

2025:PHHC:049030-DB



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

FAO-108-2025 (O&M)

Date of Decision: March 24, 2025

Sandeep Kaur

.....Appellant

versus

Angrej Singh

.... Respondent

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

Present:- Mr. Vikas Gupta, Advocate for the appellant.

SUDHIR SINGH, J.

Challenge in the present appeal is to the judgment and decree dated 18.09.2024 passed by learned Principal Judge, Family Court, Camp Court Patti (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 grounds of cruelty and desertion.

2. The aforesaid petition had been filed, *inter alia*, pleading therein that his marriage with the appellant-wife was solemnized on 06.03.2010 according to Sikh rites, and out of the said wedlock, two children were born. It was further alleged that from the very inception of the marriage, behaviour and attitude of the appellant-wife was cruel towards the respondent-husband and his family members. She and her family members had pressurized the respondent-husband to live separately from his parents and when the respondent-husband

had expressed his inability, she threatened him to commit suicide and implicate him and his family members in a false case. She left matrimonial house 2-3 times without permission of the respondent-husband, but she was brought back. However, after sometime, she started repeating the same behaviour. She was a mental patient and she was taking the treatment from Dr. Vidya Sagar, Institute of Mental Health, Amritsar and the Department of Psychiatry Guru Nanak Dev Hospital Government Medical College, Amritsar. In January 2019, she left the matrimonial house without the consent of the respondent-husband. The respondent-husband along with respectable persons visited her parental house in order to bring her back, but her family members refused to send her back. She had withdrawn from the society of the respondent-husband since January 2019, and marriage between the parties had irretrievably broken and there was no chance for reconciliation.

3. Upon notice, the appellant-wife entered appearance and filed her written statement admitting the factum of marriage and birth of the children. However, it was alleged by her that dowry articles given in the shape of *istridhan* had been misappropriated by the respondent-husband and his family members and she reserved her right to file a criminal complaint under Sections 406 and 498-A of the Indian Penal Code, 1860 (for short 'the IPC') against them. The respondent-husband and his family members were not satisfied with the dowry given and they had harassed and humiliated her for bringing insufficient dowry. When she had been turned out of the matrimonial house, she moved an application to SSP, Tarn Taran and during enquiry, the respondent-husband suffered a statement that he did not want to keep the appellant-wife in the matrimonial home though she was ready and willing to stay there. The allegations regarding cruelty and desertion 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 grounds of cruelty and desertion? OPP*
2. *Whether the petition is not maintainable? OPR*
3. *Relief.”*

5. In evidence, the respondent-husband appeared as PW1 besides examining PW2-Jermal Singh, PW3-ASI Gurdeep Singh. On the other hand, the appellant-wife stepped into the witness box as RW1 and had also examined RW2-Balwinder 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 based on conjectures and surmises. It is further argued that the respondent-husband had admitted in his testimony that the appellant-wife had not done any act of mental disturbance. It is further argued that factum of mental illness, as alleged by the respondent-husband, was not proved on record. It is further argued that the appellant-wife herself was a victim of cruelty at the hands of the respondent-husband and his family members when they had not only usurped the dowry articles/*istridhan* given by her parents at the time of her marriage, but had also ousted her from the matrimonial home without there being any justified cause. It is thus, argued that the respondent-husband cannot be allowed to take benefit of his own wrongs. It is also argued that in the enquiry proceedings, in the complaint filed by the appellant-wife, the respondent-husband suffered a statement that he was not ready to take the appellant-wife back to the matrimonial home. It is also argued that there was no intention on the part of the

respondent-husband to rehabilitate the appellant-wife as no step was taken by him to file a petition under Section 9 of the Act. It is accordingly, prayed that the impugned judgment and decree may be set aside.

