



2025:DHC:9406-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 09.10.2025
Judgment pronounced on: 29.10.2025+ **MAT.APP.(F.C.) 5/2023 and CM APPL.1193/2023 (Stay)****KAVITA ARORA**

.....Appellant

Through: **Mr. Ashish Upadhyay and
Mr. Pardeep Kumar Mishra,**
Advocates.

versus

SANJAY ARORA

.....Respondent

Through: **Mr. Prashant Mendiratta,
Mr. Sanchit Sahani, Ms. Neha
Jain, Mr. Taarak Duggal, Ms.
Sneha Mathew, Ms. Vaishnavi
Saxena, Ms. Sakshi Jain and
Mr. Chaitanya, Advocates.****CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR****J U D G M E N T****HARISH VAIDYANATHAN SHANKAR, J.**

1. The present Appeal has been filed under Section 19 of the **Family Courts Act, 1984¹**, read with Section 28 of the **Hindu Marriage Act, 1955²**, assailing the **Judgment and Decree dated 19.11.2022³** passed by the learned **Principal Judge, Family Courts, Central District, Tis Hazari Court, Delhi⁴**, in HMA No. 11/2012

¹ FC Act

² HMA

³ Impugned Judgement

⁴ Family Court

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(renumbered as HMA No. 5862025/2016), titled “*Sanjay Arora vs. Kavita Arora*”.

2. By the Impugned Judgment, the learned Family Court allowed the petition filed by the Respondent-Husband under Section 13(1)(ia) of the HMA, holding that the ground of cruelty stood proved, and consequently, a decree of divorce in favour of the Respondent-Husband was granted, thereby dissolving his marriage with the Appellant-Wife.

BRIEF FACTS:

3. The marriage between the Respondent-Husband and the Appellant-Wife was solemnized on 16.10.1991 at Arya Samaj Mandir, Patel Nagar, New Delhi, in accordance with Hindu rites and ceremonies. The marriage was subsequently registered with the Registrar of Marriages. From the said wedlock, a daughter was born on 31.08.1992.

4. During the subsistence of their marriage, the parties are stated to have purchased several immovable properties in their names, allegedly from the respective funds of the parties as well as from contributions made by the Appellant-Wife’s mother.

5. The Appellant-Wife has asserted that the parties had arrived at a mutual financial division and entered into a financial settlement in November 2009. However, according to her, the Respondent-Husband showed reluctance in implementing the said arrangement and repeatedly deferred its execution.

6. Thereafter, in May and June 2010, the Appellant-Wife lodged a complaint before the Economic Offences Wing, Crime Branch, Delhi Police, and also initiated proceedings before the Company Law Board,

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along with filing a suit for injunction against the Respondent-Husband.

7. In 2012, the Respondent-Husband filed a petition seeking dissolution of marriage under Section 13(1)(ia) of the HMA, on the ground of cruelty. He alleged that the Appellant-Wife consistently exhibited objectionable behaviour, including neglecting personal hygiene and household cleanliness, indulging in late-night parties and alcohol consumption, and prioritizing her personal and professional ambitions over the welfare of their minor daughter. The Respondent-Husband further alleged that the Appellant-Wife was excessively materialistic, money-minded, and had developed extramarital relationships with two individuals, *namely*, Sh. Praveen Pant and Sh. Pradeep Gupta.

8. The Appellant-Wife categorically denied all allegations of cruelty. On the contrary, she attributed the breakdown of the marriage to the conduct of the Respondent-Husband. She contended that the Respondent had made unauthorized financial withdrawals from her personal and business accounts and had neglected both the household and their daughter due to his alleged adulterous behaviour, as evidenced by his profile on an online dating platform titled “*American Singles.*” The Appellant-Wife further clarified that her interactions with Sh. Praveen Pant and Sh. Pradeep Gupta were strictly professional and carried out in the ordinary course of business. She also alleged that the Respondent-Husband subjected her to cruelty by forging her signatures on official company documents to unlawfully remove her from the directorship of companies jointly managed by them.



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9. Upon consideration of the pleadings and the evidence adduced by both parties, the learned Family Court *vide* the Judgment dated 19.11.2022 rejected several allegations relating to financial transactions, lack of care for the child, and false criminal accusations. However, the learned Family Court concluded that the Appellant-Wife's continuous and unexplained communications with the two individuals mentioned above, coupled with her evasive deposition and inconsistent statements, amounted to mental cruelty within the meaning of Section 13(1)(ia) of the HMA.

10. Aggrieved by the aforesaid Judgment, the Appellant-Wife has preferred the present Appeal before us.

CONTENTIONS OF THE APPELLANT-WIFE:

11. Learned Counsel for the Appellant would submit that the Impugned Judgment suffers from serious infirmities, as the Respondent-Husband failed to discharge the burden of proof cast upon him under Section 13(1)(ia) of the HMA, and the Respondent has not produced cogent, reliable, or corroborated evidence to substantiate the alleged acts of cruelty.

12. Learned Counsel for the Appellant would further submit that the finding of cruelty based on the allegation of adultery is unsustainable in law, for the Respondent's evidence comprises only of certain phone bills pertaining to a mobile number registered in his own name, and emails allegedly exchanged from a computer that remains in his custody, and therefore, such material cannot be treated as direct or reliable proof of adultery.

13. It would further be contended by the learned Counsel for the Appellant that since the alleged electronic evidence, *for instance*,

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chats and emails, was not accompanied by the mandatory certificate under Section 65B of the **Indian Evidence Act, 1872**⁵, its reliance by the learned Family Court was legally untenable and contrary to the law relating to the admissibility of electronic records.

14. Learned Counsel would further submit that the learned Family Court failed to appreciate that the Appellant's communications with Sh. Praveen Pant and Sh. Pradeep Gupta were strictly professional, and aimed at securing business for the Respondent's own company.

15. Learned Counsel for the Appellant would submit that the learned Family Court erred in overlooking the Respondent's own financial and moral misconduct, including the unauthorized withdrawal of approximately Rs. 47 Lakhs from the Appellant's account, his abandonment of the Appellant, and his own proven adulterous relationship, evidenced by his profile on the "*American Singles*" website.

16. Learned Counsel for the Appellant would submit that the learned Family Court erred by failing to draw an adverse inference against the Respondent for his deliberate failure to implead the alleged adulterers, Sh. Praveen Pant and Sh. Pradeep Gupta, as necessary and proper parties to the divorce petition, despite having full knowledge of their identities.

17. Learned Counsel for the Appellant would also submit that the Impugned Judgment is perverse as it ignores the Appellant's evidence of the Respondent's corporate fraud, specifically the forging of her signatures to remove her from company directorships and usurping properties worth crores for a negligible share payment, which itself

⁵ Evidence Act



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constitutes the primary act of cruelty and *mala fide* intention committed by the Respondent against the Appellant.

