



CGHC010134442023

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****FA(MAT) No. 114 of 2023**

1 - Rupesh Manikpuri S/o Shri Garibdas Manikpuri Aged About 31 Years R/o Kodikhana Road, Gali No. 2, Basantpur, Rajnandgaon, Tahsil And District - Rajnandgaon Chhattisgarh.

... Appellant(s)**versus**

1 - Smt. Kamini Manikpuri W/o Rupesh Manikpuri Aged About 35 Years R/o Jagird Chowk Punjabi Mohalla, Near Atta Chakki New Khursipar Bhilai, District - Durg Chhattisgarh.

... Respondent(s)

For Appellant (s)	: Mr. Anirudhha Shrivastava, Advocate
For Respondent(s)	: Mr. P. Chetan Kumar, Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Hon'ble Shri Justice Sachin Singh Rajput, JJ****Judgment on Board**

17/08/2026

Per Sachin Singh Rajput, J.

This appeal has been filed assailing the legality, correctness and validity of the judgment and decree dated 25.03.2023 passed by the learned Family Court, Rajnandgaon, District Rajnandgaon, Chhattisgarh in Misc. Civil Suit No. 93A of 2019.

2. The parties herein shall be referred as appellant/husband and respondent/wife.

3. Facts of the case are that the appellant/husband filed an application under Section 13(1)(i-a) and 13(1)(i-b) of the Hindu Marriage Act, 1955 (for short, "the Act of 1955") seeking dissolution of the marriage solemnized on 01.05.2015 as per customary rites and rituals. It was filed on the ground of cruelty and desertion. It was pleaded that the respondent/wife voluntarily left the matrimonial home and went to her parental house at Durg and despite counselling and efforts for reconciliation, she did not return to live with the appellant/husband. The respondent/wife also lodged a complaint in Mahila Thana, Durg and after compromise she returned to her husband home. However, on 15.12.2016 she again lodged a complaint under Sections 498-A and 34 of the IPC pursuant to which an FIR was registered at Police Station Basantpur, District Rajnandgaon, against the appellant/husband and his family members. The respondent/wife also instituted proceedings for maintenance before the Family Court, Durg, wherein maintenance of Rs.2,500/- was awarded in her favour. The appellant/husband alleged that the conduct of respondent/wife, repeated withdrawal from the matrimonial home, threats of false implication and initiation of criminal proceedings caused him mental cruelty and harassment and that she had deserted him without sufficient cause. The respondent-wife in her written statement pleaded that on 09.09.2016 following quarrels with her mother-in-law, father-in-law, sister-in-law and brother-in-law, she suffered severe mental stress and intense headache and with the consent of the appellant/husband, she went to her parental home at Bhilai for treatment of her brain tumour. She further stated that the appellant/husband and his family members had come to know about her tumour on 10.02.2016 and upon learning that the treatment would involve heavy expenditure, they pressurised her to go to her parental home and take treatment there. It was just to avoid the medical expenses. It is stated that as her condition deteriorated and the appellant/husband did not pay

adequate attention to her treatment she went to her parental home where her family members admitted her to Sector-9 Hospital, Bhilai Nagar where she underwent surgery for the tumour on 03.03.2016. It is further stated that during her treatment neither the appellant/husband nor any member of his family inquired about her condition or visited her and the entire treatment expenses were borne by her parents and sister. It is stated that on recovery, she telephoned the appellant/husband and requested him to take her back but he straightaway refused to do so, asking her to do whatever she wished. She has further stated that despite a compromise before the Mahila Thana on 06.07.2016, the appellant/husband and his family members again subjected her to physical and mental cruelty, compelling her to return to her parental home on 09.09.2016. She thereafter lodged complaints before the police authorities but despite repeated assurances by the appellant/husband during counselling and also in the social meeting, he failed to take her back. It is stated that on 01.02.2017, 07.03.2017, 14.03.2017 and 16.05.2017 respondent/wife herself went to the matrimonial home but was not permitted to enter. The respondent/wife asserted that she had always been willing to resume cohabitation whereas the appellant/husband always persisted for divorce. She further stated that due to the alleged harassment by the appellant/husband and his family members she was constrained to take migraine medication for several years.