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. The learned Family Court has found that the respondent-husband and his family members had fully helped the appellant-wife in her treatment. The appellant-wife had admitted the factum of her having moved an application to DSP, Bhikhiwind and factum of compromise effected in the said complaint. Though it was the case of the appellant-wife that the dowry articles/ *istridhan* were misappropriated by the respondent-husband and his family members, yet in the cross-examination of the appellant-wife and her father, it came on record that they did not produce any bill or document regarding dowry articles, and thus, the said allegations were found to be not substantiated. In the application submitted by the appellant-wife to the SSP, Tarn Taran, no action was taken by the police, and rather the appellant-wife was asked to move the Court for appropriate remedy. It was thus, found that the appellant-wife had made vague allegations against the respondent-husband and his family members regarding demand of car, whereas, no specific date, time or year was mentioned. It was further found that the appellant-wife had levelled allegations against the character of the respondent-husband in the application so submitted to the police, but nothing of the sort was done in the present proceedings. It was found that there was no doubt regarding recourse to the legal remedies by the appellant-wife, but such

action must be *bona fide* with some basis. However, levelling baseless and false allegations against the respondent-husband and his family members certainly amounted to cruelty.

11. As regards desertion, it was found by the learned Family Court that the parties had been living separately since 2019 and the act and conduct of the appellant-wife clearly revealed that she had withdrawn herself from the company of the respondent-husband with the intention to bring cohabitation permanently to an end. She had also levelled allegations that the custody of the children had been forcibly taken from her, but no effort was made by her to take the custody of the children. Thus, it was held as under in paras-68 and 69 of the impugned judgment/decre:-

“68. As already discussed, the parties got married on 06.03.2010 and they are blessed with two children. The respondent has been taking medicines for some mental ailment but she levelled allegations against the petitioner that he wanted to get her declared mental. Even, she was unable to look after the children and to do normal domestic chores while staying in the matrimonial home and initially it was the cause of marital discord between the parties. Even, the petitioner tried to get treated the respondent from medical expert. But later on when the respondent went to her parental house she levelled allegations against the petitioner and his family members that they were harassing her and beating her by raising the demand of dowry. They were making the demand of big car without any evidence on record. Though, she claimed that she wanted to rehabilitate with the petitioner in the matrimonial home, but in her cross-examination she clearly admitted that she did not want to live in the matrimonial home even if her mother-in-law started residing with her elder son. It shows that she has no intention to resume cohabitation. She has also levelled allegations against the petitioner and his family members that they have forcibly snatched the custody of minor children, but it has come on the record that it was the petitioner who has been looking after both the minor children even, when the respondent has been residing in the matrimonial home and till today he has been providing them the good education and maintaining them properly. The respondent has not filed any petition for the custody of minor children till today in the Court. The above-noted act and conduct clearly reveals that the respondent has treated the petitioner with cruelty and caused great mental harassment to him and his other family members by levelling uncorroborated vague and wild allegations against them. Even, she used to leave food willing

without any reason. She has also deserted the petitioner without any reasonable cause.

69. *From the above stated discussion, it is axiom that the matrimonial relationship between the parties is beyond repair and not dissolving marriage of the parties would cause great injustice to the petitioner. So, the petitioner is entitled to the decree of divorce on the ground of cruelty and desertion. Therefore, issue no.1 is decided in favour of the petitioner and against the respondent.”*

12. 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.

13. 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.

14. If the facts of the present case and the 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 the act and conduct of the appellant-wife in initiating false and baseless proceedings in the shape of various complaints to the police authorities certainly amounts to cruelty. Even it was also noticed by the learned Family Court that in one of the complaints submitted by her to the SSP, Tarn Taran, she had levelled the allegations against the character of the respondent-husband. The acts of cruelty committed by her were duly corroborated by the witnesses examined by the respondent-husband. Still further, it was found that the appellant-wife could not establish on record that she had left the company of the respondent-husband for any justified cause. Even there is nothing on record that once no action was taken in the complaints submitted by the appellant-wife to the police, she had availed any legal remedy in respect of her grievances. Yet further, it has come on record that minor children had been in the custody of the respondent-husband and the appellant-wife did not make any effort to seek their custody by way of any custody petitions. Even otherwise, we also find that, though, it has been the stand of the appellant-wife that she was ready and willing to reside in the company of the respondent-husband, yet there is nothing on record to indicate that she had filed any petition under Section 9 of the Act for the said purpose. We find that the findings recorded by the learned Family Court are plausible findings based on the evidence on record.

15. 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 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.

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

17. 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