



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FAMILY COURT APPEAL NO. 79 OF 2024

Tushar S/o. Uddhav Jogdand
Age: 32 years, Occu. Service,
R/o. Flat NO. 05, Urvi Heights,
Tendulkar Colony, Beed, Tal. & Dist. Beed.
At present: Plot No. 61, Flat No. 02,
White Lotus Apartment, Savarkar Nagar,
N-5, CIDCO, Chh. Sambhajinagar,
Dist. Chh. Sambhajinagar.

...APPELLANT
[Original Petitioner]

VERSUS

Monika W/o. Tushar Jogdand,
Age: 31 years, Occu. Service,
R/o. C/o. Dattatray Nivrutti Paighan,
Gadiya Vihar, Chh. Sambhajinagar,
Dist. Chh. Sambhajinagar.
At present: C/o. Dayanand Jagtap,
Shivneri Nivas, Sant Tukaram Nagar,
Tal. & Dist. Beed.

...RESPONDENT
[Original Respondent]

Mr. A.B. Kale h/f Mr. S.B. Choudhari, Advocate for appellant
Mr. Aditya Sikchi h/f Mr. R.K. Kasat, Advocate for the respondent

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CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL JADHAV, J.J.

RESERVED ON : 10th NOVEMBER, 2025
PRONOUNCED ON: 18th DECEMBER, 2025

JUDGMENT : [PER NITIN B. SURYAWANSHI, J.]

1. By this appeal filed under Section 19 of the Family Courts Act, appellant/husband challenges judgment passed by the Family

Court, Beed in Petition No. A-160 of 2022.

For the sake of convenience, hereinafter parties are referred to appellant as 'Husband' and respondent as 'Wife'.

2. Husband filed petition under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 for divorce, in short contending that, his mother died when he was two months old. As his father did not pay attention to him, he was raised by his maternal grand parents and maternal uncle Vinod and Rajesh. After completing education, he was appointed in State Bank of India, Jalgaon. While he was serving at Beed, he and wife were engaged and then they married on 03.01.2021. They both stayed with his maternal uncle for a period of ten days at Washi. Wife got job at Mahawitaran at Beed. She started staying with her father for the said job. On 11.01.2021, wife joined at Kannad, when he was at Beed. Wife used to attend duty from Aurangabad to Kannad. He used to visit her on second and fourth Saturday-Sunday. Then wife was transferred to Sillod, but she continued staying with her father. He took separate room at Beed and she used to come from Sillod to Beed on third Saturday-Sunday and he used to go to Aurangabad on second and fourth Saturday-Sunday at her paternal house. Wife got pregnant and he took her care. On 01.04.2021, she suffered from Corona and he took her care for 14

days. In June, 2021 she was transferred to Vaijapur and was staying with her mother. He tried for her transfer after three months of service. She was transferred to Talwada, Taluka- Georai, but she refused to come to Beed. At his request, she was transferred to Beed. Therefore, from 01.09.2021 they both started staying at Beed in the house of one Ramesh Shinde. They stayed there for two months. During this period, she tortured him. She was not allowing his maternal uncle and relatives to visit his house. Even he was not allowed to call/talk to them. She used to taunt him that as he has no parents, he would not know what is the love of parents. She used to insult him. When his brother-in-law Ajit Kokate came to meet him, at that time, he was ill, but she quarreled with Ajit and started shouting saying that he is making drama and he is alright. She used to always say that she did not want to marry. In that two months period, she did not gave him marital satisfaction. She used to chat with her mother for two hours. She used to demand entire his salary. She used to sleep before he used to come from the duty.

On 03.11.2021, her father came to their house. They both unnecessarily quarreled with him, abused him and tried to beat him. Thereafter, without sufficient cause, she left the house of husband and started residing with her mother by renting a house at Beed. When his elder sister Akansha and her husband Ajit Kokate went to the wife to

meet her at Aurangabad, she and her parents insulted them. They were told that husband should not go to his maternal uncle and he should stay in separate room in Beed. He is attached to his maternal uncle and maternal family members. From 14.01.2022, wife took leave for delivery and she gave birth to a daughter on 24.01.2022. This information was not given to the husband. Her father threatened him that nobody should come to see the daughter. Still his maternal uncle and relatives went to see the daughter at Aurangabad, but they were not allowed to meet wife and daughter. Efforts were made by his maternal uncle and elder sister, her husband to bring the wife back, but she refused to co-habit with him and stayed and said that she wants divorce. In the month of April-2022, he purchased a new flat and called her for Pooja, but she refused to come. Thereafter, also he made efforts to take her back, but there is no response from her. She never tried to resume cohabitation. A meeting was arranged in the month of May/June-2021 in Shantai Hotel, Beed, between relatives of both the sides, but she refused to come to him. Though he had informed that he has no contact with his father, she and her family members meet his father in his presence and gave false information about him and tried to pressurize him. She is earning Rs. 50,000/- to 60,000/- per month by serving at Mahavitaran. She is not willing to cohabit with him.

