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SAIFAN KHAN Digitally signed by SAIFAN KHAN

HIGH COURT OF CHHATTISGARH AT BILASPUR

FA(MAT) No. 33 of 2024

{Arising out of judgment and decree dated 30.04.2024 passed in Civil Suit No.06-A/2023 by the Family Court, Mungeli, District Mungeli}

Smt. Anjali Yadav, W/o. Rahul Yadav, Aged About 28 Years, Daughter Of Chandrabhushan Yadav, R/o. Block -4/c, Sadak No. 11, Sectro -06, Bhilai Nagar, District Durg, Chhattisgarh.

... Appellant

Versus

Rahul Yadav, S/o. Heeralal Yadav, Aged About 31 Years, R/o. Block No. 100/A, Camp-01, Subhash Chowk, Bhilai, District Durg, Chhattisgarh

... Respondent

For Appellant	:	Ms. Upasna Yadav, Advocate
For Respondent	:	Mr. Purnendra Khichariya, Advocate

Division Bench: -

Hon'ble Shri Parth Prateem Sahu and
Hon'ble Smt. Sushma Sawant, JJ.

Judgment On Board
(29/10/2026)

Sushma Sawant, J.

1. Invoking the appellate jurisdiction of this Court under Section 19 of the Family Courts Act, 1984, the **appellant/defendant- wife Smt. Anjali Yadav** has preferred this appeal challenging the judgment & decree **dated 21.12.2023** passed by the Principal Judge, Family Court, Durg in **Civil Suit No.704/2019** ***(Rahul Yadav v. Smt.***

Anjali Yadav), by which the application for grant of decree of divorce filed by the **respondent/plaintiff- husband** against **appellant/defendant- wife** has been allowed.

2. The aforesaid challenge has been made on the following factual backdrop: -

(For the sake of convenience, parties hereinafter will be referred as per their status shown and ranking given in the civil suit before the Family Court.)

-:Factual Matrix:-

-:Admitted Facts:-

3. It is admitted that the marriage of the plaintiff/husband- **Rahul Yadav** with the defendant/wife **Smt. Anjali Yadav** was solemnized on **08.12.2015** according to Hindu rites and rituals and, from the said marriage, a child was also born.

-:Case of the Respondent/Plaintiff – Husband before the Family Court:-

4. The respondent/plaintiff husband **Rahul Yadav,** filed Original **Civil Suit No.704/2019** ***(Rahul Yadav v. Smt. Anjali Yadav)*** for a decree of divorce on the ground of **'cruelty'** committed by the appellant/defendant wife **Smt. Anjali Yadav.** According to the plaint averments, the case of the respondent/plaintiff husband **,** in brief, is that from the very beginning of their marriage, the conduct of the appellant/defendant wife towards his parents, elder brother and sister-in-law was improper. She used to humiliate his physically

disabled elder brother by making remarks that the respondent/plaintiff husband spent his hard-earned money on him. About two months after the marriage, the appellant/defendant wife went to her parental home and, after 5–6 days, informed the respondent/plaintiff husband that she was pregnant. After staying there for about 15–20 days, she was brought back to the matrimonial home by the plaintiff. Thereafter, she frequently quarrelled over household work, misbehaved with his elderly parents, elder brother and sister-in-law and abused them in filthy and obscene language. She also used to convey fabricated and distorted accounts of household matters to her parental family. Consequently, her self-proclaimed brother and father came to the plaintiff's house and forcibly took her away.

5. It is further pleaded that during the pregnancy of the appellant/defendant wife, the respondent/plaintiff husband took proper care of her and ensured her medical treatment and regular check-ups at Sector 09 Hospital. He also brought her back to the matrimonial home and continued to look after her. In the meantime, on 18-09-2016, a male child was born to the parties at Sector 09 Hospital, and the entire expenses incurred in connection with the delivery were borne by the respondent/plaintiff husband and his family members.

6. It is further case of the respondent/plaintiff husband that, after the birth of the child, the appellant/defendant wife continuously started pressurizing him to live separately from his parents and to establish a separate household. When the respondent/plaintiff husband refused to accede to her demand, she used to quarrel with him and even use to abuse him. The appellant/defendant wife's father also started pressurizing the respondent/plaintiff husband to live separately from his family and insisted that the respondent/plaintiff husband should become a Ghar Jamai (a son-in-law residing at his wife's parental home) and assist in their business. The appellant/defendant wife invariably insisted that the respondent/plaintiff husband to reside with her at her parental home, and her parents extended their full support to her in this endeavour. Though the appellant/defendant wife herself used to prepare meals for the respondent/plaintiff husband and the child, but she neither enquired whether the plaintiff's parents required food nor provided them with any food.

