

**Order No.09, dated 16.03.2026.**

Today is fixed for passing order. Petitioner files *hazira*.

The thumbnail sketch map of the petitioner is that the marriage between the petitioner and the respondent was registered on 22.07.2021 according to Special Marriage Act before the Marriage Officer Jhunu Ghosh, having office at 155/14, Ananda Palit Road, P.S. Entally, Kolkata – 14. The said marriage was duly consummated. It is the categorical contention of the petitioner that since the inception of the said marriage, the respondent/wife insulted the petitioner behaved with him in a harsh manner, frequently abusing him in insulting languages. On 25.03.2022, the respondent voluntarily left her matrimonial home and started to reside at her paternal home. She never returned to her matrimonial home and bluntly refused to do the same. Hence, institution of this instant suit.

It reflects from the perusal of the record that inspite of property service of summons upon the respondent, she has not entered appearance in this suit. So, this instant case proceed *exparte* against the respondent.

In order to establish this case, the petitioner Dipankar Chakraborty has been examined as PW-1.

This apart, the following documents are marked as Exhibit.

1. Aadhar Card – Exbt.1 and
2. Marriage Certificate – Exbt.2.

The petitioner in course of his testimony as PW-1 has reiterated the said factum by *inter alia* stating in his written examination in chief that after registration of the marriage on 22.07.2021, the respondent/wife misbehaved with him and treated him with harshness, negligence and cruelty even abused him. Finally, on 25.03.2022, the respondent/wife left for her parental home and refused to return to her matrimonial home.

Heard Ld. Advocate of the petitioner who has relied upon the following citations as reported in **Civil Appeal No.151 of 2004.**

Considered.

It is needless to mention that irretrievable breakdown of marriage is to be concluded that the matrimonial bond is beyond repair, the marriage becomes a fiction though supported by a legal tie..... In such light situations, it may be to mental cruelty.

It is also settled position of law that 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.....While arriving at such conclusion regard must be had to the social status, educational label of the parties, the society they moving, the possibility or otherwise of the parties ever living together in case they are already living

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apart and all other relevant facts and circumstances which it is neither possible and nor desirable to set out exhaustively.

In **Samar Ghosh and Jaya Ghosh**, Hon'ble Apex Court was pleased to observe that on consideration of complete marital 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 brought parameters of mental cruelty.... The feeling of deep anguish, disappointment, frustration in once spouse caused by the conduct of the other for a long time may led to mental cruelty, a sustained of course of abusive and humiliating treatment calculated to torture discommode or render miserable life of the spouse.... The marriage becomes a fixation 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 life situations, it may lead to mental cruelty.....The intensity, gravity and stigmatic impact.....when meted out even once and the deleterious effect of it on the mental attitude, necessary for maintaining a conducive matrimonial home is to be looked into.

The word cruelty has got no fixed meaning, and therefore, gives a wide discretion to the Court to apply it liberally and contextually..... 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..... The court has only to understand the spouses concerned as nature made them, and considered their particular grievance.....A broad and relatively more elastic approach is required when the Court examines a case in which a wife seeks divorce.....However, the degree of probability is not one beyond reasonable doubt but of preponderance in a petition for divorce, as the burden of proof lies on the petitioner [**Rupa Soni Vs. Kamal Narayan Soni**].

It is pertinent to remember that Lord Denning in **Sheldon Vs. Sheldon** one of his celebrated Judgment observe that the categories of cruelty are not closed. Each case may be different.

Hon'ble Apex Court in **Sova Rani Vs. Madhukar Reddi, 1988 (1) SCC 105** was pleased to observe that among the human beings there is no limit to the kind of conduct which may constitute cruelty. New type of cruelty may crop up in any case depending upon the human behaviour, capacity or incapability to tolerate to conduct complained of.

In this case the testimony of the petitioner was not corroborated and controverted and from the perusal of the averment of the petitioner it reflects that that the petitioner was subjected to cruelty at her matrimonial home, after she started her conjugal life with the respondent, soon after her marriage and there was sheer

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reluctance on the part of the respondent/husband to lead a happy and peaceful marital life with her wife/petitioner.

It is also apparent that there is no unnecessary delay in institution of this case and the Court has the territorial jurisdiction to try this case as well.

Also, this Court finds that the petitioner has Cause of Action to bring this instant suit.

Thus, I find there is no legal impediment available on record, which debars the petitioner from getting the relief as prayed for.

Resultantly, the petitioner is entitled to get the decree on the basis of his uncontroverted and uncorroborated testimony, as I do not find any element of collusion between the parties.

As a result, the suit succeeds.

Court Fees paid is correct.

Hence, it is,

**ORDERED**

that the instant case be and the same is decreed ex-parte.

The marriage between the petitioner Dipankar Chakraborty and Chandrima Mukherjee registered on 22.07.2021 is hereby by a decree of divorce.

There is no order as to costs.

Let the copy of this order be given to the petitioner free of cost.

Dic. & corr. by me:

Additional District Judge,  
FTC 2<sup>nd</sup> Court, Sealdah  
J.O WB01015

Adl. Dist. Judge