3. Wife by filing written statement opposed the petition. She stated that after the marriage, they both started residing with his maternal uncle. During that period, she used to go to husband at Beed on second and fourth Saturday, so also, husband used to come to meet her at his maternal uncle's home. After two months of marriage, he started checking her mobile, used to doubt her character. He started call recording application in her mobile and used to listen to the same. When she was suffering from Corona, husband did not take her care. During that period she found that husband was taking pills. When asked he told that he is suffering from mental illness and is under the treatment of Antarang Clinic, Aurangabad. He said that this fact is known to everybody except her. He told her that if she informed it to her parents, he will not cohabit with her. Thereafter, she went to Aurangabad for her service. Then he blocked her number. He came to his maternal uncle and checked her mobile. He said that nobody from her office should call her. He used to beat her. In the month of September-2021, when they were staying in the house of Ramesh Shinde, his maternal uncle, his wife, Akansha Kokate, Ajit Kokate, Bhavana Chede came to Beed and tortured her physically and mentally. When her parents came to meet her, they demanded Rs. 1,00,000/- and said that, husband will not cohabit with her if the amount is not paid. So, her father gave him Rs. 1,00,000/-. When she

was pregnant, husband beat her. When her father came to take her for Diwali festival, husband abused her father. Her father arranged meeting with the husband and his relatives to reconcile their marriage. During their meeting, husband's maternal uncle had refused to take the wife back. On 30.10.2022 another meeting was arranged, wherein she was made to apologize the husband and his relatives. During the said meeting, husband asked her to leave her job and then and then only he will take her back for cohabitation. She is taking care of her minor daughter though her salary is not sufficient for the same. She claimed that husband had mentally and physically tortured her and without any reason is residing separately from her.

The Family Court after recording evidence and hearing the parties has dismissed the petition filed by the husband. Hence, the present appeal.

4. Heard learned advocate for the husband and learned advocate for the wife. Perused the record.

5. In support of his case, husband has examined himself and reiterated the pleadings in the petition. In the cross examination, he has stated that after the marriage he and wife cohabited only for initial 10 days. He admitted that on weekends he used to meet the wife. He has denied that he used to call wife on weekends at Beed. He denied

that since the wife became pregnant, she has given him conjugal satisfaction. He has further admitted that before filing of the petition there were meetings between both the parties. He has denied that he and his relatives demanded apology from the wife and accordingly she apologized, but as they claimed that the apology was not heard by them, she was again required to apologize. He has admitted that he stayed with wife at Beed in a rental premises and there used to be always quarrels between them. He has denied that since the wife was serving in Mahavitaran he used to continuously check her mobile and used to record some of the data from her mobile. He has admitted that during the training period of wife they used to spend vacation time together. He denied that he always used to take money from wife. He has admitted that though the daughter was born to them on 24.01.2022, he has not met her. Similarly, his relatives also have not met the wife. He denied that in the meeting dated 03.07.2022 he told wife not to do the service and if she continues her service then entire salary should be given to his maternal uncle and aunt. He has denied that while staying at Beed with wife he was taking treatment for psychological ailment and therefore he has given physical and mental ill treatment to the wife. He admitted that from 03.11.2021 they both are residing separately. He deposed that he has not complained anywhere about the physical and mental ill treatment given by the

wife. He admitted that wife has not caused any physical harm to him. He denied that wife has never given him mental ill treatment and only on suspicion and at the instance of relatives he has filed the false case.

6. Husband has also examined his brother-in-law Ajit Kokate (PW2). He has tried to support case of the husband. He deposed that husband and wife cohabited for a period of two months. During this period, wife troubled the husband. She was not allowing maternal uncle and relatives of the husband to come to their house. On that count also she used to ill treat the husband. She used to tell husband that since the husband did not have parents, he would not be able to understand parental love. By saying so, she used to give mental ill treatment to the husband. In his presence, a quarrel occurred between the husband and wife. When he went to visit the husband, who was ailing, the wife shouted that nothing has happened to the husband and he is pretending. She used to tell husband that she was repeatedly being rejected and therefore, she did not want to marry, however, the husband has committed mistake by marrying her. She used to repeatedly taunt husband and insult him. In the said two months period she never gave conjugal satisfaction to the husband. Then he has stated about the meetings held between both the parties. He has deposed that he along with wife/sister of the husband went to see the

daughter at Aurangabad, at that time, wife and daughter were at Beed. At that time, they were given insulting treatment by the wife and her father. They were told that husband should not visit his maternal uncle and should stay at Beed. Thereafter, he stated that on 14.01.2022 wife took maternal leave and she delivered a girl child on 24.01.2022. Husband or his relatives were not given intimation of birth of child. Wife's father threatened the husband that nobody should come to see the child. In spite of that, husband, his maternal uncle and other relatives went to meet the wife at Aurangabad and inquired with her thoroughly, but wife and her parents were not allowed them to enter the house. He deposed that several efforts were made to bring the wife back, however, she used to say that she does not want to cohabit with the husband and she wanted divorce. In all the meetings, wife refused to come for cohabitation.

In the cross examination, he has denied all the suggestions given by the wife. This witness being brother-in-law of the husband has tried to support the case of the husband, but his evidence falls short to prove the case of the husband of cruelty meted out by the wife.

