

2024:PHHC:138282-DB



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

FAO-4955-2024 (O&M)

Date of Decision: October 22, 2024

Romika

.....Appellant

versus

Manjeet

.... Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Mr. Abhimanu, Advocate for the appellant.

SUDHIR SINGH, J.

Challenge in the present appeal is to the judgment and decree dated 29.08.2024 passed by learned Principal Judge, Family Court, Rohtak (for short 'Family Court'), whereby, the petition under Section 13 of the Hindu Marriage Act, 1955 (for short 'Act') filed by the respondent-husband was allowed and marriage between the parties was dissolved by a decree of divorce on the ground of cruelty.

2. The aforesaid petition had been filed by the respondent-husband, *inter alia*, asserting that his marriage with the appellant/wife was solemnized on 11.11.2016 according to the Hindu rites and that a male child was born out of the said wedlock on 10.10.2017. It was further asserted that the behaviour of the appellant/wife had been cruel from the very beginning of the marriage and she used to pick up quarrels on petty

matters and always used abusive language against the respondent/husband and his family members. It was further asserted that the appellant/wife would leave the matrimonial home without any prior approval or intimation and when objected to, she threatened the respondent/husband and his family members to implicate them in false cases. On 15.11.2016, the appellant/wife went to her parental house for 3-4 days, but when the respondent went to bring her back, the appellant and her parents had picked up quarrel with him and said that she was not their servant to do the household work. Again on 02.01.2017, the appellant/wife went to her parental home and lived there for 22-23 days. The appellant/wife came back to the matrimonial home along with her father and had rebuked the respondent/husband for not visiting her parental house. Later on, with a hope that a better sense will prevail upon the appellant/wife upon getting the responsibilities of the matrimonial home, keys of the house, almirah, briefcase, wherein cash and ornaments were kept, were given to the appellant/wife, but all in vain. So much so, the appellant/wife had removed the gold chain of the respondent/husband without his knowledge and thereafter, she went to her parental house. After several days, the appellant/wife had admitted the factum of taking gold chain with her. Owing to the stubborn nature of the appellant/wife, the respondent/husband decided to take her to his place of posting for 2-3 months, but the appellant/wife refused to accompany him. It was further alleged that the appellant/wife used to have long conversations on mobile phone even during late hours at night. This fact was taken up before the *panchayat* and she had undertaken not to keep mobile phone and infact,

her mobile phone was taken by the Sarpanch of the village. However, she again got her mobile phone and continued talking to different persons during night. It was yet further pointed out that the appellant/wife made false complaint before the Women Cell, Rohtak as well as the Commandant of the respondent/husband. However, the respondent/husband compromised the matter with her keeping in view the future of their child. The appellant/wife did not allow the parents of the respondent/husband to spend time with the minor child and even the appellant/wife along with her mother gave beatings to the mother of the respondent/husband. The appellant/wife had also demanded that the respondent/husband should transfer his share in the land in her favour besides handing over half of his salary to her on regular basis and further put a condition that he should not live in a joint family. The appellant/wife had also created false evidence in her favour in collusion with the police and the persons known to her and on that basis, she had again made a false complaint against the parents of the respondent/husband. Terming the aforesaid acts as cruelty, the respondent-husband had sought for a decree of divorce.

3. Upon notice, the appellant-wife entered appearance and filed her written statement admitting the factum of marriage and birth of the child. However, allegations of cruelty were denied. Rather, it was asserted that behaviour of the respondent/husband and his family members had always been cruel towards her and the younger brother of the respondent/husband used to remain in the company of antisocial elements and had also carried a pistol with him. He used to look for the

chances to molest the appellant/wife, and that on 15.11.2016, the respondent/husband and his family members turned the appellant/wife out of matrimonial home after giving her merciless beatings, due to demand of dowry. It was further asserted that on 12.07.2019, the respondent/husband called her from his mobile phone and told her that if she withdrew her case under Section 125 Cr. P.C., he would take her to his place of posting. It was denied that she had been talking to some unknown persons on mobile phone. The respondent/husband had never made any effort to bring the appellant/wife and the minor son back to matrimonial home. In the *panchayat* convened, the appellant/wife did not put any condition and rather father of the respondent/husband had offered an amount of Rs.30,00,000/- to the appellant/wife as permanent alimony to settle the matter. The father-in-law of the appellant/wife had threatened that he would get the entire agricultural land transferred in the name of his younger son Ashish. Thus, it was alleged that the respondent/husband and his family members had subjected the appellant/wife to cruelty.

4. On the basis of pleadings of the parties, the following issues were framed by the learned Family Court:-

- “1. *Whether the petitioner is entitled to a decree of dissolution of his marriage on the grounds mentioned in the petition? OPP*
2. *Whether the petition is not maintainable in the present form? OPR*
3. *Relief.”*

5. In evidence, the respondent-husband appeared as PW1 besides examining PW2-Rameshwar and PW3-Rajesh, and also tendered documentary evidence Exhibits P1 to P28, Mark-A to Mark-T. On the other hand, the appellant/wife examined herself as RW1 and had also

examined RW2-Virender Singh and RW3-Jagbir Singh, besides tendering into evidence Exhibit R1.

