

2025.PHHC.050175-DB



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

FAO-1967-2025 (O&M)

Date of decision: 28.03.2025

NEHA

...Appellant

Versus

ASHOK KUMAR

...Respondent

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

Present:- Mr. Nayandeep Rana, Advocate for the appellant

SUDHIR SINGH, J.

CM-6234-CII-2025

For the reasons stated in the application, same is allowed, delay of 16 days in filing the present appeal is condoned, subject to all just exceptions.

FAO-1967-2025

Challenge in the present appeal is to the judgment and decree dated 04.12.2024 passed by the learned Principal Judge, Family Court, Karnal (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, has been allowed and the marriage between the parties has been dissolved by a decree of divorce on the ground of cruelty. The appellant-wife was held entitled to an amount of Rs.10 lakhs as permanent alimony.

2. The aforesaid petition had been filed by the respondent-husband, *inter-alia*, asserting therein that his marriage with the appellant-wife was solemnized on 24.02.2012, according to Hindu rites and out of the said wedlock, one female child was born. It was further asserted that the respondent-husband and his family members treated the appellant-wife with respect and dignity. At the time of marriage, the respondent-husband was employed at S.P.S. Apollo Hospital, Ludhiana, but she started pressurizing him to leave his job and relocate to Karnal or Panchkula. On 14.03.2012, when the respondent-husband went to Ludhiana for work, the appellant-wife in his absence left the matrimonial home without informing anyone. When contacted, the appellant-wife put a condition that she would return only when the respondent-husband would leave his job. It was further asserted that the respondent-husband approached the Family Settlement Centre at Karnal on 11.05.2012, but the appellant-wife reiterated her aforesaid condition. Eventually, in June, 2012, under the compelling circumstances, the respondent-husband resigned from his job and informed the appellant-wife, but she still did not return. Another attempt was made through the Settlement Centre on 09.07.2012, but it also did not yield any result. It was further asserted that a Panchayat was convened, where the respondent-husband had shown his resignation, but the appellant-wife termed the same to be a fake document. Thereafter, a second Panchayat was convened on 15.08.2012 and on persuasion of Panchayat members, the appellant-wife returned, but made it clear that she was doing so only due to pressure and had no interest in continuing the marriage. The

appellant-wife stayed at the matrimonial home for only two months during which period her behaviour remained cruel and disrespectful towards the respondent-husband and his family. On 16.10.2012, the respondent-husband started a new job at Panchkula. When he was about to leave, the appellant-wife insisted for going with him, but he requested for some time to settle down first. Despite that, the appellant-wife left the matrimonial home taking all her gold jewellery and later when the respondent-husband visited the parental home of the appellant-wife, he was not allowed to meet her. Subsequently, the appellant-wife lodged FIR No. 549 dated 22.07.2013 under Sections 323, 406, 498-A, 506, and 34 of the IPC against the respondent-husband and his parents, wherein all of them were found innocent and acquitted of the charges framed against them. It was yet further asserted that the appellant-wife was arrogant, quarrelsome, and disrespectful and had created an intolerable environment at the matrimonial home. Terming the aforesaid acts and conduct 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, but denied the rest of the allegations made by the respondent-husband. It was further asserted that the divorce petition was a counterblast to an application filed by the appellant-wife for enforcement of the order dated 13.04.2018 passed under the Protection of Women from Domestic Violence Act, 2005. The appellant-wife further asserted that she did not desert the respondent-husband, but it was the respondent-husband, who had ousted her from

the matrimonial home when she was pregnant. Despite being informed, the respondent-husband and his family members never came to see the newborn child. It was further asserted that the respondent-husband and his family members never treated the appellant-wife with respect or dignity. The appellant-wife was constantly harassed for bringing insufficient dowry and was repeatedly pressurized to bring more dowry and money from her parents. The appellant-wife further asserted that on 14.03.2012, she was thrown out of the matrimonial home with clear terms to return only if she brought a car, LCD, and additional cash. It was further asserted that the appellant-wife never asked the respondent-husband to quit his job at Ludhiana and rather, a compromise was effected in a complaint filed by her with the Police Mahila Cell. However, said settlement was not honored. It was alleged that the appellant-wife returned to the house of respondent-husband on 15.08.2012 after the intervention of Panchayat, but the behaviour of the respondent-husband and his family members towards her did not change and they had pressurized the appellant-wife for dowry and even physically assaulted her. After 16.10.2012, the appellant-wife was never allowed to live with the respondent-husband again. It was yet further asserted that the respondent-husband had earlier filed a petition under Section 9 of the Act for restitution of conjugal rights, which was later on withdrawn by him. As a result of continued cruelty and demands of dowry, the appellant-wife lodged FIR No. 549 dated 22.07.2013 aforesaid. It was further asserted that the respondent-husband and his

family members had been acquitted for lack of evidence and not on merits.

