



2026:CGHC:1484-DB



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| 09.10.2025                             | 09.01.2026                               | --                                                    | 09.01.2026 |

**AFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****Judgment reserved on: 09.10.2025****Judgment delivered on: 09.01.2026****FA(MAT) No. 91 of 2024**

**1** - Dr. Dinesh Patel, S/o Late Shri D.R. Patel, Aged About 43 Years  
Presently R/o At Village Hichchha, Post Timarlaga, Tehsil Sarangarh,  
Police Station Sarangarh, District Sarangarh Bilaigarh Chhattisgarh.

**... Appellant****versus**

**1** - Dr. Mala Chaudhary, W/o Dr. Dinesh Patel, Aged About 43 Years,  
R/o Quarter No. 10/A, Street 23 Sector X, Bhilai, District Durg  
Chhattisgarh.

**... Respondent(s)**



|                   |   |                                                           |
|-------------------|---|-----------------------------------------------------------|
| For Appellant     | : | Mr. T.K. Jha along with Mr. Vivek Kumar Agrawal, Advocate |
| For Respondent(s) | : | Mr. Rahul Tamaskar, Advocate                              |

**Hon'ble Smt. Justice Rajani Dubey**  
**Hon'ble Shri Justice Amitendra Kishore Prasad**  
**CAV Judgment**

**Per Rajani Dubey, J.**

1. This appeal has been filed by the appellant/husband assailing the judgment and decree dated 29.11.2023 passed by the learned Third Additional Principal Judge, Family Court, Durg (C.G.) in Civil Suit No. 13/2020, whereby the learned Family Court dismissed the application filed by the plaintiff/husband under Section 13(1)(i-a) of the Hindu Marriage Act, 1955. For the sake of convenience, the parties shall be referred to in this appeal as they were before the learned Family Court.
2. Before the learned trial Court, it is an admitted fact that the marriage between the appellant and the respondent was solemnized on 06.07.2008 in District Raigarh (Chhattisgarh) as per Hindu customs.
3. Applicant/husband filed application under Section 13(1) (i a) of Hindu Marriage Act seeking decree of divorce before the Family Court on the ground that the applicant and non-applicant were married on 6<sup>th</sup> July 2008, according to Hindu customs. They initially lived together, but disputes arose shortly after their honeymoon in Himachal Pradesh, where the non-applicant



behaved rudely over trivial matters, including disagreements about purchasing gifts for their mothers. Despite requests, the non-applicant refused to live with the applicant in a rented house and insisted on staying with her parents in Bhilai. She taunted the applicant for his inability to make decisions, despite his MBBS degree, causing him mental trauma. She also frequently criticized him and refused to live with him, further causing distress. The non-applicant continued to show disregard for marital traditions, including not applying sindoor or wearing a mangalsutra. She also suffered from nocturnal enuresis, which she refused to seek medical treatment for, causing further distress to the applicant.

In December 2009, during the applicant's assignment at a hospital in Tamnar, the non-applicant suspected him of infidelity, accusing him of having an affair. This led to an incident where she attempted to strangle him, leaving marks on his neck. Despite family intervention, the non-applicant's behavior continued to be abusive. In 2010, the applicant moved to Bhilai and made further attempts to reconcile. However, the non-applicant continued to show indifference to family matters, such as refusing to accompany the applicant to his uncle's funeral. Additionally, she made false accusations against him and humiliated him in front of family and friends. In May 2014, the non-applicant attacked the applicant with a kitchen knife, accusing him of an affair. After this incident, the applicant moved out and resided separately. The



non-applicant refused to allow him to meet their daughter and alienated her from him.

Despite several efforts to mediate and resolve the marital disputes through family meetings, the non-applicant refused to reconcile and continued her abusive behavior, leading to the conclusion that a future marital life was untenable. The applicant claims that the non-applicant has been living separately without valid reason since 11<sup>th</sup> May 2014 and has treated him with cruelty, making it impossible for them to continue living together. Therefore, it is prayed that the application filed by the applicant may be allowed.