CONTENTIONS OF THE RESPONDENT-HUSBAND:

18. *Per contra*, learned Counsel for the Respondent would support the findings of the learned Family Courts and submit that the marriage between the parties was irretrievably broken and the Respondent has been subjected to continuous and severe mental cruelty by the Appellant, as evidenced by her persistent neglect of marital and parental duties.

19. Learned Counsel for the Respondent would submit that the principal ground of cruelty, which has been found proven, is the Appellant's deliberate involvement in extramarital relationships with Sh. Praveen Pant and Sh. Pradeep Gupta, and that these continued illicit associations, despite the Respondent's repeated pleas to her to amend her behaviour, caused him immense pain, agony, and mental distress, thereby making the continuation of the marriage insufferable.

20. Learned Counsel for the Respondent would further submit that during her oral testimony before the learned Family Court, the Appellant made several inconsistent and contradictory statements, and that her evasive replies and failure to deny specific allegations clearly established her misconduct, wherefore the learned Family Court rightly drew an adverse inference and reached its conclusion based on such conduct and testimony.

21. It would further be submitted by the learned Counsel for the Respondent that the Appellant, during her deposition, admitted to having maintained continuous and prolonged communications with Sh. Praveen Pant and Sh. Pradeep Gupta, and that she could not refute

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the specific suggestions put to her in cross-examination regarding her meetings with them, which further corroborated the Respondent's case.

22. Learned Counsel for the Respondent would also submit that the Appellant-Wife committed further acts of cruelty by filing frivolous and vexatious proceedings against the Respondent, including complaints before the Company Law Board and the Economic Offences Wing, Delhi Police, and that such actions subjected the Respondent to undue harassment and mental anguish.

23. Learned Counsel for the Respondent would also submit that the Appellant's conduct constitutes cruelty, as she was excessively engrossed in her personal and professional gain and consistently neglected the minor daughter of the parties when the child was of impressionable age, prioritizing her own interests over the welfare of her family.

ANALYSIS:

24. We have heard the learned Counsel for both parties at length and have given our careful and deliberate consideration to the submissions advanced on their behalf. We have also undertaken a comprehensive examination of the material and evidence that had been placed before the learned Family Court.

25. From a perusal of the Impugned Judgment, it is evident that the learned Family Court framed two principal issues for determination, *namely:*

- (a) Whether the Respondent-Husband had succeeded in proving the allegations of cruelty against the Appellant-Wife within the meaning of Section 13(1)(ia) of the HMA; and



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(b) Whether, upon such proof, the Respondent-Husband was entitled to a decree of dissolution of marriage under the said provision.

26. At the outset, it would be appropriate to advert to the reasoning and conclusions recorded by the learned Family Court in the Impugned Judgment regarding the proof of cruelty committed by the Appellant upon the Respondent, while rejecting several other allegations made by the Respondent which were found not to constitute acts of cruelty. For the sake of clarity and completeness, the relevant extracts from the said Judgment are reproduced hereinbelow:

“37. In the present case petitioner has appeared as a sole witness and respondent has also appeared as a sole witness. No other witness has been examined by any of the parties.

38. I will discuss each of the allegations levelled by the parties against opposite party, along with their evidence on the point and the submissions of the Ld. Counsels of parties.

39. In respect to the allegations of petitioner that respondent was having bad behaviour or she was not concerned about the hygiene and cleanliness of the house or that she used to indulge in late night parties and used to consume alcohol in such parties. On these points, no question was put to the respondent during her cross examination in this respect. Neither any suggestion was given to the respondent that she was not taking care of the daughter of parties or that she was not in the habit of maintaining hygiene or cleanliness in the house. It is also not put to the petitioner that she used to be busy in indulging late night parties at home or that she used to consume liquor with her friends. In the absence of any evidence, being led by the petitioner on these allegations I am of the opinion that these allegations appear to have not been pressed or proved by the petitioner.

40. As regards the allegation of petitioner that respondent has forced the mother of petitioner to add the name of respondent in the sale deed, which was to be executed in the name of mother of petitioner only, but only because of the insistence and pressure of respondent, she executed the sale deed of property no. 7/26, South Patel Nagar in joint name of mother of petitioner and respondent which caused mental cruelty to the petitioner, has also not been proved by the petitioner. Though the above said sale deed has not been exhibited by the petitioner but the same is available on record. On perusal of the sale deed it is clear that there is no over writing



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or correction in the sale deed at any place or at any point which shows that the sale deed was prepared in the same manner before the registration and no name was added or deleted at the time of registration of the sale deed. Even otherwise it is common understanding and knowledge of everyone that prior to registration of sale deed, before the Sub Registrar, entire documents have to be prepared i.e. the sale deed have to be prepared and signed by the parties properly and then only the documents are presented before the Sub registrar for registration. It is, therefore, not possible for any party to force or compel the other party to make any addition of name in the sale deed at the time of registration of the same. My view also gets fortified by the fact that in the entire sale deed there is no correction and it does not appear that the name of respondent has been added later on or that the sale deed was prepared with the name of only one purchaser but later on another name has been added. Therefore, even this allegation of petitioner has not been proved by him.

41. The other most important allegations levelled by the petitioner against the respondent is regarding her illicit affair/relation with Sh. Praveen Pant and Sh. Pradeep Gupta. Though in the written statement respondent had denied about having any such relationship with them and in the written statement she has stated that she was talking with Sh. Praveen Pant and Sh. Pradeep Gupta only for getting the business for the firm of petitioner, but respondent has neither placed on record any such business order provided by Sh. Praveen Pant or Sh. Pradeep Gupta in favour of the companies of petitioner nor she has proved by her evidence, the profession and occupation of Mr. Praveen Pant and Sh. Pradeep Gupta, and the manner in which they could have helped the petitioner. It has been specifically alleged by the petitioner that respondent used to send vulgar and obscene emails to Sh. Praveen Pant and Sh. Pradeep Gupta and was continuously texting and talking to them. In order to prove the allegations petitioner has relied upon the telephone bills of respondent from 03.02.2008 to 02.03.2008 which is Ex. RW1/DXI wherein it has been stated that she had sent about 1500 text messages to Sh. Praveen Pant, In cross examination of respondent, conducted on 11.02.2020, respondent has admitted that during the month of February, 2008 she was in conversation with Sh. Praveen Pant on above stated mobile number i.e. 9899103181 to 9873337795. She has also admitted that she remained in conversation with Sh. Praveen Pant for about 5-6 months. She has also admitted that Sh. Praveen Pant was using the mobile number 9873337795. Further in cross examination dt. 30.05.2022, respondent has admitted that she was in conversation with Sh. Pradeep Gupta during period of 03.06.2009 to 02.07.2009. She has also admitted the mobile bill for phone number 9899103181 for the period 03.06.2009 to 02.07.2009. The same is Exhibited as Ex. RW1/DX3. In the cross-