6. Learned Family Court, after considering rival contentions of the parties and evidence on record, allowed the petition filed by the respondent-husband and dissolved the marriage by a decree of divorce on the ground of cruelty, as noticed above.

7. Learned counsel appearing on behalf of the appellant-wife has vehemently contended that PW2 and PW3 are close relatives of the respondent/husband and, therefore, reliance upon their testimony by the learned Family Court is untenable. It is further contended that the allegations levelled by the respondent/husband were totally general and vague in nature and the same could not have been termed to be cruelty on the part of the appellant-wife. It is further argued that in his cross-examination, the respondent/husband admitted that except for the case of maintenance, the appellant/wife had not filed any other case against him or his family members and that the complaints made before the Women Cell were also withdrawn by her. It is also argued that the mother of the respondent/husband had been ill since 2014 i.e. prior to marriage and she is not able to do household work. It is thus, contended that on the basis of such factual position, learned Family Court has wrongly observed that due to negligence of the appellant/wife, her mother-in-law had to do the entire household chores. It is yet further argued that the findings recorded by the learned Family Court to the effect that father of the respondent/husband was rendered homeless in the evening of his life, was also not tenable and the same goes contrary to the observations made

by the Adjudicating Officer, Senior Citizen Tribunal, in the order dated 01.12.2022.

8. We have heard learned counsel for the appellant and have gone through the impugned judgment and decree.

9. The only issue that requires consideration by this Court is whether the impugned judgment and decree passed by learned Family Court, requires any interference by this Court.

10. A perusal of the impugned judgment and decree would show that learned Family Court has found that marriage between the parties was solemnized on 11.11.2016 and they got separated on 16.02.2019. During said period, most of the times, the appellant/wife remained in her parental house. The respondent/husband was serving in CRPF and therefore, the parties barely lived together and during said period as well, there had been allegations and counter allegations against each other. It was further found that on the basis of testimony of the respondent/husband and his witnesses, the cruelty on the part of the appellant/wife was proved, whereas the sole testimony of the appellant/wife did not find any support from RW2-Virender Singh and RW3-Jagbir Singh, who did not step into witness-box to face cross-examination. It was the pleaded case of the appellant/wife that on 02.01.2017 when she had been given beatings, her brother was present there. However, her brother did not step into witness-box and thus, the learned Family Court has drawn an adverse inference against the appellant/wife. It was further found that the appellant/wife was not able to prove the allegations regarding alleged threat by her father-in-law to

transfer share in his land to his younger son and that there was no denial on the part of the appellant/wife that she had been talking on the mobile phone for long hours. Learned Family Court has also found that the appellant/wife had admitted of having made various complaints to the authorities concerned and the said complaints contained contradictory versions. The allegations regarding merciless beatings to the appellant/wife were also found false as on the alleged date of such beatings i.e. 06.06.2019, the respondent/husband was on his duty. It was further found that the father of the respondent/husband was not living in his house, which was occupied by the appellant/wife and the same was evident from the order dated 08.08.2023 passed by the Appellate Tribunal-cum-Collector, Jhajjar. Thus, it was concluded by learned Family Court, in para-29 of the impugned judgment, as under:-

“29. No doubt mere refusal to do household work, frequent visits to parental home, quarrelsome behaviour and even use of abusive language can be termed as ordinary wear and tear of married life however, when such behaviour is coupled with numerous false complaints against the spouse and his family members before the police and superior officers of the spouse wherein serious allegations like attempt to murder and molest are levelled the entire circumstances taken in totality amount to cruelty. In the present case the respondent has not only misbehaved with the petitioner and his family, used abusive language for them and refused to do household work, she has gone to the extent of making false complaints, levelling false allegations in her petition under section 125 Cr.P.C., forcing the brother and parents of the petitioner out of their house by terrorizing them and such type of behaviour cannot be called mere ordinary wear and tear of matrimonial life and tantamount to mental and emotional cruelty.”

11. In **K. Srinivas Rao v. D.A. Deepa**, 2013(2) RCR (Civil)

232; Hon'ble Apex Court observed as under:-

“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 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 **K. Srinivas v. K. Sunita**, 2015(1) RCR (Civil) 38,

Hon'ble Apex Court observed as under:-

“6. Another argument which has been articulated on behalf of the learned counsel for the Respondent is that the filing of the criminal complaint has not been pleaded in the petition itself. As we see it, the criminal complaint was filed by the wife after filing of the husband's divorce petition, and being subsequent events could have been looked into by the Court. In any event, both the parties were fully aware of this facet of cruelty which was allegedly suffered by the husband. When evidence was led, as also when arguments were addressed, objection had not been raised on behalf of the Respondent-Wife that this aspect of cruelty was beyond the pleadings. We are, therefore, not impressed by this argument raised on her behalf.