4. On the basis of the aforesaid pleadings, the following issue was framed:-

Issue	Conclusion
Whether the respondent subjected the appellant to cruelty after the marriage?	Not proved

Whether the respondent has deserted the appellant continuously for a period of two years immediately preceding the presentation of the petition?	Not proved
Whether the appellant is entitled to a decree of divorce against the respondent?	No
Relief and costs	The petition filed by the appellant was dismissed

5. The appellant/husband in support of his case examined himself as A.W.-1, Surendra Meshram as A.W.-2 and Shobha Yadav as A.W.-3, whereas the respondent/wife examined herself as N.A.W.-1, Mukund Das as N.A.W.-2 and Smt. Tamin as N.A.W.-3.

6. After hearing the parties and considering the evidence of the witnesses, learned Family Court dismissed the application for dissolution of marriage filed by the appellant/husband by order impugned. Hence this appeal.

7. Learned counsel for the appellant/husband submits that the impugned order passed by the learned Family Court dismissing the application for divorce is illegal, arbitrary, perverse and contrary to the facts and law applicable to the case in hand. He submits that the learned Family Court failed to appreciate that the respondent/wife without any sufficient reason left the matrimonial home and showed disinterest in residing with the appellant/husband. He further submits that the parties entered into a compromise before the Mahila Thana and pursuant thereto the respondent/wife had returned to the matrimonial home on 10.07.2016 but thereafter she again started quarrelling with the appellant/husband and his family members and eventually returned to her parental home. Learned counsel further submits that the appellant/husband and his family

members were continuously harassed by the respondent/wife and were also falsely implicated in a case under the Domestic Violence Act, which is still pending before the learned court below. It is contended that the material available on record clearly establishes that the matrimonial relationship between the parties has completely broken down and that there is no possibility of their living together peacefully. According to learned counsel, the appellant/ husband had made all possible efforts to restore the matrimonial relationship but the same failed on account of the conduct and unwillingness of the respondent/wife to leave with the appellant/husband. It is thus submitted that the impugned order may be set aside. He placed reliance upon the judgment of Hon'ble Supreme Court in the matter of **Vishwanath Agrawal Vs. Sarla Vishwanath Agrawal** reported in **(2012) & SCC 288**.

8. On the other hand, learned counsel for the respondent/wife supports that judgment impugned and submits that there is ample evidence to show that readiness and willingness on the part of the respondent/wife to go to her matrimonial home and stay with the appellant/husband but it is he who never has been ready to keep her. It is submitted that though in the social meeting the appellant/husband had expressed his readiness to take the respondent/wife with him but after the meeting was over he did not come to take her. He further submits that whenever the respondent/wife visited her parental home, it was with the consent of the appellant/husband. It is further submitted that in fact the appellant/husband himself sent the respondent/wife to her parental home as she was suffering from some ailment in her brain and the appellant/husband did not want to get her medically treated from his pocket. He submits that the allegations of cruelty and harassment made against the respondent/wife are ill-founded and being so the judgment and decree impugned do not call for any interference in this appeal.