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examination respondent has categorically admitted that Mobile number 9910333916 belongs to Pradeep Gupta. In the cross-examination she has tried to put the defence that the phone number 9899103181 was registered in the name of petitioner and it was the petitioner who was using this phone. But to specific suggestion given by the Ld. Counsel for petitioner that whether she wants to say that petitioner was talking with Mr. Praveen Pant or Mr. Pradeep Gupta from his mobile phone number 9899103181, she has stated that she cannot admit or deny if petitioner was having conversation with Mr. Praveen Pant or Sh. Pradeep Gupta from this mobile number. In the entire written statement respondent has nowhere alleged that it was the petitioner who was talking with Mr. Praveen Pant and Mr. Pradeep Gupta and, therefore, the phone bill regarding the details of call between number of petitioner and number of Praveen Pant or Pradeep Gupta was due to his conversation with them and not because of her. Hence, the statement made by the respondent in cross examination wherein she has not specifically denied having conversation with Sh. Praveen Pant or Sh. Pradeep Gupta shows that she was in communication with both of them. Even she has admitted her conversation with both of them and the explanation given by her for such communication has not been proved by the respondent in her evidence. Rather she has admitted in her cross examination, that she was using the mobile no. 9899103181, which was registered in the name of petitioner.

42. Petitioner has also alleged that respondent had exchanged various emails which were vulgar and obscene in respect to the contents with Sh. Praveen Pant and Sh. Pradeep Gupta. Various email IDs of the respondent were put to her in cross examination but respondent has not categorically denied having made any such email ID and in reply to such questions she has tried evading the answer by stating that “She does not remember” whether she had created the email id “personalpradeep.63@gmail.com”. She has also stated that she is not very Sure if she has used the email ID “leptons.kavita@gmail.com”. Very specific questions were put by the Ld. Counsel for petitioner regarding her email account which were not specifically answered by the respondent and vaguely she has refused to answer by saying that she is not very sure or she does not remember. The email exchanged between email id “personal.kavita@gmail.com” & “praveenpant@rediffmail.com” were put to the respondent in her cross examination dt. 30.05.2022 and after seeing the copies of email she has not specifically denied having sent those emails or exchanged those email with Sh. Praveen Pant rather, she had answered in an evasive manner that “she does not think that she had sent those emails”. The document is Mark X. After perusal of this email document Mark X, it is clear that these emails have the contents, which can be considered to be obscene and vulgar and the fact that the respondent has not

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categorically denied having sent these emails, raises a presumption against the respondent. It is impossible to believe that a person will not be able to understand or remember after reading those contents, whether he or she had sent such kind of mails or not. By mere fact, that, the respondent has not denied having sent or received such kind of email as is mentioned in Mark X, I am of the opinion that the petitioner has been able to prove that the respondent was in illicit relationship with Mr. Praveen Pant and Pradeep Gupta because of which she was having continuous conversation with them by texting or calling or by sending emails. The contents of which cannot absolutely be considered to be professional or relating to business in any manner.

43. In cross examination dt. 11.02.2020 specific questions were put to respondent that she had stayed with Mr. Pradeep Gupta in Central Royal, Hotel Yamuna Nagar, Haryana from 17.11.2010 till 18.11.2010 to which respondent has replied that “she does not recollect” Again she was asked whether she had stayed with Sh. Pradeep Gupta in a guest house on Maithli Marg, Sector 56 Noida on various dates as mentioned in the cross examination, to this again respondent has replied that “she does not remember”. However, she has admitted that Pradeep Gupta is her friend and she has met with him through Facebook. She has also submitted that she has met with Sh. Pradeep Gupta on the basis of business relationship as she was trying to develop business relationship with him. Needless to say, that no document has been placed on record or evidence led by the respondent to prove that she was trying to develop any business relationship with Pradeep Gupta as she has not proved by any documents regarding the profession/occupation/business of Sh. Pradeep Gupta. Again, it is necessary to emphasise that respondent had tried to avoid giving specific answers to very clear questions and suggestions that she had stayed in a hotel with Mr. Pradeep Gupta on different dates. It is difficult to believe that the respondent would not have been able to remember if she had stayed with Mt. Pradeep Gupta in any hotel on specific dates. The vague answers given by the respondent, that she does not remember about such ‘stays’ raise Suspicion against the respondent that she is deliberately trying to deceive the court by giving evasive answers.

44. The next allegation levelled by the petitioner against the respondent is that she has filed false cases against the petitioner. In this respect, I am of the opinion that unless a final verdict is given by any court of competent jurisdiction stating that the case was false or till the time cases are dismissed, it is difficult to consider and opine that the case filed by the respondent against the petitioner are false or fabricated.

45. However, the respondent herself has admitted in her cross examination as well as in the pleadings by making contradictory pleas that the signatures for resigning from Directorship of the

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companies were made by the respondent herself. As in the cross examination she has admitted that the FSL report clearly proves that the signatures on resignation form are her signatures and even in written statement para 29 page 34 she had stated that she might have signed the document in year 2008 without reading the document. Therefore, the plea of the respondent that she was removed from the Directorship of the company M/s Leptons Exim Pvt. Ltd. and Leptons Designtek Pvt. Ltd. by the petitioner by way of forging her signatures, appears to have been contradicted by the respondent herself. In the same paragraph, she has admitted that she might have signed the documents without reading the same as she used to trust the petitioner I am of the opinion that levelling false allegations that her signatures were forged by the petitioner although she herself knows and has admitted that she might have put her signatures without reading coupled with the fact that in the FSL report her signatures has been proved to be genuine signatures of the respondent amounts to mental cruelty caused to petitioner. I am of the opinion that this case falls within the definition of 'mental cruelty' against the petitioner.

46. On the other hand, the allegations levelled by the respondent against the petitioner are mainly on the financial aspects. She has alleged that petitioner used to withdraw money from her account and her company's account. She has also alleged that she made payment of money for purchase of the property at Nirwana Country as the total payment made by the petitioner was transferred from her account. She has also alleged that she used to make the entire expenditure of household and has also made certain expenditure for the parents of petitioner. In the entire evidence led by the respondent and the documents relied upon by the respondent, not even a single document has been placed on record to prove that it was the respondent who has made any of these payments. She has admitted in her cross examination that she has not filed any case or complaint against the petitioner for allegedly withdrawing money from her account or from her companies account. She has also admitted in her cross-examination dt. 08.03.2022 that she did not pay any money for the instalments towards the purchase of house in Nirwana Country, Gurugram though the same was purchased in joint name. In the absence of any evidence being led by the respondent to prove that any amount was either fraudulently transferred by the petitioner from her account or said amount was given by the respondent to petitioner for any household expenses or for purchase of property, am of the opinion that these allegations have not been proved by the respondent. Both the parties were given opportunity and directions to specifically mark the transactions on which they are relying in evidence but despite several opportunities the parties have not highlighted the specific transactions in their various bank account statement filed, but not exhibited, on which they are relying.

