner was treated with cruelty by the respondent furnishing ground for divorce U/S 13(1)(ia) of The Hindu Marriage Act? OPP

2. Whether the petitioner was treated by the respondent furnishing ground for divorce U/S 13(1)(ib) of The Hindu Marriage Act? OPP

3. *Whether the present petition is not maintainable?*

OPR

4. *Whether the petitioner is taking advantage of his own wrongs? OPR*

5. *Relief.”*

6. In order to prove his case, the respondent-husband (Mohak Badhana), appeared in witness box as PW-1, the father of the respondent-husband (Jagbir Singh Badhana) appeared as PW-2 and one Pradeep Kumar Nagar appeared as PW-3. Further in order to support his case, the respondent-husband tendered documentary evidence as indicated in para No.7 of the impugned judgment and the same is not being reproduced here for the sake of brevity.

7. On the other hand, the appellant-wife (Amrita Bhadana) appeared as RW-1 and Dr. Yashvir Singh appeared as RW-2 and also tendered her documentary evidence as indicated in para No.9 of the impugned judgment.

8. After considering the pleadings of the parties and also the evidence available on the record, the learned Family Court, Faridabad vide impugned judgment and decree dated 12.10.2021, allowed the divorce petition. The divorce has been granted on the grounds of cruelty and desertion. A perusal of the impugned judgment would show that the following acts of cruelty and desertion were considered by the Family Court, as proved:-

(i) **Cruelty:**

a) *It was observed that the allegations of cruelty prior to the birth of the girl child namely Lunaasha, on 26.11.2012 stood condoned.*

b) *In respect to incident on 18.03.2014 where the appellant-wife was alleged to have assaulted the*

father of the respondent-husband; although the said incident was specifically denied by the appellant in her written statement in para No.41 thereof by stating that while she was putting the towel for drying on a string after giving a bath to her daughter, respondent father came there and the towel accidentally touched him. Appellant maintained that the respondent-father, despite knowing fully well that she has not done intentionally, started abusing and physically assaulted the appellant by hitting her on her back twice.

The Family Court found that there is one SMS on 21.03.2014 received by father of the respondent at about 7:40 a.m., which reads as under :-

“papa ji, I know you will not believe in me but I did not do it intentionally. I can never think of doing something like this. I know you will not speak to me.”

From the above extracted message, the Family Court inferred that the appellant admitted her guilt, although with the defence that it was not done intentionally.

- c) *As regards the allegation that the appellant had turned the gas knob ‘ON’ i.e. on dated 19.04.2014 at about 05:30 p.m. and 06:30 p.m. when the appellant is stated to have taken the child to the nearby park by deliberately leaving the LPG stove knob in ‘ON’ position and then again on 21.04.2014 and on 22.04.2014, the appellant repeated this act of putting the LPG stove knob ‘ON’ and leaving it as it is; the respondent claimed that on 19.04.2014, he detected the smell of LPG and immediately turned it off, whereas, as regards*

the incident of 22.04.2014, respondent claimed that he had caught the appellant red handed.

The afore-said allegations were although denied by the appellant in her written statement as well as in cross-examination; however, the Family Court observed that in reply to the afore-said allegations in para No.44, the appellant stated that 'it was not her mistake'. Appellant further maintained that it has become common practice in her matrimonial home that she would be blamed for no fault of her by the respondent and his parents.

*The Family Court further placed reliance upon a judgment passed by the Delhi High Court in the case of **Ashok Kumar Kad vs Usha Rani Kad**, to observe that the written statement must deal specifically with each allegation of fact in plaint and when a defendant denies any such fact, he must not do so evasively but answer the point of substance. It was further observed that if the denial of a fact is not specific but evasive, then said fact shall be taken to be admitted. Accordingly, the Family Court held that the appellant failed to give her version of facts while denying the afore-said allegations of turning the gas knob 'ON'. It was held that except denial, the appellant has not given any convincing reasoning for it, therefore, the same stands admitted on her part.*

The explanation sought to be tendered by the appellant regarding the afore-said incidents by stating that it cannot be believed that she wanted to cause harm to herself and her family as she was also inside the home with her daughter; was not accepted by the Family Court taking note of the fact that on one occasion, the appellant had gone

with a daughter to a park and on 21.04.2014, it was done in the morning hours just before she left for college and on 22.04.2014, the respondent had caught her red handed. Further, the respondent had also expressed his annoyance qua the said incidence by sending SMS (Ex. PW-1/4). A reference in this regard was also made to E-mail dated 24.02.2015 (Ex.PW-1/8). Concededly, the appellant did not respond to the said E-mail sent by the respondent. Consequently, the Family Court concluded that the afore-said acts of the appellant which have been attempted thrice, clearly constitute 'Cruelty'

