CGHC010301802024

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Judgment reserved on 19.08.2026
Judgment pronounced on 05.11.2026
Judgment uploaded on 05.11.2026

FA(MAT) No. 299 of 2024

Smt. Eytishri W/o Siddharth Janbandhu, aged about 30 years R/o - Kedarbadi, Ward No. 03, Dongargarh, Tahsil - Dongargarh, Districr - Rajnandgaon, Chhattisgarh. At Present- R/o - Rajanand Sukhdeve, Shankar Nagar, Near Baudhh Vihar, Durg, Tahsil And District - Durg, Chhattisgarh. (Correct Address has been mentioned **... Appellant**

versus

Siddharth Janbandhu S/o Late Tarachand Janbandhu, aged about 35 years R/o Kedarbadi, Ward No. 03, Dongargarh, Tahsil - Dongargarh, District - Rajnanadgaon, Chhattisgarh. **... Respondent**

For appellant	:	Shri Pushkar Sinha, Advocate
For Respondent	:	Shri Shubham Singh, Advocate

DB: Hon'ble Shri Justice Parth Prateem Sahu
Hon'ble Shri Justice Sachin Singh Rajput

Per Sachin Singh Rajput, J

This is an appeal by the appellant/wife against the judgment and decree dated 03.08.2024 passed by First Additional Principal Judge, Family Court, Durg, CG in Civil Suit No. 315/2021 dissolving the marriage between the parties by a decree of divorce.

2. Appellant in this appeal shall be referred to as “wife” and the respondent as “husband” for convenience.

3. Marriage between the parties had taken place on 01.01.2015 as per the Hindu rites and rituals at Dongargarh and out of their wedlock a son namely Advik was born who presently is living with his mother (the appellant herein).

4. It is pleaded by the husband that some time after the marriage, the wife expressed her desire to complete the Physiotherapy course. Citing easy availability of train facility in between Dongargarh and Durg, when he asked her to go on with the said course by making up-down visit to Durg on daily basis, the wife insisted to do that by staying with her parents at Durg. After staying for some time at Durg, she discontinued her Physiotherapy course and started pursuing B.Com, PGDCA and MSW course by making to and fro visits by train. On 07.05.2017 she expressed her unwillingness to live with her mother-in-law. When the husband asked her to look after the marital affairs by living at Dongargarh which she did not do before on account of her study related frequent visits to Durg, she lost her tamper and left for her parental home carrying some of her luggage, and made a report against him and his mother in Mahila Thana, Durg. During counselling when no viable solution could be found in spite of 4-5 sittings, the proceedings

were closed. Thereafter, without informing him or taking his consent, she took a job of Data Entry Operator at District Hospital, Durg. Having coming to know this through an acquaintance when he tried to know about her employment, she told him of there being no need of taking any permission from him and that she was free to think of her well being. All his efforts for truce went in vain. The offer from the husband to take up the job at Dongargarh in place of Durg for the same remuneration also received outright rejection from the wife. It is the case of the husband that in December 2017 he received a telephonic call from a woman namely Rajesh Chhatri who disclosed to him of an illicit affair between her husband and the appellant herein. Husband however did not take it seriously. Thereafter, he without informing the wife went to Durg and found a mobile phone on her bed which was in the name of Rajesh Chhatri. Meanwhile, the wife came over there, snatched the mobile set from his hand and turned argumentative with him. When he insisted her to accompany him to Dongargarh, she got furious and asked him to get out. Husband again visited Durg to meet the wife but she did not even open the door. She stopped receiving his phone calls and also blocked his number. The husband then filed an application for restitution of conjugal rights on 17.07.2018 and on coming to know this, the wife filed an application for maintenance under Section 125 CrPC on 10.10.2018. The wife also filed a transfer petition (TPC No. 19/2019) before this High Court and during its hearing both the parties were called upon to withdraw their respective cases and started living affably. Husband thereafter took steps to start the spousal relationship but the

wife did not budge from her standpoint nor did she honour the words of this Court. The wife thereafter made a complaint to Superintendent of Police, Rajnandgaon and in the inquiry by the SHO Dongargarh, it was found that the wife had an illicit relationship with some another man. Since the wife did not raise any objection to this inquiry report, she seemingly has no say on this. The wife is alleged to have shown no interest in continuing the matrimony, there is no other way out to the husband than seeking a riddance as a remedial measure.