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47. It is also the allegation made by both the parties against each other that the other spouse did not take care of the minor child who has now become major, but none of the parties have opted to examine the daughter, therefore, the rival contentions of the parties in respect to the take care and upbringing of the minor child have not been proved by either of them, hence cannot be considered.

48. One more allegation has been levelled by the respondent against the petitioner. As per the respondent, it was the petitioner who was having illicit relationship with other ladies and that petitioner had made a profile on the portal of “American singles” which shows that it is the petitioner who had committed Cruelty against the respondent and not vice versa. In this regard respondent has relied upon the document Ex.RW1/1 which is a print out from the website of ‘American Singles’ and document Ex. RW1/2 which is another print out of the messages exchanged by the petitioner with other women. Along with these two documents respondent has relied upon the affidavit u/s 65B of Indian Evidence Act to show that she is filing the secondary evidence but the documents are genuine. I have carefully perused the document Ex. RW1/7 which is affidavit u/s 65B of Indian Evidence Act filed by the respondent. In the entire affidavit respondent has nowhere mentioned that these printouts have been taken from the computer which was in her custody and the same was being used by her. From which computer these documents have been taken out is also not proved by the respondent in the affidavit. Therefore, the affidavit as filed by the respondent cannot be relied upon. Similarly, the internet printout taken by the respondent Ex. RW1/1 and Ex. RW1/2 cannot be relied upon as they have not been proved, as per law by the respondent.

49. In view of my above discussion I am of the opinion that petitioner has been able to successfully prove that by indulging in obscene talks via exchange of vulgar email with other person, respondent has caused great mental cruelty to the petitioner.

53. Thus applying the principles laid down by the Hon’ble Supreme court and Hon’ble High Courts in various judgments i.e. *A Jaychandra vs. Aneel Kaur, Parveen Mehta vs. Inderjeet Mehta, Vineeta Saxena vs. Pankaj Pandit, Beena M.S. vs. Shino G Babu* and *Samar Ghosh vs. Jaya Ghosh*, and the evidence of the parties, I am of the opinion that petitioner has discharged the burden of proving that respondent has treated him with cruelty and, therefore, issue no. 1 is decided in favour of the petitioner.”

RELIEF

54. Since, issue no.1 is proved in favour of the petitioner, hence, petitioner is entitled to the relief of dissolution of marriage on the ground of cruelty u/s 13 (1)(ia) of HMA. Petition filed by the petitioner is allowed. Parties are left to bear their own cost.”



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27. It is a well-settled proposition of law that the expression “*cruelty*” occurring in Section 13(1)(ia) of the HMA is not susceptible to a precise or rigid definition. Its meaning is inherently flexible and context-dependent, thereby vesting the Court with wide and equitable discretion to interpret and apply the term in accordance with the peculiar facts and circumstances of each case. What may amount to cruelty in one matrimonial relationship may not necessarily constitute cruelty in another. The determination must, therefore, be made keeping in view the social background, temperament, lifestyle, and surrounding circumstances of the parties. The Court is thus required to exercise its judicial discretion in assessing whether the conduct complained of, viewed cumulatively and in its totality, is of such nature and gravity as to cause mental or physical suffering sufficient to justify the dissolution of marriage.

28. The contours of “*cruelty*” as envisaged under Section 13(1)(ia) of the HMA have been progressively delineated and refined through a consistent line of decisions of the Hon’ble Supreme Court. Over time, these pronouncements have expanded the jurisprudential ambit of the expression to include both physical and mental cruelty, acknowledging that the essence of cruelty lies not merely in overt acts of violence but equally in conduct that inflicts deep emotional distress, humiliation, or renders matrimonial cohabitation intolerable.

29. In this context, it is apposite to refer to the decision in ***Ms. Anupama Sharma v. Shri Sanjay Sharma***⁶, wherein this Court undertook a comprehensive exposition of the legal principles governing the concept of cruelty warranting dissolution of marriage.

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The said judgment underscores that cruelty cannot be determined by any fixed formula but must be assessed in light of human conduct, the social milieu, and the evolving standards of marital obligations. The principles articulated therein provide valuable guidance and serve as a persuasive precedent for the present case. The relevant extracts of the said judgment are reproduced herein below:

“**40.** At the outset, it is imperative to note the seminal decision of the Hon’ble Supreme Court in *Samar Ghosh v. Jaya Ghosh*, where the Court undertook an exhaustive analysis of mental cruelty in matrimonial relationships. The Apex Court emphasized that human behaviour is complex and what amounts to cruelty varies with individual temperament, upbringing, education, cultural background, social status, financial position, and value systems. Mental cruelty is not static; each case must be adjudicated on its facts, considering the cumulative conduct of the parties, rather than isolated incidents. Illustrative examples include persistent mental pain, abusive or humiliating conduct, neglect of conjugal duties, refusal to engage in marital obligations without justification, and sustained conduct rendering cohabitation intolerable. However, trivial irritations, ordinary quarrels, or isolated acts do not constitute cruelty. The pertinent observations of the said judgment merit reproduction hereinbelow:

“**99.** Human mind is extremely complex and human behaviour is equally complicated. Similarly human ingenuity has no bound, therefore, to assimilate the entire human behaviour in one definition is almost impossible. What is cruelty in one case may not amount to cruelty in other case. The concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, traditions, religious beliefs, human values and their value system.

100. Apart from this, the concept of mental cruelty cannot remain static; it is bound to change with the passage of time, impact of modern culture through print and electronic media and value system etc. etc. What may be mental cruelty now may not remain a mental cruelty after a passage of time or vice versa. There can never be any strait-jacket formula or fixed parameters for determining mental cruelty in matrimonial matters. The prudent and appropriate way to adjudicate the case would be to evaluate it on its peculiar facts and circumstances while taking aforementioned factors in consideration.



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.”