7. It is also the case of the respondent/plaintiff husband that on several occasions, he requested the appellant/defendant wife to return to the matrimonial home and reside with him. However, the appellant/defendant wife, along with her parents, remained adamant about residing at her parental home and refused to return to the matrimonial home. Approximately one year thereafter, the appellant/defendant wife and her father levelled false allegations against the respondent/plaintiff husband before the competent

departmental authority at his workplace, wherein the appellant/defendant wife was advised to reside at the plaintiff's house. Despite making every possible effort, the respondent/plaintiff husband ultimately, through his Advocate, requested the appellant/defendant wife to return to her matrimonial home within 15 days and lead her matrimonial life peacefully. However, the appellant/defendant wife showed no inclination to return to the matrimonial home. Thereafter, the appellant/defendant wife lodged a complaint against the respondent/plaintiff husband and his family members at Mahila Police Station, Bhilai, wherein after three counselling sessions, the respondent/plaintiff husband agreed to the condition that the appellant/defendant wife would reside separately with him. However, during the final counselling session, the appellant/defendant wife submitted a written statement expressing that she did not wish to reside with the respondent/plaintiff husband and demanded maintenance from him.

8. Thereafter, the appellant/defendant wife also got a criminal case registered under the provisions of the Protection of Women from Domestic Violence Act and Section 4 of the Dowry Prohibition Act against the respondent/plaintiff husband. It is also averred in the plaint that despite being the plaintiff's legally wedded wife, the appellant/defendant deprived the respondent/plaintiff husband of matrimonial happiness and subjected him and his family members to continuous cruel and humiliating treatment, as a result of which, the plaintiff suffered physical, mental and financial distress. Under such

circumstances, it was become impossible for the respondent/plaintiff husband and the appellant/defendant wife to continue living together as husband and wife. Accordingly, the respondent/plaintiff husband filed a suit before the learned Family Court with prayer of dissolution of the marriage solemnized between the parties on 08.12.2015 by way of a decree of divorce.

-:Written Statement of Appellant/Defendant- Wife before the Family Court:-

9. On the other hand, the **appellant/defendant wife Smt. Anjali Yadav** contested the suit by filing her written statement and apart from admitting the undisputed facts, the appellant/defendant wife, in her written statement, has denied the remaining material averments and submitted that she resided at her matrimonial home until 20.01.2016, whereafter the respondent/plaintiff husband sent her to her parental home. The appellant/defendant wife remained at her parental home for approximately two months. On 23.05.2018, the respondent/plaintiff husband brought the appellant/defendant wife back to her parental home by making false representations and, upon a quarrel with and assault upon the appellant/defendant's father, he became aggressive. Thereupon, the appellant/defendant's father dialled 112 and informed the police about the incident. When the police personnel directed the respondent/plaintiff husband to take the respondent/defendant wife and the child along with him, the appellant/defendant wife stayed at her matrimonial home for approximately four days.

10. It is further pleaded that,thereafter, the respondent/plaintiff husband again assaulted and harassed her and, on 27.05.2018, dropped her at her parental home. Since then, the appellant/defendant wife has been residing at her parental home along with her minor son. The respondent/plaintiff husband did not make any genuine effort, either from a social or legal standpoint, to keep the appellant/defendant wife and the child with him, whereas the appellant/defendant's parents made every possible effort to send her back to the respondent/plaintiff husband 's house. However, the respondent/plaintiff husband showed no willingness to take her back. Thus, on behalf of the appellant/defendant wife, it was prayed that the suit filed by the respondent/plaintiff husband be dismissed.

-: Proceedings before the learned Family Court :-

11. The Family Court after appreciating oral and documentary evidence available on record, framed following issues and answered the issues as under:-

Sr.	Question	Conclusion
1.	Whether the defendant has treated the plaintiff with cruelty ?	"Proved"
2.	Whether the plaintiff is entitled to obtain a decree of dissolution of marriage against the defendant ?	"Yes"
3.	Relief and costs of litigation?	" Petition allowed in terms of Para-22"

-:Details of the evidence and documents available before the Family Court:-

-:Evidence led by the Respondent/Plaintiff- Rahul Yadav:-

12. Before the Family Court, the respondent/plaintiff- husband examined himself Rahul Yadav **(PW-1)** and also examined Heeralal Yadav **(PW-2)** and Rohit Kumar Yadav **(PW-3)** as witnesses in support of his pleadings. The respondent/plaintiff husband has exhibited the documents **Ex.P1-C to Ex.P4-C**.

Evidence led by the Appellant/Defendant- Smt. Anjali:-

13. The appellant/defendant-wife herself Smt. Anjali examined herself as **DW-01** and also examined Chandrabhushan Yadav **(DW-02)**. However, the appellant/defendant- wife has not produced any document in support of her case.