4. In her written statement, the non-applicant/wife denies all material allegations except admitted facts and asserts that the applicant has concealed his correct address. She states that the applicant has been residing in Raigarh and is not employed at Lal Bahadur Shastri Hospital, Durg, whereas she is employed at a hospital in Sector-09, Bhilai. She alleges that the applicant is temperamental, secretive, and has deliberately humiliated her. During their honeymoon, he refused to purchase anything for family members, showed no interest in sightseeing, and preferred staying in the hotel. He never gave her a mangalsutra. He also never voluntarily took her to his village; instead, she insisted and stayed with her in-laws, even visiting them during Chhath. According to the non-applicant, the applicant forced her to live with her parents on the assurance that once he secured a job, they would not need to rent



a house. The applicant was preparing for his postgraduate studies and assured her that his parents would care for her. He never openly visited her workplace but secretly came to the hospital, monitored her without reason, and later accused her of meeting male doctors. This led to arguments, and he stopped communicating with her for days. She has always been willing to live with him and his family, but without reason, he left Bhilai after seeking transfer to Raigarh. She further states that after the applicant was transferred to Government Hospital, Supela, she left her coal mines job and shifted to Bhilai. However, the applicant insisted she live with her parents, as he did not want to rent a house during his postgraduate studies. She worked as a labourer to support herself. Their daughter was born on 15.09.2012, but the applicant was dissatisfied with having a girl child and refused to perform the related rituals. He avoided responsibility and tried to defame her through false statements. He met the child whenever he wanted, and she never obstructed him.

On 25.07.2019, a mediation meeting was held at Kurmi Bhawan, Sector-04, where she stated that the applicant had not been attached to her or their daughter for the past two to three years and had been living separately. She also alleges that the applicant has an illicit relationship with Dr. Pooja Verma. On 15.06.2019, while she was at work, Dr. Pooja Verma forcibly entered her residence (Flat No. 208, Surya Residency, Junwani),



abused her daughter and father, damaged belongings, and threatened them to vacate the flat. She informed the applicant, but he neither returned nor confronted Dr. Verma, and instead went back to Raigarh without informing them. According to her, this reflects his desire to avoid conflict with Dr. Verma and his abandonment of responsibilities. Even during the mediation meeting, he avoided discussing the incident and admitted that he had not been trying to meet his wife or daughter since 15.06.2019. She claims the applicant is evading marital responsibilities and that Dr. Pooja Verma's interference suggests a deliberate strategy on his part. In the original application, he falsely showed his residence as Flat No. 208, Block A, Surya Residency, despite not living there. Therefore, the application filed by the applicant under Section 13(1)(i-a) of the Hindu Marriage Act is liable to be dismissed.

5. Based on the pleadings of both parties, the learned Family Court framed the issues and after appreciating the oral and documentary evidence, dismissed the application filed by the appellant/husband by its judgment and decree dated 29.11.2023. Hence, this appeal.
6. Learned counsel for the appellant/husband submits that the learned trial Court failed to properly appreciate the evidence on record. It is contended that the appellant successfully discharged his burden of proof and established that the respondent treated him with cruelty. Despite consistent and unshaken testimony



during cross-examination, the trial Court erroneously held that the appellant had not proved his case. He argues that the respondent's misbehaviour towards the appellant stood established, and her exaggerated statements in examination-in-chief unsupported by pleadings ought to have been discarded. The appellant's evidence regarding cruelty and desertion remained unchallenged, including the fact that the respondent threw him out of the house and voluntarily left his company.

It is further submitted that the absence of a police complaint regarding the respondent's assault does not weaken the appellant's case, as domestic matters are often not immediately reported due to fear of social humiliation. He further contends that that the learned trial Court failed to appreciate the case on the standard of preponderance of probabilities and erred in holding the appellant at fault in matters where the respondent herself, being a doctor, refused to take medical treatment. It is also pointed out that the respondent led evidence beyond her pleadings by making statements in her affidavit that do not form part of her written statement, rendering them inadmissible. Hence, it is prayed that the findings of the learned trial Court are erroneous and the appellant has duly proved cruelty and desertion. Therefore, the instant appeal may be allowed.

Reliance has been placed on the decisions of Hon'ble Supreme Court in the matter of **Vishwanath Sitaram Agrawal v. Sau. Sarla Vishwanath Agrawal**; AIR 2012 SC 2586, judgment



dated **05.07.2022** passed in **C.M.A. No. 3249 of 2017** in the matter of **C. Sivakumar Vs. A. Srividhya** passed by Hon'ble High Court of Madras and decision dated **19.04.2024** passed by Hon'ble Supreme Court in the matter of **Dolly Rani Vs. Manish Kumar Chanchal (Transfer Petition (C) No. 2043/2023)**.

7. Learned counsel for the respondent/wife supports the judgment of the trial Court and submits that the findings have been correctly recorded after proper appreciation of evidence. It is argued that the appellant failed to prove any act of cruelty or desertion and that his allegations are unsupported, exaggerated, and inconsistent. The respondent denies all claims of misbehaviour and asserts that the appellant has not approached the Court with clean hands. Counsel submits that the trial Court rightly held that the appellant did not discharge the burden of proof and that his version is unreliable, self-contradictory, and not corroborated by any independent evidence. Therefore, no ground is made out to interfere with the well-reasoned judgment and the appeal deserves dismissal.