(emphasis added)

41. In *V. Bhagat v. D. Bhagat*, the Hon'ble Supreme Court clarified that mental cruelty is conduct causing such mental pain and suffering that the aggrieved spouse cannot reasonably be expected to live with the other. Determination of cruelty depends on the social and educational background of the parties, their manner of life, and the context in which allegations are made. Mental cruelty need not injure health physically; it suffices if it makes marital cohabitation impossible. The relevant portion of the judgment is reproduced hereinbelow:

“16. Mental cruelty in Section 13(1)(ia) can broadly be defined as that conduct which inflicts upon the other party such mental pain and suffering as would make it not possible for that party to live with the other. In other words, mental cruelty must be of such a nature that the parties cannot reasonably be expected to live together. The situation must be such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with the other party. It is not necessary to prove that the mental cruelty is such as to cause injury to the health of the petitioner. While arriving at such conclusion, regard must be had to the social status, educational level of the parties, the society they move in,



the possibility or otherwise of the parties ever living together in case they are already living apart and all other relevant facts and circumstances which it is neither possible nor desirable to set out exhaustively. What is cruelty in one case may not amount to cruelty in another case. It is a matter to be determined in each case having regard to the facts and circumstances of that case. If it is a case of accusations and allegations, regard must also be had to the context in which they were made.”

(emphasis supplied)

42. The principle was further reinforced in *Parveen Mehta v Inderjit Mehta*, which held that mental cruelty must be assessed cumulatively, considering the facts and circumstances of the matrimonial life of the parties. A single instance of misbehaviour cannot alone justify a finding of cruelty; the inference must be drawn from the overall conduct and its effect on the aggrieved spouse. The relevant portion of the said judgment reads as follows:

“21.....Mental cruelty is a state of mind and feeling with one of the spouse due to the behaviour or behavioural pattern by the other...

...A feeling of anguish, disappointment and frustration in one spouse caused by the conduct of the other can only be appreciated on assessing the attending facts and circumstances in which the two partners of matrimonial life have been living. The inference has to be drawn from the attending facts and circumstances taken cumulatively. In case of mental cruelty it will not be a correct approach to take an instance of misbehaviour in isolation and then pose the question whether such behaviour is sufficient by itself to cause mental cruelty. The approach should be to take the cumulative effect of the facts and circumstances emerging from the evidence on record and then draw a fair inference whether the petitioner in the divorce petition has been subjected to mental cruelty due to conduct of the other”.

43. In *A. Jayachandra vs. Aneet Kaur*, the Hon’ble Supreme Court reiterated that mental cruelty must be evaluated in light of societal norms, social values, and the environment of the parties. The conduct complained of must be “grave and weighty” to the extent that the petitioner cannot reasonably be expected to live with the other spouse. Ordinary marital disagreements or minor irritations do not constitute cruelty; the conduct must be assessed in context to determine its seriousness. The relevant excerpt of the said judgment is reproduced herein below:

“10. ...The question of mental cruelty has to be considered in the light of the norms of marital ties of the particular society to which the parties belong, their social values,



status, environment in which they live. Cruelty, as noted above, includes mental cruelty, which falls within the purview of a matrimonial wrong. Cruelty need not be physical. If from the conduct of the spouse same is established and/or an inference can be legitimately drawn that the treatment of the spouse is such that it causes an apprehension in the mind of the other spouse, about his or her mental welfare then this conduct amounts to cruelty

xxxxx

12. To constitute cruelty, the conduct complained of should be “grave and weighty” so as to come to the conclusion that the petitioner spouse cannot be reasonably expected to live with the other spouse. It must be something more serious than “ordinary wear and tear of married life”. The conduct taking into consideration the circumstances and background has to be examined to reach the conclusion whether the conduct complained of amounts to cruelty in the matrimonial law. ...”

44. In *Ravi Kumar v. Julmidevi*, the Apex Court further emphasized that cruelty cannot be precisely defined and must be judged according to the facts and circumstances of each case. It encompasses the absence of mutual respect and understanding, may manifest as violence, neglect, attitudes, gestures, words, or even silence, and the categories of cruelty are never closed. The nature of cruelty may be subtle or severe, and judicial assessment must consider the cumulative effect of conduct on the marital relationship. The relevant paragraphs of the said judgment are reproduced herein below:

“19. It may be true that there is no definition of cruelty under the said Act. Actually such a definition is not possible. In matrimonial relationship, cruelty would obviously mean absence of mutual respect and understanding between the spouses which embitters the relationship and often leads to various outbursts of behaviour which can be termed as cruelty. Sometimes cruelty in a matrimonial relationship may take the form of violence, sometimes it may take a different form. At times, it may be just an attitude or an approach. Silence in some situations may amount to cruelty.

20. Therefore, cruelty in matrimonial behaviour defies any definition and its categories can never be closed. Whether the husband is cruel to his wife or the wife is cruel to her husband has to be ascertained and judged by taking into account the entire facts and circumstances of the given case and not by any predetermined rigid formula. Cruelty in matrimonial cases can be of infinite variety—it may be subtle or even brutal and may be by gestures and words. That possibly explains why Lord Denning



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in *Sheldon v. Sheldon* [*Sheldon v. Sheldon*, 1966 P 62: (1966) 2 WLR 993 (CA)] held that categories of cruelty in matrimonial cases are never closed.”

(emphasis supplied)

45. Further, in *Roopa Soni v. Kamalnarayan Soni*, the Hon’ble Supreme Court held that “cruelty” under Section 13(1)(ia) of the HMA, has no fixed meaning, granting wide discretion to courts to apply the concept liberally and contextually. What constitutes cruelty in one case may not in another, and it must be assessed with reference to the individual circumstances of the parties and the totality of their matrimonial life. The relevant portion of the judgment is reproduced hereinbelow:

“5. The word “cruelty” u/s 13(1)(ia) of the 1955 Act has got no fixed meaning, and therefore, gives a very wide discretion to the Court to apply it liberally and contextually. What is cruelty in one case may not be the same for another. As stated, it has to be applied from person to person while taking note of the attending circumstances.”

(emphasis supplied)

30. Having regard to the precedential pronouncements and the legal principles enunciated therein, we now proceed to undertake a careful examination of the Impugned Judgment presently under challenge.

31. In the Impugned Judgment, while addressing the issue pertaining to cruelty under Section 13(1)(ia) of the HMA, the learned Family Court recorded certain material findings, which, though not exhaustive, are nonetheless of considerable significance for the present adjudication. Such findings are:

- (a) The Husband’s allegations that the Wife exhibited bad behaviour, neglected hygiene and cleanliness, indulged in late-night parties, and consumed alcohol were deemed unproven and not pressed, as no questions or suggestions regarding these points were put to the Wife during her cross-examination.
- (b) The Husband’s allegation that the Wife forced his mother to include her name as a joint purchaser in the sale deed of the property at 7/26, South Patel Nagar, was not proved. The

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learned Family Court found no evidence of coercion, noting the sale deed was cleanly executed without any corrections that would suggest a last-minute addition of the Wife's name.