7. In these circumstances, we find that the Appeal is well founded and deserves to be allowed. We unequivocally find that the Respondent-Wife had filed a false criminal complaint, and even one such complaint is sufficient to constitute matrimonial cruelty.

8. We, accordingly, dissolve the marriage of the parties under Section 13(1)(ia) of the Hindu Marriage Act...”

In **Ramchander v. Ananta**, (2015) 11 SCC 539, it has been

held that cruelty has not been defined in the Act and the same is to be taken as the behavior by one spouse towards the other. The cruelty can be physical or mental, but such cruelty must be proved. It was held as under:-

“10. The expression “cruelty” has not been defined in the Hindu Marriage Act. Cruelty for the purpose of Section 13(1)(i-a) is to be taken as a behavior by one spouse towards the other, which causes a reasonable apprehension in the mind of the latter that it is not safe for him or her to continue the matrimonial relationship with the other. Cruelty can be physical or mental. In the present case there is no allegation of physical cruelty alleged by the plaintiff. What is alleged is mental cruelty and it is necessarily a matter of inference to be drawn from the facts and circumstances of the case. It is settled law that the instances of cruelty are not to be taken in isolation but to take the cumulative effect of the facts and circumstances emerging from the evidence on record and then draw a fair inference whether the plaintiff has been subjected to mental cruelty due to conduct of the other spouse. In the decision in *Samar Ghosh v. Jaya Ghosh*, (2007) 4 SCC 511 this Court set out illustrative cases where inference of “mental cruelty” can be drawn and they are only illustrative and not exhaustive”.

12. In **Samar Ghosh v. Jaya Ghosh**, (2007) 4 SCC 511, it was held by the Hon’ble Supreme Court as under:-

“101. No uniform standard can ever be laid down for guidance, yet we deem it appropriate to enumerate some instances of human behaviour which may be relevant in dealing with the cases of “mental cruelty”. The instances indicated in the succeeding paragraphs are only illustrative and not exhaustive:

(i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.

(ii) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party.

(iii) Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable.

(iv) Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of other for a long time may lead to mental cruelty.

(v) *A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse.*

(vi) *Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty.*

(vii) *Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty.*

(viii) *The conduct must be much more than jealousy, selfishness, possessiveness, which causes unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty.*

(ix) *Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day-to-day life would not be adequate for grant of divorce on the ground of mental cruelty.*

(x) *The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill conduct must be persistent for a fairly lengthy period, where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty.*

(xi) *If a husband submits himself for an operation of sterilisation without medical reasons and without the consent or knowledge of his wife and similarly, if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty.*

(xii) *Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty.*

(xiii) *Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.*

(xiv) *Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.”*

13. If the facts of the present case and the findings recorded by learned Family Court are examined in light of aforesaid judgments of the Hon'ble Supreme Court, it would come out that the acts and conduct of the appellant/wife, amounts to cruelty. As is apparent from the findings recorded by the learned Family Court, the evidence produced by the respondent/husband, if examined *vis-à-vis* that of the appellant/wife, it stands established that apart from the sole testimony of the respondent/wife, there is nothing on record to substantiate her allegations. On the other hand, the respondent/husband had produced sufficient evidence on record to substantiate the averments made in the divorce petition regarding cruelty on the part of the appellant/wife. Still further, it was proved on record that the appellant/wife had made numerous complaints to various authorities and the said complaints also contained divergent and contradictory versions. No evidence was led by the appellant/wife either to counter them or disprove the aforesaid complaints having been filed by her. Still further, the appellant/wife had also filed a complaint to the police against her parents-in-law and they had been ousted from their house on 10.07.2017 rendering them homeless, which was apparent from the order dated 08.08.2023 passed by the Appellate Tribunal-cum-Collector, Jhajjar.

14. All these cumulative facts have been taken into consideration to hold that the acts and conduct of the appellant/wife amounted to cruelty. In our opinion, the findings recorded by learned Family Court are based on cogent and convincing evidence. It could not

be pointed out that any evidence has been misread or not taken into consideration while passing the impugned judgment and decree.

15. In view of the above, we do not find any illegality or perversity in the impugned judgment and decree passed by the learned Family Court. No other point has been urged. Hence, the same is hereby dismissed.

16. Pending application(s), if any, shall also stand disposed of.

17. However, the appellant-wife will be at liberty to move an appropriate application for grant of permanent alimony before the learned Family Court. We make it clear that if any such application is moved, the same shall be decided by the learned Family Court in accordance with law, preferably within a period of six months.

(SUDHIR SINGH)
JUDGE

(DEEPAK GUPTA)
JUDGE

October 22, 2024
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No