-:Judgment of the trial Court:-

14. Upon completion of the trial, the learned Family Court, by its **judgment and decree dated 21.12.2023**, allowed the suit filed by the respondent/plaintiff by recording thus:

> "**1. वादी राहुल यादव एवं प्रतिवादिनी श्रीमती अंजली यादव के मध्य दिनांक 08.12.2015 में हुए अनुष्ठापित विवाह को आज निर्णय दिनांक से विघटित किया जाता है ।**
>
> **2. वादी एवं प्रतिवादिनी आज दिनांक से पति-पत्नी नहीं रहेंगे ।**
>
> **3. उभयपक्ष अपना-अपना वाद व्यय स्वंय वहन करेंगे। उभयपक्ष को डिकी की प्रति निः शुल्क प्रदान की जावे ।**"

15. Being aggrieved by the aforesaid judgment and decree dt. 21.12.2023, the present appeal has been preferred on the following grounds:-

(i) That, the judgment and decree passed by the learned Family Court is bad in law and facts and thus liable to be set-aside and the suit of the respondent deserves to be dismissed.

(ii) That, the respondent has never filed an application for restitution of conjugal right, which *prima-facie* shows that he was not interested to take the appellant back.

(iii) That, a case under Section 498-A of IPC was registered at Mahila Thana because the respondent was not willing to take the appellant with him.

(iv) That, lodging of FIR under Section 498-A of IPC as well as Section 4 of the Dowry Prohibition Act is not cruelty against the family members of the respondent, because they have not been acquitted from the said charges, indeed, they were facing trial. Yet, learned trial Court has granted decree of divorce to the respondent on the ground of "cruelty", which is bad, arbitrary and illegal. Even otherwise, the offences under Section 498-A of IPC is compoundable and the respondent has never tried to manage his matrimonial life.

(v) That, the respondent alleged that the appellant has stated during the counseling that she wants to reside separately from his family, but the real fact is that the appellant wants to taken care of herself and her child and for which she has requested the respondent for several time, but the same was denied by the respondent and after

bornout of the child, the appellant was deserted by the respondent to live as a destitute life.

-:Proceedings before the Appellate Court:-

16. Both the parties were heard on this appeal. The evidence and documents available in the record of the trial Court have been perused.

-:Questions to be considered in this Appeal:-

17. In order to dispose of this First Appeal, the following questions are to be considered:-

(i) Whether the Family Court is justified in allowing the suit filed by the respondent/plaintiff Husband for grant of decree of divorce on the ground of cruelty ?

(ii) Whether the respondent/plaintiff husband is entitled for decree of divorce as claimed?

-:Argument of the Appellant/Defendant- Smt. Anjali Yadav:-

18. Learned counsel for the appellant/defendant wife submits that the learned Family Court has erred in granting a decree of divorce on the ground of cruelty without properly appreciating the facts and circumstances of the case.

19. It is further contended that the respondent/plaintiff husband never sought restitution of conjugal rights, indicating his own

unwillingness to resume matrimonial life. The complaint under Section 498-A of the IPC and Section 4 of the Dowry Prohibition Act was lodged only because the respondent/plaintiff husband was unwilling to take the appellant/defendant wife back to the matrimonial home, and mere lodging of such a complaint, particularly when the criminal proceedings are still pending and the respondent/plaintiff and his family members have not been acquitted, cannot constitute cruelty. It is further submitted that the appellant/defendant wife never intended to live separately but had only sought proper care and security for herself and her child, whereas it was the respondent who deserted her after the child's birth. The impugned judgment and decree, therefore, deserve to be set aside.

-:Argument of the Respondent/Plaintiff- Rahul Yadav:-

20. Learned counsel for the **respondent/plaintiff husband** submits that the impugned judgment does not suffer from any illegality or perversity. The learned Family Court, after appreciating the pleadings and evidence on record, has rightly decreed the suit filed by the respondent/plaintiff for grant of divorce on the ground of cruelty. Accordingly, he prays for dismissal of the appeal.

-:Analysis of the Appellate Court:-

Points for determination No (i) and (ii).

21. To avoid repetition of the evidence, both the questions are taken up together for consideration.

22. The learned Family Court has examined the present case in the light of the principles laid down by the Hon'ble Supreme Court in **V. Bhagat v. D. Bhagat, (1994) 1 SCC 337**, **Praveen Mehta v. Inderjit Mehta, (2002) 5 SCC 706** and **Samar Ghosh v. Jaya Ghosh, (2007) 4 SCC 511**. The present matrimonial dispute is founded on the ground of **"cruelty"** under Section 13(1)(ia) of the Hindu Marriage Act, 1955.