- d) The other major incident of cruelty as observed by the Court below is of depriving the father to meet his daughter, and the said incident has been admitted by the appellant-wife in her cross-examination wherein she submitted that she had written a letter to the school authorities for not letting the child meet her father or his parents due to domestic strife, apprehending that they may not remove the child illegally from the school. It was further observed that respondent-husband made several efforts to meet the child despite the reluctant attitude of the appellant-wife, which constitutes cruelty in the facts and circumstances of this case.*

(ii) Desertion:

- a) It was observed by the Family Court that as per the respondent, several efforts were made to compromise the matter and meetings were held in that regard, which fact has been admitted by the appellant-wife in her cross examination. Admittedly, on 26.02.2015, the father of the appellant-wife took her and her daughter*

(Lunaasha) with him. The contention of the appellant wife that she was forced to leave her matrimonial home was not accepted by the Family Court by observing that the afore-said contention of the appellant does not find any corroboration; moreover, the allegations of cruelty were never reported to police by the appellant. Family Court further observed that the appellant admitted during her cross-examination that no specific demand of dowry was ever made. It was also admitted that the cash of Rs.31 lacs and a 'Toyota' car taken at the time of marriage, were returned in October, 2011. It has been held that no other specific instance of cruelty has been alleged by the appellant in her written statement.

- b) Family Court, upon considering the material on record, observed that the way the appellant left the home on 26.02.2015 clearly indicates that she had no plans to come back. Admittedly, the appellant got admitted her child in a school at Noida in April, 2015 and on the child's Aadhar Card, she had got mentioned the address of Noida and not of Faridabad, which indicated her lack of intention to return to her matrimonial home. Furthermore, the appellant had got her name changed from Amrita Bhadana to Amrita Singh in 2015, which itself shows that she does not want to be in relation with the respondent anymore and do not want to use his surname.*
- c) The Court further observed that during the Court proceedings also, the appellant-wife did not show willingness to join the company of the respondent. The Family Court observed that when the Court had an interaction with the appellant, she although agreed to try again but at the same time, she*

expressed her feelings that she was not comfortable with her mother-in-law. The Family Court, upon considering the cumulative effect of the circumstances and the conduct of the appellant, came to the conclusion that the conduct of the appellant indicated a firm determination of not returning to the marital home and neither there was any attempt on the part of the appellant to go to her husband after she left in the year 2015. Accordingly, the Court observed that there was an element of 'animus deserendi' on the part of the appellant and it cannot be said that this desertion on the part of the wife was with reasonable cause.

d) The Family Court observed that the appellant has not shown any interest in the conjugal relationship with the respondent and therefore, by forcing the respondent to stay in a dead marriage would itself constitute mental cruelty and such conduct of respondent-wife indicates a firm determination of not returning to her matrimonial home. While considering the fact that the husband and wife have been living separately for more than six and half years it was concluded that the matrimonial bond has been ruptured beyond repair.

(iii) The Family Court further observed that the parties have been living separately for more than 6½ years and it was concluded that the matrimonial bond had been ruptured beyond repair.

9. Learned counsel for the appellant submits that the learned Family Court below has erred in law and facts in allowing the divorce petition filed by the respondent-husband. It is submitted that the acts of cruelty as indicated in the impugned judgment are based on conjectures and surmises. It is submitted that the Family Court has misconstrued and has

misinterpreted the incidents in relation to keeping the gas knob 'ON', as a ground of cruelty. It is further submitted that the appellant-wife never stopped the respondent-husband to meet the child and agreed to give visitation rights to him and his family without any objection, which according to the appellant is evident from the interim orders of the lower Court (Annexure A-12). It is, therefore, submitted that the Family Court has wrongly observed that depriving the father to meet his daughter was an act of cruelty.

9.1 Learned counsel has further submitted that the Family Court has failed to consider the fact that the father of respondent-husband has slapped her on the face but no help was offered by the respondent-husband. It was further submitted that the appellant-wife did not leave her matrimonial home voluntarily but was forced and coerced to do so. It is submitted that the Family Court has not taken into consideration the e-mails (Ex.PW1/7, PW1/8 and PW1/10) which clearly show that the respondent-husband had already taken his decision of separation. It was submitted that the respondent-husband never wanted to bring the appellant-wife as he has never sent any e-mails/SMS to that effect. It was also submitted that the respondent-husband was creating documentary evidences since a long time which is evident from various e-mails sent to appellant-wife. It was further submitted that the Family Court has wrongly concluded that the appellant had deserted the respondent-husband, whereas it is the respondent, who created such an atmosphere that she had to leave the matrimonial home. It is, therefore, contended that the findings returned by the Family Court below are un-sustainable in the eyes of law.