(c) The most important allegation of the Husband, concerning the Wife's illicit relationship/affair with Sh. Praveen Pant and Sh. Pradeep Gupta, was held to be proved. This finding was based on:

- (i) The Wife's admission of continuous conversation with both men *via* calls and texts, including sending about 1500 text messages to Sh. Praveen Pant in one month.
 - (ii) The Wife's failure to prove her defence that the communication was strictly for the purpose of securing business orders for the Husband's firm.
 - (iii) The Wife's evasive answers in cross-examination regarding creating certain email IDs and failing to categorically deny sending or receiving obscene and vulgar emails to Sh. Praveen Pant. The learned Family Court interpreted this evasiveness as a deliberate attempt to deceive and a presumption of guilt.
 - (iv) The Wife's evasive answers regarding her having stayed with Sh. Pradeep Gupta in a hotel (Central Royal, Yamuna Nagar, Haryana) and a guest house (Maithli Marg, Sector 56, Noida) on specific dates, which raised suspicion against her.
- (d) The Wife's counter-allegation that the Husband had forged her signatures to unlawfully remove her from the directorship of certain companies was found to be contradicted by her own admissions during cross-examination and in her written



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statement, wherein she stated that she might have signed the documents without reading them. Moreover, in her cross-examination, she admitted the authenticity of the **Forensic Science Laboratory** ⁷ report, which confirmed that the signatures on the resignation forms were indeed hers. The levelling of such a false allegation was, therefore, held to amount to mental cruelty towards the Husband.

- (e) The Wife's allegations against the Husband concerning financial cruelty through unauthorized withdrawal of money, paying for property, and covering household expenditure were not proved, as she failed to provide any supporting documents or evidence and admitted she filed no complaint regarding the alleged withdrawals.
- (f) The allegation of the Respondent-Husband that the Appellant-Wife filed false cases against the Respondent-Husband cannot be sustained, as no competent court has rendered a finding declaring such proceedings false or frivolous.
- (g) The Wife's counter-allegation that the Husband maintained illicit relationships and created a profile on "American Singles" remained unsubstantiated, as the electronic printouts relied upon were not proved in accordance with law, the affidavit under Section 65B of the Evidence Act, having failed to establish the source, custody, or authenticity of the computer system from which the documents were produced.

32. The pivotal finding recorded by the learned Family Court, which forms the fulcrum of the Impugned Judgment, pertains to the

⁷ FSL



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Appellant-Wife's sustained and unexplained association with two individuals, *namely*, Sh. Praveen Pant and Sh. Pradeep Gupta. The material on record unmistakably indicates that the Appellant maintained an extraordinary degree of communication with these individuals, reflected in numerous telephonic conversations extending over several hours, often during late-night or odd hours, without any credible or verifiable professional justification.

33. The Appellant-Wife sought to explain these interactions as being purely professional in nature, asserting that her communications with the said individuals were confined to business matters. However, as rightly observed by the learned Family Court, the Appellant failed to produce even a single document, such as a contract, invoice, email trail, or any other record, that could substantiate the existence of a genuine professional relationship with either of them. The absence of such evidence, despite ample opportunity, casts serious doubt upon the credibility of her explanation.

34. Both parties appeared as witnesses to support their respective stands before the learned Family Court. We have carefully examined their oral testimonies and the evidence led before the learned Family Court, and we find ourselves in full agreement with the conclusions drawn by the learned Family Court.

35. The learned Family Court, in Paragraphs 41 to 43 of the Impugned Judgment, has comprehensively analyzed the evidence adduced by the parties concerning the alleged extramarital relationship of the Appellant-Wife. The Appellant's failure to substantiate her defence, when viewed in conjunction with the evasive tenor of her testimony, her ambiguous responses during cross-examination, and the complete absence of corroborative material, inevitably leads to the

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conclusion that her explanation was a mere facade intended to conceal the true nature of her association with the said individuals.

36. The email correspondence marked as “Mark X” before the learned Family Court further reinforces the inference of impropriety. The content of these emails contains material of an obscene and indecorous nature, wholly inconsistent with professional communication. The Appellant-Wife’s failure to categorically deny either the authorship or receipt of these emails raises a strong presumption against her, suggesting that her relationship with Sh. Praveen Pant and Sh. Pradeep Gupta transgressed the limits of professional engagement and thereby caused mental cruelty to the Respondent-Husband.

37. The suspicion surrounding the Appellant-Wife’s conduct is further deepened by her cross-examination dated 11.02.2020, wherein she was confronted with specific questions regarding her stay with Sh. Pradeep Gupta at Central Royal Hotel, Yamuna Nagar, Haryana, from 17.11.2010 to 18.11.2010, as well as at a guest house on Maithli Marg, Sector-56, Noida, on multiple occasions. In response to these categorical suggestions, the Appellant repeatedly answered that she “*does not recollect*” or “*does not remember*”. Far from being categorical denials, the evasive responses, given to direct and specific questions, naturally invite judicial suspicion, for it is implausible that a person of ordinary faculties would fail to recall overnight stays at particular locations in the company of a named individual.

38. In our considered view, infidelity need not always be proved through direct or ocular evidence. Continuous conduct that perpetuates a situation wherein more than a mere reasonable apprehension of unfaithfulness or moral betrayal persists, coupled

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with the failure of the spouse who is alleged to have caused the genesis and continuity of such a condition of the mind, to effectively dissipate or dissuade through their testimony, the existence of such a state of affairs, constitutes mental cruelty within the meaning of Section 13(1)(ia) of the HMA. Infidelity, whether physical or emotional, corrodes the very foundation of marriage. It inflicts harm not upon the body but upon the psyche of the aggrieved spouse; a slow, silent, and devastating form of cruelty that destroys mutual trust and companionship. The Court, therefore, must assess not merely the act itself but the underlying attitude and intent reflected in such conduct.

39. It is settled law that when one spouse chooses to invest emotional intimacy, secrecy, and sustained communication in another person outside the marriage, while maintaining a façade of propriety, it results in mental anguish, humiliation, and emotional abandonment of the highest order. The law in this regard has been succinctly laid down by the Division Bench of the Telangana High Court in *Laxmi Meenakshi v. Chetty Mahadevappa*⁸, which reads as follows:

“31. Fidelity in marital relationship is very important and if one of the spouses is guilty of infidelity, it would certainly amount to causing mental cruelty to the other spouse.”

40. In the present case, the Appellant-Wife’s conduct cannot be dismissed as a mere act of social cordiality or innocent indiscretion. Her evasive testimony, the absence of any credible documentary evidence to substantiate her alleged professional association with Sh. Pradeep Gupta and her inability to negate the overnight stays with him collectively form an unbroken chain of circumstances that points

⁸ 2021 SCC OnLine TS 469



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unmistakably to behaviour wholly incompatible with the obligations of fidelity and transparency inherent in a marital relationship. The persistent concealment of material facts, lack of candour, and the attempt to clandestine interactions under the guise of professional necessity indicate a deliberate and conscious betrayal of marital trust.