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

10. From the material on record it is apparent that the respondent/wife was suffering from a brain tumor and received some treatment at Bhilai. Record further shows that the appellant/husband did not bother to get her medically treated during her stay with him at Rajnandgaon. The statement to this effect has been made by the appellant/husband himself that he did not provide any medical treatment to the respondent/wife nor did he bear the medical expenses incurred for her treatment at Bhilai. Not only this, the appellant/husband did not even bother to pay a visit to Bhilai to see the respondent/wife while she was under treatment for her brain tumor or even after she got discharged from the hospital. Though the appellant/husband has averred that he went to take his wife back, there is no evidence to this effect. Though the social meeting was convened yet no consensus was arrived at between the parties. In the cross-examination the appellant/husband himself has denied that in the counselling held at Mahila Thana he had assured the respondent/wife to keep her well and would take care of all her needs. From the material on record it is also apparent that earlier the appellant/husband was ready to keep his wife with him if she withdrew the complaints against him but now he is not ready to keep her. Though in the evidence the appellant/husband has stated that the respondent/wife was ready to live with him if he chose to settle at Bhilai, no material to this effect has been produced by him. The evidence of the appellant/husband further shows that during the pendency of the maintenance proceedings the respondent/wife had agreed to live with him but it is he who declined to keep her with him.

11. In the evidence of respondent/wife she has stated that at the time of marriage the appellant/husband was running a hotel but two months of after marriage he closed it down and started insisting her to arrange money from her father and sister to establish his business by purchasing the land

by the roadside. According to her, this persistent attitude of the appellant/husband made her life miserable and more often she fell ill and mentally tense. On noticing her illness, the appellant/husband called up her father and sister on phone to take the respondent/wife with them and provide medical treatment for her. She has stated that this mental tension eventually culminated into brain tumor and even after coming to know about this appellant/husband did not bother to provide medical treatment to her, rather he started persistently asking her to go to her parental home. She has stated that neither during nor after the medical treatment anybody from her matrimonial home including her husband ever came to see her. In the social meeting the appellant/husband is stated to have assured the respondent/wife to take her back but thereafter straightaway refused to do so. Not only this, when no response from the appellant/husband was there to her request to take her back, the respondent/wife herself went to her matrimonial home but the appellant/husband and his relatives did not allow to make an entry thereto. This she did even for the second time and here also the appellant/husband did not allow her to get into his house, and ultimately she returned to her parental house.

12. From the evidence on record, it is established that the respondent/wife was suffering from brain tumour and was undergoing treatment at Bhilai. The appellant/husband himself has admitted that he neither provided her medical treatment nor bore the expenses of her treatment and did not even visit her at Bhilai during or after her treatment. His plea that he had gone to bring her back is unsupported by any reliable evidence. The evidence further shows that the respondent/wife was willing to resume matrimonial life but the appellant/husband declined to take her back. Her attempts to return to the matrimonial home were also resisted by the appellant/husband and his family members. The allegation that she was willing to live with the appellant/husband only if he shifted to Bhilai

has also not been substantiated by any cogent evidence. Thus, the respondent/wife had sufficient and reasonable cause to reside separately. The appellant/husband has failed to establish that she ever refused to live with him without sufficient reason. Apart from the respondent/wife, other witnesses examined on her behalf have also consistently stated that though in the social meeting the appellant/husband had shown his agreement to take the respondent/wife with him but immediately thereafter he turned back from his own words. The conduct of the appellant/husband particularly his failure to provide medical and financial support during her serious illness and his subsequent refusal to take her back clearly amounts to neglect and refusal to maintain her.

13. Accordingly, in view of the above aforesaid analysis, this Court is of the considered opinion that the appellant/husband has utterly failed to prove the cruelty and desertion against the respondent/wife by adducing any cogent or reliable evidence. Being so, the approach of learned Family Court in rejecting the plea of dissolution of marriage cannot be said to be faulted with, therefore, the impugned judgment and decree appear to be based on just and proper appreciation of the evidence on record and warrant no interference in this appeal. The judgment cited by the counsel for the appellant/husband being on an all together different factual background is of no help to the appellant/husband.

14. In the result, the appeal being devoid of any merit is liable to be dismissed. It is dismissed as such but without any cost. Let decree be drawn accordingly.

Sd/-
(Parth Prateem Sahu)
Judge

Sd/-
(Sachin Singh Rajput)
Judge