10. Per contra, respondent had appeared in person and submitted that the Family Court, upon considering the facts, pleadings as well as the evidence available on record, has rightly passed the impugned judgment, granting divorce and dissolving the marriage between the parties. It is submitted that the acts of cruelty and desertion were clearly proved on record and there is no illegality or perversity in the impugned judgment, which may call for any interference by this Court. It is further submitted that the parties have been residing separately since 2015 i.e. more than eight years and the marriage between the parties is virtually dead as a lot of bitterness is created between them. Therefore, no useful purpose would be served by forcing the parties to remain in a relationship of a dead marriage.

10.1 With the afore-said submissions, the respondent prayed for dismissal of the appeal.

11. We have heard learned counsel for the appellant as well as respondent (in person) and perused the paper-book as well as the impugned judgment with their able assistance.

12. The following question has arisen for consideration before this Court:

“Whether the decree for divorce granted on the grounds of cruelty and desertion by the Family Court, requires interference?”

13. Before we consider the merits of the case, it is apposite to refer to observations made by Hon'ble Supreme Court in ***Jagdish Singh v. Madhuri Devi, 2008(10) SCC 497***, which read as under:-

“24. It is no doubt true that the High Court was exercising power as first appellate court and hence it was open to the Court to enter into not only questions of law but questions of fact as well. It is settled law that an

appeal is a continuation of suit. An appeal thus is a re-hearing of the main matter and the appellate court can re-appraise, re-appreciate and review the entire evidence "oral as well as documentary" and can come to its own conclusion.

25. At the same time, however, the appellate court is expected, nay bound, to bear in mind a finding recorded by the trial court on oral evidence. It should not forget that the trial court had an advantage and opportunity of seeing the demeanour of witnesses and, hence, the trial court's conclusions should not normally be disturbed. No doubt, the appellate court possesses the same powers as that of the original court, but they have to be exercised with proper care, caution and circumspection. When a finding of fact has been recorded by the trial court mainly on appreciation of oral evidence, it should not be lightly disturbed unless the approach of the trial court in appraisal of evidence is erroneous, contrary to well-established principles of law or unreasonable."

14. Keeping in view the aforesaid observations made by Hon'ble Apex Court in case of *Jagdish Singh (supra)*, let us examine the case in hand.

15. In the instant case, the marriage between the appellant and the respondent was solemnized on 27.11.2009 and out of the said wedlock, one daughter was born on 26.11.2012. Admittedly, on dated 26.02.2015, the father of the appellant came to the matrimonial home of the appellant and took her along with the minor daughter (Lunaasha) with him and thereafter, she never returned to her matrimonial home. A perusal of the impugned judgment would show that the Family Court has not considered the alleged acts of cruelty pleaded by the respondent-husband prior to the date of birth of the minor (Lunaasha) by observing that with the subsequent act and

conduct of the parties, especially with the birth of the minor daughter, the earlier acts of cruelty stood condoned. It is not disputed before us that the respondent presented the petition for divorce in August, 2017 i.e. after a period of more than two years from the date when the appellant left her matrimonial home.

16. The learned Family Court, upon consideration of the material/evidence available on record, allowed the divorce petition vide impugned judgment, on the grounds of cruelty as well as desertion; as noticed above.

17. Upon considering the rival contentions of the parties, we are of the view that even if first incident of cruelty i.e. the alleged assault by appellant-wife upon the father of the respondent-husband on 18.03.2014; is kept out of consideration, then also the other acts of cruelty namely, putting the gas knob 'ON' by the appellant, require to be considered.

17.1 The Family Court has observed that a specific plea was taken by the respondent-husband in para No.44 of the divorce petition as regards the afore-said incidents of keeping the gas knob 'ON' by appellant on three different occasions; however, the same were not specifically denied by the appellant-wife nor any explanation of such incident(s) is forthcoming. In this regard, it would be relevant to refer to the plea taken by the appellant in para No.44 of her written statement in response to the afore-said acts as indicated in para No.44 of the divorce petition, which reads as under :-

“44.It is submitted that the respondent had never left the LPG stove's knob 'ON' as alleged in the para under reply, however she was blamed by the petitioner for the same repeatedly despite knowing it fully well that it was not the respondent's mistake. In fact, it had become a common practice in the respondent's matrimonial home that she would be blamed for no fault of her by the petitioner and his parents.”