5. There is blanket denial of the allegations by the wife of all the allegations of the husband. According to her, her son by then 04 did not receive the affectionate lap of his father (respondent herein). It is pleaded that the husband drove her out of his house and did not make any effort to take her back. It is further pleaded that by the order of High Court the case was transferred to Durg vide order dated 02.12.2019 but the husband had withdrawn the application under Section 9 of the Hindu Marriage Act before the case being transferred, and filed an application seeking dissolution of marriage, which shows that he was some-how determined to obtain the decree of divorce. It is pleaded that after the order dated 06.08.2019 passed by the High Court directing the parties to withdraw their respective applications, she went to the house of the husband, but after being tortured she was again driven out of his house. As regards the report submitted by the concerned SHO to the Superintendent of Police, Rajnandgaon where her chastity has been put to question, she pleads that she would drag the persons involved from the legal side. It is pleaded that as the welfare of the children is required

to be taken care of by both the parents, she is ready and willing to continue her matrimonial bond by living with the husband. On these pleadings, she sought for the dismissal of the suit.

6. Learned trial Court has principally framed three issues. The issue as regards cruelty by the wife has been found to be proved, the issue regarding desertion has however not been found proved, and the last but not the least regarding entitlement of the husband for decree of divorce has also been found proved. Putting it differently, the decree of divorce was granted in favour of the husband by the impugned judgment and decree. Hence this appeal by the wife.

7. Learned counsel for the appellant/wife would submit as under:-

(I) that the judgment and decree passed by the learned Family Court is contrary to the pleadings, evidence and material available on record and is therefore liable to be set aside;

(ii) that the Family Court has erred in holding that the allegation of cruelty against the wife stood has been proved, and that the findings so recorded are not based on proper appreciation of the evidence on record;

(iii) that such serious allegations of matrimonial cruelty were required to be established by cogent and reliable evidence and mere assertions cannot constitute proof of cruelty; and

(iv) that the allegation of extramarital affair against the wife is totally ill founded;

(v) that the finding of cruelty is therefore perverse and unsustainable, and being so the appeal deserves to be allowed by setting aside the judgment and decree of divorce passed by the learned Family Court.

(vi) Reliance is placed on the decision of this Court in the matter of **Smt. Sonal Mehar vs. Satish Kumar** rendered in FA(MAT) No. 71/2024 on 06.08.2024.

8. On the other hand, learned counsel for the respondent/husband would oppose the submissions made by counsel for the appellant/wife and submit that the findings recorded by learned Family Court granting decree of dissolution of marriage in favour of the respondent/husband are fully justified and based on proper appreciation of the material available on record. Being so, no interference is needed in the impugned judgment and decree and therefore the appeal be dismissed. Reliance is placed on the decisions of the Supreme Court in the matter of **Narendra vs. K. Meena** reported in **(2016) 9 SCC 455** and in the matter of **Sonal Talpada vs. Veerbhan Singh** rendered in **Civil Appeal arising out of SLP (C) No. 10422 of 2025**.

9. Heard counsel for the parties and perused the evidence on record.

10. The point for determination before this Court is whether learned Family Court was justified in granting decree of divorce and whether such decree can sustain the judicial scrutiny of this Court?

11. Undisputedly, the Marriage between the parties had taken place on 01.01.2015 as per the Hindu rites and rituals and out of their wedlock a son namely Advik was born who presently is living with his mother.

The record does not go to show that the husband ever refused the wife to pursue her studies or get the employment of her choice. On the contrary, he wanted her to go with her studies or carry on the job but at the same time it was also his concern that the job and studies could be taken along from Dongargarh itself so that the harmony could be maintained between the work life, and domestic life including the responsibilities of in-laws, that of the spouse and the minor child. As is apparent from the record, she did not listen to the husband and persisted upon staying at Durg with her parents and to take the assignment of her choice from there itself. Expectation of the husband from the wife to pursue her studies by making up and down journey on daily basis looking to the easy train availability so that the personal life and work life balance remained undisturbed, appears to have been quite genuine and untainted with any *mala fide.* If statement of the father of the wife (NAW-3) is seen, it is manifest that even after the eruption of dispute the husband used to visit his house to meet the wife in the interval of one month, if not in that of 15 days. It also strengthens goodwill gesture of the stand of the husband in insisting the wife to strike the balance between the work life and personal life by taking recourse to easily available train facility. This persistence on the part of the wife not to live in the house of the husband and thus depriving him of marital bliss falls within the sweep of mental cruelty. Dealing with the point whether the disinclination on the part of wife not to live in the house of the husband without there being any reasonable cause would amount to cruelty to the husband, the Supreme Court in the matter of