Reliance has been placed on the decision of Hon'ble Supreme Court in the matter of **Kamlesh Sharma Vs. Yogender Kumar Sharma; 2023 SCC OnLine Del 4779** and **Dr. Nirmal Singh Panesar Vs. Paramjit Kaur Panesar alias Ajinder Kaur Panesar; (2025) 3 SCC 790**.

8. Heard counsel for the parties and perused the material placed on record.



9. It is an admitted and undisputed position before the learned Trial Court that the marriage between the parties was solemnized on 06.07.2008 at District Raigarh (C.G.) in accordance with Hindu rites and customs. Out of the said wedlock, one daughter, namely Shubhangi @ Tiya, was born on 15.09.2012.
10. It is further not in dispute that the respondent/wife is presently employed at Sector-9, Lal Bahadur Shastri Hospital, Durg. It is also an admitted fact that on 25.07.2019, a mediation meeting was convened at Kurmi Bhawan, Sector-4, wherein the relatives of both parties participated and both parties were duly heard.
11. On the basis of pleadings of both the parties, the learned Family Court framed the following issues:-

| क्र. | वाद प्रश्न                                                                                                                           | निष्कर्ष                        |
|------|--------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| 1.   | क्या अनावेदिका ने आवेदक के प्रति विवाह के कुछ वर्ष के बाद से ही लगातार क्रूरतापूर्ण व्यवहार किया है?                                 | "प्रमाणित नहीं"                 |
| 2.   | क्या आवेदक क्रूरता एवं अभित्यजन के आधार पर उसके और अनावेदिका के मध्य अनुष्ठापित विवाह को विच्छेद कराने की आज्ञा पाने का अधिकारी है ? | "प्रमाणित नहीं"                 |
| 3.   | सहायता एवं वाद व्यय ?                                                                                                                | 'कंडिका 50 के अनुसार वाद निरस्त |



12. The appellant/husband has levelled several allegations against the respondent/wife. In response, the respondent/wife, in her written statement, has alleged that the appellant/husband is maintaining an illicit relationship with another woman and that the said woman had also created nuisance at the house of the respondent/wife. However, the appellant/husband has neither made any averment nor offered any explanation with regard to the alleged nuisance.
13. In order to substantiate his case, the appellant/husband examined himself as P.W.-1, his mother Noop Kunwar Patel as P.W.-2 and another witness Ramesh Kumar @ Bhupendra Kumar Nayak as P.W.-3. On the other hand, the respondent/wife examined herself as D.W.-1, Dr. Naveen Daruka as D.W.-2, Sanatan Patel as D.W.-3, Vijay Shankar Chaudhary as D.W.-4 and Harisingh Chaudhary as D.W.-5 in support of her defence.
14. According to the allegations made by the appellant/husband, the parties have been residing separately since the year 2014. It is further alleged that the respondent/wife did not attend the last rites of the appellant's father.
15. Dinesh Patel (P.W.-1) admitted the suggestion put by the respondent/wife that in April 2019 the entire family had assembled at Raipur and that he had accompanied his wife to a mall to watch a film. He further admitted that in the year 2015, he along with the respondent/wife and their daughter, travelled to Delhi and acknowledged the photographs of the said visit, which were



exhibited as Ex.D/11 and Ex.D/12. He also admitted the photographs of their honeymoon exhibited as Ex.D/13 to Ex.D/16.

However, he denied the suggestion put by the respondent/wife that whenever he was present with her, one Pooja Verma used to call him on his mobile phone.

In his cross-examination, the appellant/husband admitted that he had not lodged any complaint at the police station alleging assault committed by the respondent/wife.

16. Appellant further admitted the suggestion that in the case registered against Pooja Verma, his signature appears on the arrest memo as a witness.

He voluntarily stated that with the intention of causing him mental trauma and to humiliate him, an assault was committed in his absence and a false case was instituted during his absence.

17. The appellant also alleged that the respondent/wife is suffering from a mental disorder; however, he failed to produce any medical record or documentary evidence in support of the said allegation.

18. The mother of the appellant, Noop Kunwar Patel (P.W.-2) has supported and corroborated the testimony of her son.

19. Ramesh Kumar @ Bhupendra Kumar Nayak (P.W.-3) deposed that in December 2009, he noticed injuries on the neck of the appellant.