A perusal of the above extracted response of the appellant would clearly indicate that the incidents did occur, although as per appellant, it was not her mistake.

17.2 We have perused the pleadings of the respective parties as regards the above referred three incidents of keeping the gas knob 'ON' by appellant, as contained in para No.44 of the divorce petition and also the corresponding response of the appellant. Apparently, the response of the appellant was of mere denial, coupled with the explanation, as extracted above. In our considered view, the afore-said denial is not specific, rather it is evasive. The appellant-wife has merely denied the aforementioned incidents and such evasive denials would fall within the realm of tacit admissions.

17.3 In ***Balraj Taneja v. Sunil Madan, 1999 R.C.R. (Civil) 438***, Hon'ble the Supreme Court held that a general or an evasive denial cannot be treated as a sufficient denial and therefore, such denial shall be treated as admission. Hon'ble Supreme Court observed as follows:

“ The scheme of this Rule is largely dependent upon the filing or non-filing of the pleading by the defendant. Sub-rule (1) of Rule 5 provides that any fact stated in the plaint, if not denied specifically or by necessary implication or stated to be not admitted in the pleading of the defendant, shall be treated as admitted. Under Rule 3 Order 8, it is provided that the denial by the defendant in his written statement must be specific with reference to each allegation of fact made in the plaint. A general denial or an evasive denial is not treated as sufficient denial and, therefore, the denial, if it is not definite, positive and unambiguous, the allegations of facts made in the plaint shall be treated as admitted under this Rule.”

17.4 Further, in *Vinit Saxena v. Pankaj Pandit, 2006(2) RCR (Civil) 302*, while dealing with the issue of mental cruelty, Hon'ble Supreme Court held as follows: -

"31. It is settled by a catena of decisions that mental cruelty can cause even more serious injury than the physical harm and create in the mind of the injured appellant such apprehension as is contemplated in the section. It is to be determined on whole facts of the case and the matrimonial relations between the spouses. To amount to cruelty, there must be such willful treatment of the party which caused suffering in body or mind either as an actual fact or by way of apprehension in such a manner as to render the continued living together of spouses harmful or injurious having regard to the circumstances of the case..."

17.5 Considering the aforementioned circumstances, it is concluded that the above referred act(s) of the appellant in keeping the gas knob 'ON' on three occasions, would definitely raise a reasonable apprehension in the mind of respondent as regards his safety as well as the safety of his family members, therefore, the same would constitute an act of cruelty.

18. As regards the allegation of depriving the father (*respondent herein*) of meeting his daughter; learned counsel for the appellant contended that the appellant never stopped the respondent or his parents from meeting the minor daughter; therefore, there was no occasion for the Family Court to consider the same as an act of cruelty. In this regard, learned counsel for the appellant has referred to Annexure A-12, which is an order dated 20.10.2018 passed by the Family Court on an application filed by the respondent, seeking interim custody of the minor daughter, wherein the respondent and

his family members were allowed to meet the girl child on every first and third Sunday of each calendar month from 12:00 noon upto 03:00 p.m.

18.1 We have considered the afore-said contention made on behalf of the appellant; however, we find no force in the same for more than one reason.

Firstly; it is not the case of the appellant that she had voluntarily agreed or permitted the respondent and his family members to meet the minor daughter; rather it appears that it was only on account of intervention by the Court that the visitation rights were granted to the respondent and his family members.

Secondly, it has come on record that the appellant had written a letter dated 10.04.2015 to the School, where the minor girl was studying, indicating therein that the respondent and his family members be not allowed to meet the minor daughter. The afore-said letter was admitted by the appellant during her cross-examination.

Thirdly, it has come on record that the appellant celebrated the birthday of the minor (Lunaasha) without calling the respondent. In this regard, reference can be made to the deposition of appellant, which reads thus:-

“...It is true that on 26.11.2015, the petitioner and his parents came to meet the daughter to wish her on her birthday at our house in Noida. It is true that at that time, I and my mother alongwith the child were not at home. I celebrated the birthday of my daughter on that day with my cousins Nishit Basoya, Nitin Chaudhary, Priyanka Chaudhary, Reeti Chaudhary, Neena Singh, Nirmala Chaudhary, Ruchi Singh and children of some of them at Pandara Road, near India Gate, Delhi. My afore-named cousins knew the petitioner and his family very well. I did

not invite or call the petitioner or his parents to the place where the birthday of my daughter was celebrated with my cousins and their families... ”

18.2 In somewhat similar circumstance, the Kerala High Court in the case of ***Prabin Gopal vs Meghna, 2021 SCC online Ker 2193***, observed that the mother had breached her duty which she owed as a custodian parent to instil love, affection and feelings in the child for the father. It was further observed that nothing can be more painful than experiencing once own flesh and blood i.e. the child, rejecting him or her. Such wilful alienation of the child amounts to mental cruelty.