Narendra vs. K. Meena reported in **(2016) 9 SCC 455** has held as under:-

> "11. The Respondent wife wanted the Appellant to get separated from his family. The evidence shows that the family was virtually maintained from the income of the Appellant husband. It is not a common practice or desirable culture for a Hindu son in India to get separated from the parents upon getting married at the instance of the wife, especially when the son is the only earning member in the family. A son, brought up and given education by his parents, has a moral and legal obligation to take care and maintain the parents, when they become old and when they have either no income or have a meagre income. In India, generally people do not subscribe to the western thought, where, upon getting married or attaining majority, the son gets separated from the family. In normal circumstances, a wife is expected to be with the family of the husband after the marriage. She becomes integral to and forms part of the family of the husband and normally without any justifiable strong reason, she would never insist that her husband should get separated from the family and live only with her. In the instant case, upon appreciation of the evidence, the trial Court came to the conclusion that merely for monetary considerations, the Respondent wife wanted to get her husband separated from his family. The averment of the Respondent was to the effect that the income of the Appellant was also spent for maintaining his family. The said grievance of the Respondent is absolutely unjustified. A son maintaining his parents is absolutely normal in Indian culture and ethos. There is no other reason for which the Respondent wanted the Appellant to be separated from the family - the sole reason was to enjoy the income of the Appellant. Unfortunately, the High Court considered this to be a justifiable reason. In the opinion of the High Court, the wife had a legitimate expectation to see that the income of her husband is used for her and not for the family members of the Respondent husband. We do not see any reason to justify the said view of the High Court. As stated hereinabove, in a Hindu society, it is a pious obligation of the son to maintain the parents. If a wife makes an attempt to deviate from the normal practice and normal custom of the society, she must have some justifiable reason for that and in this case, we do not find any justifiable reason, except monetary consideration of the Respondent wife. In our opinion,

> normally, no husband would tolerate this and no son would like to be separated from his old parents and other family members, who are also dependent upon his income. The persistent effort of the Respondent wife to constrain the Appellant to be separated from the family would be torturous for the husband and in our opinion, the trial Court was right when it came to the conclusion that this constitutes an act of 'cruelty'."

In this case also the husband appears to have made all endeavour to make the wife understand the situation and think of living in his house to smoothly carry on the matrimony. Not only this, he did not want to hinder her job in any manner whatsoever and always reassured her of carrying out her assignment by availing the easily available train facility from Dongargarh to Durg which hardly comes to be about 60 kms, but the wife did not appear to budge. Thus it can be culled out that the conduct of the wife in not standing by the husband for discharging the matrimonial obligations coupled with the responsibility of the old aged mother-in-law, amounts to cruelty.

12. Though there is an allegation of extramarital connection between the wife and some outsider, this Court refrains from commenting upon that aspect of the matter where her well cherished character is at stake. It is a well settled legal position that cruelty may be physical or mental and its determination depends upon the facts and circumstances of each case. In ***Samar Ghosh v. Jaya Ghosh*** **(2007) 4 SCC 511**, the Supreme Court has held that the cumulative effect of the conduct of the parties has to be considered while determining whether mental cruelty has been established or not. Supreme Court went on to observe that it is difficult to lay down a precise definition or to give exhaustive

description of the circumstances which would constitute cruelty, but it must be of the type as to satisfy the conscience of the Court that the relationship between the parties had deteriorated to such extent due to the conduct of the other spouse that it would be impossible for them to live together without mental agony, torture or distress, to entitle the complaining spouse to secure divorce. Physical violence need not be absolutely essential to constitute cruelty rather a consistent course of conduct inflicting immeasurable mental agony and torture may well constitute the same. Having thus taken note of the pleadings of the parties and the evidence so adduced, the finding recorded by learned Family Court in holding that the act of the wife amounted to cruelty to the husband within the meaning of Section 13(1)(ia) of the Hindu Marriage Act, 1955 appears to be fully justified.

13. In view of the aforesaid factual and legal discussion, we find no sufficient ground to interfere with the findings recorded by the learned Family Court. The appellant/wife has failed to establish any perversity or illegality in the impugned judgment and decree. Consequently, the appeal being devoid of merit is liable to be dismissed. The decision tried to be brought to her rescue by the wife being on different factual matrix is not applicable to the case in hand.

14. Accordingly, the appeal is dismissed. The judgment and decree dated 03.08.2024 passed by the learned First Additional Principal Judge, Family Court, Durg (C.G.) in Civil Suit No.315/2021 dissolving

the marriage between the parties are hereby affirmed. There shall be no order as to costs. A decree be drawn accordingly.

15. The appeal stands **dismissed.**

Sd/- Sd/-

(**Parth Prateem Sahu)** **(Sachin Singh Rajput)**
Judge **Judge**

Jyotishi

AVANISH JYOTISHI
Digitally signed by AVANISH JYOTISHI
Date: 2026.11.05 14:48:25 +0530