

2025:PHHC:041168-DB



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

FAO-1842-2025 (O&M)

Date of Decision: March 24, 2025

Manjeet Kaur

.....Appellant

versus

Paramjit Singh

.... Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. Arihant Jain, Advocate and
Mr. Rishav Jain, Advocate for the appellant.

SUDHIR SINGH, J.

Challenge in the present appeal is to the judgment and decree dated 14.02.2025 passed by learned Principal Judge, Family Court, Sangrur (for short 'the Family Court'), whereby, the petition under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') filed by the respondent-husband was allowed, and the marriage between the parties was dissolved by a decree of divorce on the ground of cruelty.

2. The aforesaid petition had been filed, *inter alia*, pleading therein that his marriage with the appellant-wife was solemnized on 25.02.2007 according to Sikh rites, and out of the said wedlock, one male child was born on 15.12.2007. It was further alleged that the respondent-husband was transferred to Dhuri on 01.04.2013 and he along with the appellant-wife started residing at that place in a rented accommodation. He purchased a plot

at Dhuri out of his own income in the name of the appellant-wife for which his father had given him Rs.6 lakhs. Besides that, his father had also given him another amount of Rs.5 lakhs for raising construction on the said plot. He had taken loan of Rs.5 lakhs apart from withdrawing an amount of Rs.2.5 lakhs from his provident fund. The appellant-wife was a quarrelsome and short-tempered lady and on many occasions, she had slapped the respondent-husband and used derogatory language against him. She had also restrained the respondent-husband from having any access to their son. On 30.03.2019, the brother of the appellant-wife came to the house of the respondent-husband at Ladbanjara, and took her with him. While leaving, she had also taken all valuable articles and clothes with her. The request of the family members of the respondent-husband to the appellant-wife not to leave the matrimonial home fell to deaf ears. She had also misbehaved with them and the entire incident was recorded in the CCTV footage. The respondent-husband had also moved an application to the Senior Superintendent of Police, Sangrur. On 29.10.2018, the appellant-wife called Ranjit Singh (brother of the respondent-husband) on his mobile number and had issued threats to kill herself along with the kid and set ablaze her father, if any attempt had been made to rehabilitate her in the matrimonial home. In 2018, the appellant-wife took the minor son of the parties to her parental village Jakhepal and got him admitted in a School at the said village. Terming the aforesaid acts of the appellant-wife as cruelty, a decree of divorce had been sought for.

3. Upon notice, the appellant-wife entered appearance and filed her written statement admitting the factum of marriage and birth of the child. Apart from the allegations of having given sufficient dowry in the marriage, it

was asserted that the respondent-husband and his family members never allowed the appellant-wife to use her *istridhan*. When the respondent-husband was posted at Bathinda, she also shifted with him at the said place, but her in-laws did not allow her to take the dowry articles with her. They were not satisfied with the dowry given, and demanded more dowry and when she had expressed her inability to meet the said illegal demand, she had been subjected to mental and physical cruelty. The respondent-husband and his family members had demanded money from the parents of the appellant-wife for purchasing a plot and her parents had given money for the said purpose, and subsequently, the respondent-husband purchased a plot at Dhuri vide sale-deed dated 19.10.2016 in the name of the appellant-wife, but after sometime, she had been pressurized to transfer the house constructed on the aforesaid plot in the name of the respondent-husband. But, when she refused to do so keeping in view the security of her future and that of the minor child, she had not been provided any food and other necessities of life by the respondent-husband. In 2018, she had been given severe beatings by the respondent-husband pursuant whereunto, she had moved an application to the police at Police Post Kohrian, whereafter, a compromise dated 24.01.2019 was effected between the parties. However, the behaviour of the respondent-husband did not change which compelled her to make a telephonic call to her parents, whereupon, her brother came to her matrimonial home to bring her back and the minor child. The respondent-husband and his family members had filed a false complaint against the appellant-wife before the SSP, Sangrur. Her parents had convened a *panchayat* to rehabilitate her in the matrimonial home, but to no avail. It was alleged that the respondent-husband had

neglected the appellant-wife and the minor child. He did not even bother to provide the medical treatment to the minor child of the parties. She had been compelled to file a civil suit for permanent injunction against the respondent-husband in the Civil Courts at Dhuri, which was pending. It was further alleged that in February 2019, the respondent-husband and his family members gave her severe beatings and had turned her out of matrimonial home. All the allegations of cruelty were denied.