20. The respondent/wife categorically denied all the allegations

levelled against her in her affidavit filed under Order 18 Rule 4 of the Code of Civil Procedure. In paragraph 35 of her cross-examination, she stated that," .....दिनांक 15.06.2019 को पूजा वर्मा नामक महिला घर में घुसकर तोड़फोड़ कर रही थी, इसी संबंध में सामाजिक बैठक 25.07.2019 को आयोजित की गई। यह कहना गलत है कि मैं पूजा वर्मा के साथ आवेदक का संबंध है यह कहकर शक करती थी। यह कहना गलत है आवेदक और मेरी बातचीत बंद है, स्वतः कहा कि कभी बंद नहीं हुआ।"

In para 36, she admitted that,".... यह कहना सही है कि मैंने अपने जवाब में यह बात लिखी है कि पूजा वर्मा नामक डॉक्टर से आवेदक को कुछ आपसी संबंध है। यह कहना सही है कि आपसी संबंध का मतलब सहकर्मी होता है।"

21. The witnesses namely Dr. Naveen Daruka (D.W.-2), Sanatan Patel (D.W.-3), Vijay Shankar Chaudhary (D.W.-4) and Harisingh Chaudhary (D.W.-5) corroborated and supported the testimony of the respondent/wife by stating that she had attended all social functions of the appellant's family and had also participated in the *Tehravi* ceremony conducted after the death of the appellant's father.

22. It is evident from the statements of both the parties as well as their respective witnesses that several allegations and counter-allegations have been levelled against each other.

23. The respondent/wife specifically pleaded in para 26 of her written statement that,".....इस घटना से यह भी स्पष्ट हुआ कि आवेदक पूजा वर्मा के साथ कोई विवाद नहीं चाहता बल्कि यह दर्शित करता है, कि आवेदक का पूजा वर्मा से विधि विरुद्ध कोई रिश्ता है और आज दिनांक तक आवेदक अनावेदिका एवं



पुत्री से मिलने नहीं आया है और ना ही पूजा वर्मा द्वारा घर में घुसकर विवाद कर मारपीट, धक्का मुक्की व गंदी गंदी गालिया दी गई फिर भी आवेदक का इस ओर ध्यान न देना, यह दर्शित करता है कि आवेदक के मन में चोर है और वह अपने दायित्वों से बचना चाहता है इसलिए इस बैठक में कोई निर्णय नहीं हो सका तथा बैठक में उपस्थित व्यक्तियों के समक्ष आवेदक ने पूजा वर्मा द्वारा घटित घटना के संबंध में कोई बात नहीं कही बल्कि बचने का प्रयास किया और इस बैठक में सभी के सामने यह स्वीकार किया था कि, दिनांक 15.06. 2019 से वह अपनी पत्नी व पुत्री से मिलने का भी प्रयास नहीं कर रहा है। कि आवेदक ने झूठे आरोप अनावेदिका पर लगाकर तलाक लेने जैसा झूठे कृत्य कर यह आवेदन पेश किया है जो सुनवाई योग्य नहीं है और विवाह विच्छेद हेतु कोई कारण नहीं है इसलिए अनावेदिका ने बैठक में ही विवाह विच्छेद हेतु सहमत न होना व्यक्त किया था।”

24. Appellant/husband stated in para 39 of his cross-examination that,”....अनावेदिका 2011 से 2013 में दल्ली राजहरा में पदस्थ होने के दौरान वहां के प्रभारी डॉक्टर डेहरवार के साथ अनैतिक संबंध होना अनावेदिका ने कबुल की है। यह कहना सही है कि "अनावेदिका 2011 से 2013 में दल्ली राजहरा में पदस्थ होने के दौरान वहां के प्रभारी डॉक्टर डेहरवार के साथ अनैतिक संबंध होना अनावेदिका ने कबुल की है" उक्त बात ना ही मेरे आवेदन पत्र में है ना ही मेरे शपथपत्र में उल्लेख है।”

25. Vide judgment dated **16.07.2024**, passed in **FA (MAT) No. 72/2022** titled **Smt. Usha Gupta vs. Deviprasad Gupta**, this Court, while adjudicating the matter, held as under in paras 18 and 19:-

“18. In the case of **Vijay Kumar Ramchandra Bhate Vs. Neela Vijaykumar Bhate** reported in **(2003) 6 SCC 334**, Hon'ble Supreme Court held in para 7 as under-