18.3 In view of the above, we are of the considered view that depriving the father of meeting his daughter, by her mother on account of marital discord between the spouses, would constitute an act of mental cruelty.

19. We have also considered the submission made on behalf of the appellant that it was the respondent who had already decided to separate from the appellant and it was only on account of the circumstances created by the respondent that the appellant had to leave the matrimonial home; however, we find no force in the said submission as it has come on record that the father of the appellant had taken the appellant along with her minor daughter on 26.02.2015. Thereafter, the appellant never visited her matrimonial home except on 03.04.2016 and that too, without the minor child and for collecting her documents. There is no material on record to indicate that the appellant took any step to return to her matrimonial home or to her husband.

19.1 In the case of ***Debananda Tamuli versus Kakumoni Katakya, 2022(2) RCR (Civil) 231***; Hon’ble Supreme Court observed as under:-

“7. We have given careful consideration to her submissions. Firstly, we deal with the issue of desertion. The learned counsel appearing for the appellant relied upon the decision of this Court in the case of Lachman Utamchand Kirpalani (supra) which has been consistently followed in several decisions of this Court. The law consistently laid down by this Court is that desertion means the intentional abandonment of one spouse by the other without the consent of the other and without a reasonable cause. The deserted spouse must prove that there is a factum of separation and there is an intention on the part of deserting spouse to bring the cohabitation to a permanent end...”

19.2 Concededly, the appellant did not file any petition under Section 9 of the 1955 Act for restitution of conjugal rights. That apart, it has also come on record that the appellant had got her name changed from ‘Amrita Bhadana’ to ‘Amrita Singh’ and even the address of the minor child was got recorded of Noida, which was the parental house of the appellant. The afore-said acts/conduct of the appellant clearly suggest that she had no intention to return to her matrimonial home.

19.3 Furthermore, the contention of the appellant-wife that she was forced to leave her matrimonial home was not accepted by the Family Court by observing that the afore-said contention of the appellant does not find any corroboration; moreover, the allegations of cruelty were never reported to police by the appellant. Learned counsel appearing for the appellant has failed to dislodge the afore-said findings returned by the Family Court. Therefore, no fault can be found with the findings returned by the Family Court below that there was an element of ‘*animus deserendi*’ on the part of the appellant.

20. The next submission of the counsel for the appellant is that ‘*irretrievable breakdown of marriage*’ is not a ground for divorce under the 1955 Act. We have considered the aforesaid submission and we are of the view that there is no doubt that irretrievable breakdown of marriage by itself is not a ground under Hindu Marriage Act, on which alone a decree of divorce can be passed. However, the irretrievable breakdown of marriage is a circumstance which the Court can take into account when cruelty is proved and blend them together. In recent judgments, irretrievable breakdown of marriage has been blended with cruelty so as to dissolve the marriage between the parties, where the marriage is completely dead and beyond repair.

21. It is noticeable that the parties have been residing separately since 2015 i.e. for more than eight years. No doubt, it is obligation of the Court that marital status should as far as possible be maintained, but when the marriage is totally dead, in that event, nothing is gained to keep the parties tied to a marriage which in fact has ceased to exist. In our considered view, there is no possibility of resumption of normal marital life by the parties. If the decree of divorce is set aside that would amount to compelling them to further live together in complete disharmony, mental stress and strain, which shall amount to perpetuating cruelty. In ***Chanderkala Trivedi (Smt.) v. Dr. S.P. Trivedi, 1993(4) SCC 232***, it was held by Hon'ble Supreme Court that if a marriage was dead and there was no chance of its being retrieved, it was better to bring it to an end.

22. Considering the totality of circumstances, there is no scope for any interference in the impugned judgment and finding no merit in this appeal, the same is hereby dismissed.

23. The point of determination is answered, accordingly.
24. Before we part with this order, it is apposite to state here that while granting the decree of divorce, the learned Family court has not granted anything to the appellant towards permanent alimony. Accordingly, we leave it open to the appellant-wife to institute her claim for grant of permanent alimony before the Court of competent jurisdiction.
25. All pending applications (if any) shall also stand closed.

(SUDHIR SINGH)	(HARSH BUNGER)
JUDGE	JUDGE
May 31, 2024	
gurpreet	
Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No