7. Husband has also examined relative Subhash Tawre (PW3). He has also tried to support the case of the husband on the point that

after the delivery he requested wife's father to inform about the delivery to the husband and his maternal uncle, however, he refused. Then he gave intimation to the husband and his maternal uncle. According to him, wife refused to intimate said fact to the husband and his relatives. He has claimed that wife has refused to cohabit with the husband. He had admitted that his contention in his affidavit-in-chief in last two lines of paragraph 4 about the phone are false. He has admitted that the meetings were called by both the parties.

8. Husband has also examined maternal uncle Rajesh Chede (PW4). He has reiterated the contentions of husband and his other witnesses and the fact that wife refused to cohabit with the husband.

9. Wife has deposed in terms of her written statement. She has reiterated that she is ready to cohabit with the husband and till date he has not come to take her for cohabitation and she has issued legal notice to him for restitution of conjugal rights.

10. Wife has examined her father Dattatraya Paighan as witness No. 2. He deposed that wife was made to apologize though there was no mistake on her part. Though, she apologized she was again made to apologize saying that they did not hear it. The husband and his relatives were insisting that wife should leave her job and stay

at home, otherwise, she should take leave and should hand over entire salary to husband's maternal uncle and would get Rs. 10,000/- for her expenses. On asking who would look after the baby, it was told that wife has to manage that. Her parents should not visit her. Though, his daughter wants to cohabit, she is driven out of house without any plausible reason. They have not given complaint about ill treatment suffered by wife as she has genuine desire to cohabit. Till date husband has not come to take her for cohabitation.

11. Wife has examined her father's friend Suryakant Patil as witness No. 3. He was the mediator in the marriage. He has deposed about the various meetings held between the parties for mediation. According to him, husband and his relatives were not ready to allow wife to cohabit.

12. In ***Gurbux Singh Vs. Harminder Kaur***¹, the Apex Court has laid down illustrative parameters relevant while dealing with the cases of mental cruelty as follows:

"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

1 AIR 2011 SC 114

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.”

11) A Hindu marriage solemnized under the Act can only be dissolved on any of the grounds specified therein. We have already pointed out that in the petition for dissolution of marriage, the appellant has merely mentioned Section 13 of the Act and in the body of the petition he highlighted certain instances amounting to cruelty by the respondent-wife. Cruelty has not been defined under the Act. It is quite possible that a particular conduct may amount to cruelty in one case but the same conduct necessarily may not amount to cruelty due to change of various factors, in different set of circumstances. Therefore, it is essential for the appellant, who claims relief, to prove that a particular/part of conduct or behaviour resulted in cruelty to him. No prior assumptions can be made in such matters. Meaning thereby that it cannot be assumed that a particular conduct will, under all circumstances, amount to cruelty, vis-à-vis the other party. The aggrieved party has to make a specific case that the conduct of which exception is taken amounts to cruelty. It is true that even a single act of violence which is of grievous and inexcusable nature satisfies the test

of cruelty. Persistence in inordinate sexual demands or malpractices by either spouse can be cruelty if it injures the other spouse. There is no such complaint by the appellant. In the case on hand, as stated earlier, the appellant has projected few instances in which, according to him, the respondent abused his parents. We have verified all the averments in the petitions, reply statement, written submissions as well as the evidence of both parties. We are satisfied that on the basis of such instances, marriage cannot be dissolved.”

13. On applying aforesaid ratio to the facts of the present case, we find that husband has miserably failed to prove that conduct of the wife has caused mental cruelty to him.

14. From the evidence on record, it appears that there were trivial irritations, quarrels and normal wear and tear of marital life, which happens in day-to-day life. If the married life of the Husband and Wife is reviewed as a whole, though there appear few instances of quarrels between them over a period of time, those are not sufficient to prove cruelty. The alleged ill-conduct of the wife is not persistent for a fairly lengthy period, where relationship can be said to have deteriorated to an extent that, because of the acts and behavior of the wife, the husband finds it extremely difficult to live with her any longer.

The husband has failed to prove that the conduct of wife for a longtime caused the feeling of deep anguish, disappointment, frustration in her. There is nothing on record to show that the wife has given him sustained course of abusing and humiliating treatment

calculated to torture discommode or has rendered her life miserable. The husband has failed to prove that sustained unjustifiable conduct and behaviour of the wife has actually affected his physical and mental health. The alleged treatment complained of by the husband and the resultant danger or apprehension is not very grave, substantial and weighty. Thus, in absence of this evidence the husband has failed to prove the ground of cruelty. There is neither evidence of physical cruelty nor there is evidence of mental cruelty.

15. The Family Court has properly analyzed the evidence and has rightly dismissed the petition filed by the husband as the husband has failed to prove the ground of cruelty. There is no illegality or perversity in the judgment of the Family Court. No error of jurisdiction or law is committed by the Family Court while dismissing the petition of the husband.

16. For the aforesaid reasons, there is no merit in the appeal and the same is therefore dismissed.

(VAISHALI PATIL JADHAV, J.)

(NITIN B. SURYAWANSHI, J.)