41. Viewed in its totality, such behaviour inflicted profound mental anguish, humiliation, and emotional estrangement upon the Respondent-Husband, corroding the fundamental pillars of mutual trust, regard, respect, and affection that sustain the institution of marriage. In our considered view, the learned Family Court rightly discerned that the cumulative effect of the Appellant-Wife's conduct satisfied the statutory test of mental cruelty under Section 13(1)(ia) of the HMA.

42. Another compelling aspect of mental cruelty arises from the Appellant-Wife's unfounded and reckless allegation that the Respondent-Husband had forged her signatures to remove her from the Directorships of M/s Leptons Exim Pvt. Ltd. and M/s Leptons Designtek Pvt. Ltd. The Appellant categorically accused the Respondent of committing forgery to effectuate her removal. However, during cross-examination, this assertion was undermined by her own admissions whereby she acknowledged that the FSL report confirmed the authenticity of her signatures on the resignation documents, and she further admitted that she "*might have signed the documents without reading them*", having relied upon the Respondent's instructions.

43. Such self-contradictory testimony exposes the falsity of the allegation and demonstrates a deliberate attempt to malign the Respondent's character and integrity by imputing criminal conduct

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where none existed. This conduct, marked by conscious exaggeration and lack of candour, not only undermined the dignity of the Respondent but also caused him significant mental anguish and reputational harm.

44. Learned Counsel for the Appellant has vehemently contended before us that the Respondent failed to adduce any cogent or corroborative evidence to prove the alleged acts of cruelty, asserting that the purported chats and emails were inadmissible.

45. However, a careful examination of the record demonstrates that the Appellant's defence could not be sustained in any event, as the Respondent's case was primarily based on the categorical and consistent admissions and evasive responses of the Appellant herself rather than solely on electronic or documentary evidence. It is also noteworthy, as record reflects, that the Appellant-Wife did not raise any objection regarding the admissibility of such evidence before the learned Family Court.

46. With respect to the Appellant's allegation that the learned Family Court ignored evidence of the Respondent's purported infidelity, we find no merit in this contention. The Appellant merely presented her contentions without disclosing the actual source of the alleged evidence, and she, unlike the Respondent, failed to put relevant questions to the Respondent during cross-examination to substantiate the same. Consequently, the Appellant failed to meet even the minimal threshold required to make out her case on this score.

47. Regarding the applicability of the Evidence Act, Section 14 of the FC Act is noteworthy, which reads as under:

“14. Application of Indian Evidence Act, 1872.—A Family Court may receive as evidence any report, statement, documents,

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information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).”

48. This provision reflects a clear legislative intent to provide Family Courts with broad discretion in the evaluation and consideration of evidence, recognizing the unique and sensitive nature of matrimonial disputes. Unlike conventional civil or criminal proceedings, family disputes often involve personal, social, and financial complexities that may not neatly conform to the rigid standards of admissibility prescribed under the Evidence Act. Section 14 therefore empowers Family Courts to adopt a pragmatic and substantive approach to evidence, ensuring that justice is delivered effectively and equitably, without being constrained by procedural technicalities.

49. The objective and scope of Section 14 of the FC Act underscore this departure from conventional procedural formalism. The legislature, fully cognizant of the delicate and personal nature of matrimonial disputes, intended that procedural rigor should not become a barrier to the discovery of truth or the effective resolution of family conflicts. These provisions are designed to permit Family Courts to admit reports, documents, statements, and other materials, including electronic evidence, if the Court is of the view that they would assist in adjudicating the dispute, while simultaneously ensuring that the essence and integrity of evidence is not compromised.



50. On the applicability of the Evidence Act, the Hon'ble Supreme Court in *Aman Lohia v. Kiran Lohia*⁹ has observed as under:

“37. The Family Courts came to be established under the 1984 Act. Section 7 specifies the jurisdiction of the Family Court and about the nature of claims to be adjudicated by it in the form of suits and proceedings delineated in the Explanation in sub-section (1). Section 10 predicates about the procedure generally. The provisions of the CPC are made applicable for resolution of disputes falling under the 1984 Act. The Family Court is deemed to be a civil court having all powers of such court. Consequent to bestowing such power on the Family Court, comes with it a primary duty to make efforts for settlement, as prescribed under Section 9. If that does not happen, during the resolution of disputes between the parties, the Family Court then has to bear in mind the principles enunciated in the Evidence Act, 1872, which had been made applicable in terms of Section 14 of the 1984 Act. A Family Court can receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Evidence Act, 1872.

38. There is another provision, which gives insight into the working of the Family Court in the form of Section 15. It posits that the Family Court shall not be obliged to record the evidence of witnesses at length, but the Judge, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of the substance of what the witness deposes, and such memorandum shall be signed by the witness and the Judge and shall form part of the record. An incidental provision regarding efficacy of recording of evidence can be traced to Section 16 of the 1984 Act. That envisages that evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Family Court.

39. These provisions plainly reveal that the Family Court is expected to follow procedure known to law, which means insist for a formal pleading to be filed by both sides, then frame issues for determination, record evidence of the parties to prove the facts asserted by the party concerned and only thereafter, to enter upon determination and render decision thereon by recording reasons for such decision. For doing this, the Family Court is expected to give notice to the respective parties and provide them sufficient time and opportunity to present their claim in the form of pleadings and evidence before determination of the dispute.”

(emphasis supplied)

⁹ (2021) 5 SCC 489



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51. The Madhya Pradesh High Court, in *Anjali Sharma v. Raman Upadhyay*¹⁰, has made some pertinent observations in this regard. The relevant portion of the said judgment read as under:

“11. In order to achieve its object to simplify the rules of evidence and procedure, Section 14 of the Family Courts Act provides for an exception to the general rule of evidence regarding admissibility of any report, statements, documents, information or matter, which it considers necessary to assist it and to deal with it effectively. Apparently, such a provision is made keeping in view the nature of cases which are dealt with by the Family Courts. Needless to mention here that Section 14 of Family Courts Act is a special legislation and by virtue of this provision, the strict principles of admissibility of evidence as provided under the Evidence Act have been relaxed.

12. A cumulative reading of Section 14 & 20 of the Family Courts Act, takes within its ambit the restricted applications of the provisions of the Evidence Act qua the documentary evidence which includes electronic evidence, whether or not the same is otherwise admissible. The only guiding factor is that the Family Court should be of the opinion that such evidence would assist the Court to deal with the matrimonial dispute effectively. It is the absolute power and authority of the Family Court either to accept or discard particular evidence in finally adjudicating the matrimonial dispute. However, to say that a party would be precluded from placing such documents on record and/or such documents can be refused to be exhibited unless they are proved as per Evidence Act, runs contrary to the object of Section 14 of the Family Courts Act.”