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 decree of divorce on the ground of cruelty as prayed for in the petition? OPA*
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-Ranjit Singh (his brother), PW3-Satnam Singh, PW4-Gurdeep Singh and PW5-Dalbara Singh and also tendered Exhibit P5. On the other hand, the appellant-wife stepped into the witness box as RW4 and had also examined RW1-Amandeep Sharma (Constable), RW1-Simran Singh, RW2-Makhan Singh and RW3-Maninderjeet Singh.

6. Learned Family Court, after considering rival contentions of the parties and evidence on record, allowed the petition filed by the respondent-husband, as noticed above.

7. Learned counsel appearing on behalf of the appellant-wife has vehemently argued that findings recorded by the learned Family Court are against the evidence on record and are based on conjectures and surmises. It is further argued that allegations contained in the divorce petition were totally

false, general and omnibus in nature. Learned Family Court has wrongly termed the minor wear and tear of the matrimonial life as cruelty. It is further argued that it was specifically pleaded case of the appellant-wife that various *panchayats* had been convened and her parents did their best to rehabilitate her in the matrimonial home, but said aspect has totally been overlooked by the learned Family Court. It is also argued that the sole bone of contention was the residential house at Dhuri, which was purchased in the name of the appellant-wife with the financial assistance of her parents, which she did not agree to transfer in the name of the respondent-husband. It is also argued that as a matter of fact, the appellant-wife had been subjected to acts of cruelty at the hands of the respondent-husband and his family members and by granting a decree of divorce, learned Family Court has allowed the respondent-husband to take benefit of his own wrong, which is not permissible in the eyes of law. It is also argued that pen-drive Exhibit P3 produced by the respondent-husband before the Court has not been proved in terms of provisions of the Evidence Act, and therefore, the same has wrongly been relied upon by the learned Family Court to return finding of cruelty against the appellant-wife.

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

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

10. Learned Family Court, on the basis of evidence on record, has found that the witnesses produced by the respondent-husband had deposed on

the lines of averments contained in the divorce petition. It was further found that the respondent-husband had produced on record hard disc Exhibit P2, original pen-drive as Exhibit P3 along with one certificate under Section 63(4) of the Bharatiya Sakshya Adhiniyam, 2023. The said evidence was in respect of the incident of cruelty committed by the appellant-wife, which was captured in the CCTV footage. The appellant-wife did not lead any evidence in rebuttal to the said evidence led by the respondent-husband. The appellant-wife did not deny in her testimony that her father-in-law had paid an amount of Rs.6 lakhs for the purchase of the said house in her name. The factum of financial assistance from her parents in respect of the purchase of the said house was not proved by her through any evidence. It was further found that in view of the admitted case of the appellant-wife that she had stayed at the place(s) of posting of the respondent-husband at Bathinda and Dhuri, but there was no evidence on record in respect of any harassment or maltreatment given to her by the respondent-husband. Learned Family Court found that the appellant-wife did not bother when her mother-in-law fell down on the ground and she had forcibly dragged her out of the car and her walker had been thrown away by her. It was thus, found that the said act on the part of the appellant-wife amounted to cruelty.

11. It is well settled that in order to constitute cruelty, the party alleging the same must prove on record that the behaviour of the party complained against is or has been as such that it has made it impossible for the said party to live in the company of the party complained against. The acts of cruelty must be such from which it can be reasonably and logically concluded that there cannot be any re-union between the parties due to the

said acts. The cruelty can either be physical or mental or both. Though there is no mathematical formula to devise the extent of cruelty alleged against, yet the facts and circumstances of each and every case must be examined in the light of the gravity contained in them.