7. The question that requires to be answered first is as to whether the averments, accusations and character assassination of the wife by the appellant husband in the written statement constitutes mental cruelty for sustaining the claim for divorce under Section 13(1)(-a) of the Act. The position of law in this regard has come to be well settled and declared that levelling disgusting accusations of unchastity and indecent familiarity with a person outside wedlock and allegations of extramarital relationship is a grave assault on the character, honour, reputation, status as well as the health of the wife. Such aspersions of perfidiousness attributed to the wife, viewed in the context of an educated Indian wife and judged by Indian conditions and standards would amount to worst form of insult and cruelty, sufficient by itself to substantiate cruelty in law, warranting the claim of the wife being allowed. That such allegations made in the written statement or suggested in the course of examination and by way of cross-examination satisfy the requirement of law has also come to be firmly laid down by this Court. On going through the relevant portions of such allegations, we find that no exception could be taken to the findings recorded by the Family Court as well as the High Court. We find that they are of such quality, magnitude and consequence as to cause mental pain, agony and suffering amounting to the reformulated



concept of cruelty in matrimonial law causing profound and lasting disruption and driving the wife to feel deeply hurt and reasonably apprehend that it would be dangerous for her to live with a husband who was taunting her like that and rendered the maintenance of matrimonial home impossible."

19. Again, Hon'ble Supreme Court in the matter of **Narendra Vs. K. Meena reported in (2016) 9 SCC 455** held in paras 15 and 16 as under-

"15. With regard to the allegations about an extra-marital affair with the maid named Kamla, the reappraisal of the evidence by the High Court does not appear to be correct. There is sufficient evidence to the effect that there was no maid named Kamla working at the residence of the appellant. Some averment with regard to some relative has been relied upon by the High Court to come to a conclusion that there was a lady named Kamla but the High Court has ignored the fact that the respondent wife had levelled allegations with regard to an extra-marital affair of the appellant with the maid and not with someone else. Even if there was some relative named Kamla, who might have visited the appellant, there is nothing to substantiate the allegations levelled by the respondent with regard to an extra-marital affair. True, it is very difficult to establish such allegations but at the same time, it is equally true that to suffer an allegation



pertaining to one's character of having an extra-marital affair is quite tortuous for any person-be it a husband or a wife.

16. We have carefully gone through the evidence but we could not find any reliable evidence to show that the appellant had an extra-marital affair with someone. Except for the baseless and reckless allegations, there is not even the slightest evidence that would suggest that there was something like an affair of the appellant with the maid named by the respondent. We consider levelling of absolutely false allegations and that too, with regard to an extra-marital life to be quite serious and that can surely be a cause for mental cruelty."

26. It is evident on record that the respondent/wife levelled serious allegations against the appellant/husband both in her written statement as well as in her oral testimony. However, the learned Trial Court failed to properly appreciate these material facts and erroneously concluded that the appellant/husband had not been able to prove cruelty on the part of the respondent/wife. As per the settled guidelines laid down by the Hon'ble Supreme Court, the making of such serious and reckless allegations against a spouse constitutes mental cruelty.

27. On a cumulative appreciation of the pleadings and evidence adduced by the appellant/husband, it stands proved that the respondent/wife subjected him to mental cruelty.



28. The learned Trial Court has rightly held that the appellant/husband failed to establish the ground of desertion, inasmuch as the application was filed on 11.12.2019 and the appellant admitted the suggestion put by the respondent/wife that the parties had gone together to watch a movie in April 2019. Accordingly, the findings recorded by the learned Trial Court on Issue No. 2 relating to desertion are in consonance with law. However, the findings recorded with respect to the issue of cruelty are unsustainable and liable to be set aside.
29. In view of the foregoing discussion, this Court holds that the appellant has successfully proved mental cruelty at the hands of the respondent/wife. Consequently, the appeal is allowed and the marriage between the parties solemnized on 06.07.2008 stands dissolved by a decree of divorce with effect from the date of this judgment.
30. With regard to the grant of permanent alimony to the respondent/wife, considering that the respondent/wife is gainfully employed as a doctor, that the minor daughter is residing with her, and that the appellant/husband is also employed as a doctor, and further with a view to avoid future litigation between the parties, this Court deems it just and proper to award a one-time permanent alimony. Accordingly, the appellant/husband is directed to pay a sum of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) to the respondent/wife as full and final settlement towards



permanent alimony and maintenance, within a period of six months from the date of this judgment.

31. Let a decree be drawn up accordingly.

Sd/-

**(Rajani Dubey)**  
**Judge**

Sd/-

**(Amitendra Kishore Prasad)**  
**Judge**

Ruchi