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

- “1. Whether the petitioner is entitled to a decree of divorce on the ground of cruelty and desertion, as alleged by him in the petition ?
OPP
2. Whether the petition is maintainable in the present form ? OPR
3. Whether the petition is liable to be dismissed being false and frivolous ? OPR
4. Relief. ”

5. In evidence, the respondent-husband appeared as PW2 and had also examined PW1-Ram Chander (his father) besides tendering documents Ex.P1 to Ex.P9 and Mark PA to Mark PC. On the other hand, the appellant-wife examined herself as RW1 and had also examined RW2-Raghubir Singh (her father); RW3-Raj Kumar DRK, Judicial Record Room, Karnal besides tendering documents Ex.R1 to Ex.R10 and Mark A to Mark O.

6. The learned Family Court, after taking into consideration the rival contentions and evidence on record, decreed the petition filed by the respondent-husband, as noticed above.

7. Learned counsel for the appellant-wife has vehemently argued that while passing the impugned judgment and decree, the learned Family Court did not appreciate the evidence on record. It is

further argued that it was due to the maltreatment and the atrocious acts of the respondent-husband and his family members that the appellant-wife had lodged an FIR against them. It is further argued that merely because the respondent-husband and his family members were acquitted in the aforesaid FIR, is no ground to hold that the appellant-wife had treated him with cruelty, especially when such acquittal was earned due to lack of evidence. Learned counsel for the appellant-wife further argues that since the birth of the minor child, the respondent-husband did not come to meet her even for once which clearly speaks of his conduct in neglecting and not maintaining the appellant-wife and the minor child of the parties. Still further, it is argued that grant of permanent alimony of Rs.10 lakhs is very much on the lower side and the said amount deserves to be suitably enhanced. Accordingly, a prayer has been made for setting aside of the impugned judgment and decree passed by the learned Family Court.

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

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

10. The learned Family Court has found that the appellant-wife interfered in the professional life of the respondent-husband, who was employed in Ludhiana at the time of their marriage. She

pressurized him to resign from his job and left the matrimonial home, while the respondent-husband was away. These assertions were supported by father of the respondent-husband. A compromise was later reached at a Family Settlement Centre, where both parties agreed that the appellant-wife would not reside at Ludhiana or Karnal, and the respondent-husband would work at Panchkula. This agreement was acknowledged by both, the appellant-wife and her father. It was further found that the compromise would not have necessitated if the appellant-wife had not insisted on for the resignation of respondent-husband. Panchayats were also held soon after the marriage, and an application was also made to the Family Settlement Officer, which falsified the fact that the appellant-wife was asked to return to her parental home at the instance of her in-laws. It was further found that the resignation by respondent-husband post-compromise shows that he had made efforts to save the marriage. The learned Family Court has further found that the appellant-wife insisted for living separately; refused to cooperate, and made baseless allegations, which amounted to mental cruelty to the respondent-husband. Allegations of dowry demands and physical abuse raised by the appellant-wife were found unsubstantiated as her father admitted that no such incident took place in his presence, and medical record did not support her claim as well. It was further found that the respondent-husband and his family members were acquitted of charge under Section 498-A IPC. The learned Family Court further observed that the respondent-husband was able to prove cruelty committed by the appellant-wife. It was further noticed by the learned Family Court that the parties had been

living separately since 2012. Considering the affidavits of both the sides, qua income, expenditure and assets, the learned Family Court has awarded her Rs. 10 lakh as permanent alimony.

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 Family 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.”

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 drew 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 case (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”.

13. If the findings recorded by the learned Family Court are examined in the light of the aforesaid judgments of the Hon’ble Apex Court, it would come out that the respondent-husband was able to prove through cogent and convincing evidence that the appellant-wife had treated him with cruelty. We may further notice that the parties have been living separately for the last 13 years and there is no

resumption of matrimonial ties between the parties since then. Thus, any direction for their re-union would amount to cruelty to both of them.

14. It may further be noticed that learned counsel for the appellant-wife could not show that the finding of acquittal recorded in the FIR lodged by the appellant-wife has been altered or modified in an appeal or revision. Thus, the fact remains that the only defence of the appellant-wife before the learned Family Court that she had been tortured or humiliated on the ground of demand of dowry did not find any favour. In **Rani Narasimha Sastry vs. Rani Suneela Rani, 2019 (Suppl.) Civil Court Cases 201**, it has been held by the Hon'ble Supreme Court that if the wife initiates criminal proceedings against the husband and his family members and if ultimately they are acquitted of the charges framed against them, the same amounts to cruelty and divorce can very well be granted on the said ground.

15. We find that the learned Family Court has rightly found the appellant-wife entitled to an amount of Rs.10 Lakhs as permanent alimony. The said amount was awarded by the learned Family Court after taking into consideration, the income, assets and liabilities of the respondent-husband, as indicated in the affidavit filed by him. It could not be shown that the said finding has been erroneously recorded by the learned Family Court.

16. 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. It could not be pointed out that any evidence has been misread or not taken into consideration.

17. Finding no merit in the present appeal, the same is hereby dismissed.

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

[SUDHIR SINGH]
JUDGE

[SUKHVINDER KAUR]
JUDGE

28.03.2025
Himanshu/S

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No