12. In **Samar Ghosh v. Jaya Ghosh**, (2007) 4 SCC 511, it was held by the Hon'ble Supreme court that no uniform standard can be laid down as regards the cruelty, but certain instances of human behaviour, relevant in dealing with the cases of mental cruelty', were formulated. It was held by the Hon'ble Apex 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.”*

In **Naveen Kohli v. Neetu Kohli**, 2006 (4) SCC 558, the Hon'ble

Apex Court was considering a case of irretrievable breakdown of marriage. In the said case, the wife had been living separately for a long time, but did not want divorce by mutual consent only to make life of her husband miserable. The Hon'ble Apex Court, while holding the acts and conduct of the wife as cruelty, has held as under:-

“62. Even at this stage, the respondent does not want divorce by mutual consent. From the analysis and evaluation of the entire evidence, it is clear that the respondent has resolved to live in agony only to make life a miserable hell for the appellant

as well. This type of adamant and callous attitude, in the context of the facts of this case, leaves no manner of doubt in our mind that the respondent is bent upon treating the appellant with mental cruelty. It is abundantly clear that the marriage between the parties had broken down irretrievably and there is no chance of their coming together, or living together again. The High Court ought to have visualized that preservation of such a marriage is totally unworkable which has ceased to be effective and would be greater source of misery for the parties.

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67. *The High Court ought to have considered that a human problem can be properly resolved by adopting a human approach. In the instant case, not to grant a decree of divorce would be disastrous for the parties. Otherwise, there may be a ray of hope for the parties that after a passage of time (after obtaining a decree of divorce) the parties may psychologically and emotionally settle down and start a new chapter in life.*

68. *In our considered view, looking to the peculiar facts of the case, the High Court was not justified in setting aside the order of the Trial Court. In our opinion, wisdom lies in accepting the pragmatic reality of life and take a decision which would ultimately be conducive in the interest of both the parties.”*

Still further, in **K. Srinivas Rao v. D.A. Deepa**, 2013 (5) SCC

226 has observed that when a marriage is dead for all purposes, it cannot be revived by Court's verdict, if the parties are not willing since marriage involves human sentiments and emotions and if they have dried up, there is hardly any chance of their springing back to life on account of artificial reunion created by the Court's decree.

13. If the facts of the present case and findings recorded by the learned Family Court are examined in the light of the aforesaid judgments of the Hon’ble Supreme Court, then it would come out that allegations regarding dowry demands were found to be baseless by the learned Family Court. The appellant-wife admitted in her cross-examination that she had filed an application (Exhibit P5) to the police against the respondent-husband and his family members, but no action was taken by the police, and that thereafter,

she did not pursue the matter. It was also found that the civil suit filed by her in respect of the house at Dhuri was dismissed by the trial Court and against that she had filed an appeal. She had also admitted her voice in the pen-drive produced in the Court as Exhibit P7. It was further found that the video-clip dated 30.03.2019 was shown to her, but she stated that she did not push her mother-in-law. On the basis of testimony of RW1 (Constable Amandeep Sharma), the factum of moving various applications to the police authorities by the appellant-wife was proved. The minor son of the parties, in his cross-examination, could not give specific date, month or year of the alleged harassment caused to his mother by his grandmother. His testimony has been held to be influenced by his maternal family.

14. In the instant case, evidence Exhibits P2 and P3 in respect of the incident captured in the CCTV footage could not be disputed by the learned counsel for the appellant-wife. Still further, as has been found by learned Family Court, no rebuttal to the said evidence was made by the appellant-wife. As noticed above, learned Family Court has held that factum of dragging mother-in-law from the car and throwing away her walker, amounts to cruelty. Still further, it was also noticed that various complaints moved to the police authorities did not yield any result in respect of the alleged cruelty and harassment caused by the respondent-husband and his family members. All these findings recorded by learned Family Court are plausible.

15. During the course of arguments, on a query put by this Court, learned counsel for the appellant-wife submits that the appellant-wife has not preferred any petition under Section 9 of the Act seeking restitution of conjugal rights between the parties.

16. In view of the above and considering the totality of the facts and circumstances of the case, we find that the findings recorded by the learned Family Court are based on the evidence on record and the said findings cannot be said to be suffering from any patent illegality or perversity warranting any interference by this Court in the present appeal. It could not be shown that any evidence was misread or not taken into consideration. Hence, the same is hereby dismissed.

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

18. We grant liberty to the appellant-wife to move an appropriate application, before learned Family Court for grant of permanent alimony. If any such application is filed by the appellant-wife, the same shall be considered and decided by the Court concerned, in accordance with law, preferably within a period of 06 months from the date of filing thereof.

(SUDHIR SINGH)
JUDGE

(SUKHVINDER KAUR)
JUDGE

March 24, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No