(emphasis supplied)

52. The Bombay High Court on the same issue in *Premdeep v. Bhavana*¹¹ has observed as under:

“19. The evidence of respondent was over on 8-10-2020. On 15-10-2020, she filed a pursis closing her evidence. On 22-10-2020, the Advocate for the appellant made an application at Exh. 69 under section 14 of the Family Courts Act, 1984 and sought the leave of the Court to produce on record the matrimonial profile of the respondent uploaded by her on Bharat Matrimony. com and Shaadi. com. The learned Advocate for the respondent filed his say contending that the application is not legal and tenable and therefore, prayed for rejection of the same. It is pertinent to note

¹⁰ 2025 SCC OnLine MP 4217.

¹¹ 2021 SCC OnLine Bom 13714



that along with this application the Advocate for the appellant has produced the matrimonial profile uploaded on the above two websites by the respondent. It is pertinent to mention that on being confronted with the documents, sought to be produced on record, the respondent was supposed to file a detailed reply and place on record her side of the story. The respondent could have either denied the documents or placed on record plausible explanation vis-a-vis the documents. But, the respondent chose not to do either of it. The learned Judge of the Family Court, on 22-10-2020, allowed the production of the documents. The documents are part of the record. The learned Advocate for the appellant placing reliance on section 14 of the Family Courts Act, 1984 submitted that these documents can be read in evidence. Section 14 of the Family Courts Act, 1984 provides that the Family Court may receive as evidence any report, statement, documents for deciding the dispute effectively. It further provides that the Family Court can receive the documents whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872. Section 14 of the Family Courts Act, 1984 is an exception to the application of Evidence Act, 1872 and allows the Family Court to admit the documents on record provided the same are necessary for effective resolution of the dispute. On plain reading of section 14 we have no reason to reject the submissions advanced by the learned Advocate for the appellant. In our opinion, the documents produced on record in the form of matrimonial profile uploaded by the respondent on 22-10-2020 can be taken into consideration for deciding the question in controversy in this appeal.

(emphasis supplied)

53. Similarly, in *Shiv Anand Damodar Shanbhag v. Sujata Shiv Anand Shanbhag*¹², the Bombay High Court has held that:

“15. On the above aspect so far as the admissibility of the contents of the divorce deed, it is submitted on behalf of appellant-husband that the said document is not proved in the strict sense of proof of any document by way of examining the executor. It is further submitted that it was must for respondent-wife to examine her first husband in order to put rest the said dispute whether there was valid divorce between those parties. On this, we have gone through the reasoning given by the trial Court and also we have ascertained the import of section 14 of the Family Courts Act, 1984. Said section 14 of the Family Courts Act, 1984 reads thus:

“14. Application of Indian Evidence Act, 1872. — A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute,

¹² 2013 SCC OnLine Bom 421



whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).”

Section 14 of the Family Courts Act provides for exception to the general rule of evidence regarding admissibility of statements and documents if permissible by the Court etc. It has been So provided looking to the nature of the cases which are decided by the Family Courts. The Court should not go into technicality and should take a decision on the material before it in a broad based manner. The parties appear before the Court personally and advocates are not allowed, hence the technical aspect is to be ignored and whatever material is placed before the Court, which it considers necessary to assist it and to deal it effectively can be looked into. Section 14 of the Family Courts Act is a special legislation and the principles of admissibility of documents as provided under the Evidence Act are not relevant in such cases.”

(emphasis supplied)

54. With regard to the issue of impleadment, we are of the considered view that the two individuals, *namely*, Sh. Praveen Pant and Sh. Pradeep Gupta, are neither necessary nor proper parties to the present proceedings. The Respondent-Husband’s case was founded on cruelty under Section 13(1)(ia) of the HMA, and not on adultery. The learned Family Court has thoroughly examined the allegations in the context of cruelty, taking into account all relevant facts and circumstances, including but not limited to the Appellant-Wife’s conduct and her sustained and unexplained interactions with the said individuals. It is also pertinent to note that the objection regarding impleadment was never raised before the learned Family Court, and accordingly, cannot be entertained for the first time on appeal.

55. It is a well-settled proposition of law that where dissolution of marriage is sought on the ground of cruelty under Section 13(1)(ia) of the HMA, and not on the ground of adultery, the alleged paramour or third party is neither a necessary nor a proper party to the proceedings, and there is no requirement to implead them as such. The law in



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regard has been succinctly encapsulated by the Madhya Pradesh High Court in *X v. Y*¹³, which reads as follow:

11.In the aforesaid backgrounds and considering the provision of respective rule i.e. Rule 10 of the CPC in which it is observed that decree of divorce on the ground of adultery cannot be obtained without impleading the adulterer as a party and as such, the analogy which has been followed by the Division Bench in the case of Rajesh Devi (supra) is not applicable here in this case for the reason that **it is not a case on which the decree of divorce is being sought on the ground of adultery, but it is a case in which decree of divorce has been sought on the ground of cruelty as wife made false allegation of adultery against the husband.**

13. Thus, in the present case, if wife fails to prove her allegations, the decree of divorce can be granted by the Court in favour of the husband considering the fact whether the allegation of adultery made without any foundation against the husband comes within the definition of cruelty or not. **But adulterer is not required to be impleaded as a party on the request made by the wife. Had it been a case where decree of divorce is being sought by the wife on the ground of adultery casting aspersion upon the husband saying that he is an adulterer, then in that situation, the other person would have been required to be impleaded so as to prove the allegations against the husband. But, here the situation is otherwise and as such, the Court has to see whether the wife has collected sufficient material and produced it before the Court to prove the allegation or not.**

56. Moreover, the Respondent's case of cruelty was based on a multiplicity of factors, encompassing the cumulative effect of the Appellant-Wife's behaviour, including deception, concealment of facts, and the deliberate breach of marital obligations. The learned Family Court, after a holistic consideration of the evidence and the overall substance of the case, arrived at the conclusion that mental cruelty was established. Since the case before the Court was one of cruelty and not strictly adultery, there was no necessity to implead Sh. Praveen Pant or Sh. Pradeep Gupta as parties to the divorce petition.

¹³ M.P. No.1667 OF 2021.



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The Appellant's contention in this regard is, therefore, wholly without merit.

CONCLUSION:

57. In view of the foregoing discussion and the material on record, we find no merit in the present Appeal and no infirmity in the Impugned Judgment and Decree dated 19.11.2022 passed by the learned Family Court, which correctly held that cruelty under Section 13(1)(ia) of the HMA has been established.

58. Accordingly, the Impugned Judgment and Decree are affirmed, and the Appeal, being entirely devoid of merit, stands dismissed.

59. The present Appeal, along with pending application(s), if any, is disposed of in the above terms.

60. No Order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER 29, 2025/sm/kr