23. Since the expression **"cruelty"** has not been defined under the Act, the Hon'ble Supreme Court, through various judicial pronouncements, has explained its meaning and the circumstances in which matrimonial conduct may constitute cruelty. In **Samar Ghosh (supra)**, while relying upon its earlier decisions, including **V. Bhagat (supra) and Naveen Kohli v. Neelu Kohli**, **(2006) 4 SCC 558** the Hon'ble Supreme Court, in paragraph 101, illustrated certain instances of human conduct which may amount to cruelty. The relevant observations are reproduced herein below:

> "No uniform standard can ever be laid down for guidance, yet it is deemed 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; but 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 sterilization 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."

24. On examination of the evidence available on record in the light of the aforesaid principles, it emerges that the **respondent/plaintiff husband**, his father and his brother have consistently deposed against the appellant/defendant wife. Nothing material has emerged in their cross-examination to indicate that their testimony is unreliable or that they have falsely deposed against her.

25. Of particular significance is the fact that, even if the other allegations and circumstances are left aside for the sake of argument, the suggestions put by the appellant/defendant wife to her husband, respondent/plaintiff **Rahul Yadav (PW-1)**, during his cross-examination in paragraph 22, alleging that he had illicit relations

with his sister-in-law and that he was seen with her in an objectionable position, are themselves relevant for consideration.

26. Such serious allegations concerning the character and fidelity of one's spouse, when made without any foundation, may themselves constitute mental cruelty. In the present case, no basis for making such allegations is forthcoming from the evidence on record. These suggestions also indicate the nature of the matrimonial discord and the conduct attributed to the appellant/defendant wife.

27. The legal position regarding allegations affecting the character of a spouse also deserves consideration. In **Samar Ghosh(supra)** and the principles laid down in the earlier decisions of the Hon'ble Supreme Court, it has been recognized that making reckless and baseless allegations concerning the character and fidelity of a spouse may cause serious mental pain and suffering and may, depending upon the facts and circumstances, constitute mental cruelty.

28. In the present case, the allegations regarding illicit relations with the sister-in-law were made without any material foundation. Such allegations cannot be treated as ordinary matrimonial disagreements.

29. More importantly, the statements of the appellant/defendant wife **Aanjali Yadav (DW-1)** and her father **Chandrabhushan Yadav (DW-2)** in their cross-examination also require consideration. From paragraphs 18 and 19 of the cross-examination of the appellant/defendant wife **Aanjali Yadav (DW-1)** read with the last

line of paragraph 18 of the cross-examination of her father **Chandrabhushan Yadav (DW-2)** , it emerges that after the marriage, the appellant/wife went to her parental home on several occasions and, despite efforts made to bring her back, she did not return. It also emerges that the wife desired to reside with the husband at the place where he was employed, rather than at the matrimonial home.

30. Similarly, the admissions made by the appellant/defendant wife **Aanjali Yadav (DW-1)** in paragraph 21 of her cross-examination and by her father **Chandrabhushan Yadav (DW-2)** in paragraph 19 of his cross-examination establish that the respondent/husband used to take care of her and had borne the expenses of her treatment and delivery. He had also arranged for her treatment at Sector-9 Hospital. These circumstances are relevant while examining the appellant/defendant wife's allegation that the respondent/plaintiff husband had neglected her and failed to take care of her.

31. Further, the admissions made by the appellant/defendant wife in paragraphs 23, 25 and 34 of her cross-examination indicate that she herself was not willing to accompany her husband and had also refused to go with him during the counselling proceedings. These admissions are contrary to the stand taken by her in the appeal. On an overall consideration of her testimony, it emerges that allegations concerning the character of her husband were made by her, that she herself had gone to her parental home and that she did not return

despite repeated efforts made by the respondent/plaintiff husband to take her back.

32. Thus, the aforesaid circumstances, when considered cumulatively and in the light of the principles laid down by the Hon'ble Supreme Court in the aforementioned decisions, indicate that the matrimonial discord was not merely a consequence of ordinary differences between the parties. The conduct and allegations of the appellant/defendant wife, particularly the baseless allegations concerning the character of her husband, coupled with her unwillingness to resume cohabitation despite efforts made by him, have to be considered in their proper perspective. The learned Family Court has rightly appreciated these circumstances while holding that the respondent/plaintiff husband was subjected to mental cruelty.

33. Consequently, this Court finds no perversity or illegality in the findings recorded by the learned Family Court warranting interference in the appellate jurisdiction. The ground of **"cruelty"** under Section 13(1)(ia) of the Hindu Marriage Act, 1955, is established.

-:Final Conclusion:-

34. In view of the foregoing discussion, this Court finds that the learned Family Court has rightly appreciated the evidence and committed no illegality or infirmity in passing the impugned judgment and decree. The appeal, being devoid of merit, is accordingly **dismissed**. The

impugned judgment and decree passed by the learned Family Court are hereby affirmed. The parties shall bear their own costs.

35. A decree be drawn up accordingly.

Sd/-
(Parth Prateem Sahu)
Judge

sd/-
(Sushma Sawant)
Judge

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