



2026:CGHC:25835-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

FA(MAT) No. 243 of 2024

Madhuri Chouhan D/o Parnu Ram Aged About 32 Years R/o Village Kurkunga, Police Station- Narayanpur, Tahsil- Kunkuri, District- Jashpur, Chhattisgarh

... Appellant

versus

Kanhaiya Chouhan S/o Shri Ramsai Chouhan Aged About 36 Years R/o Basen Ghoghar, Police Station- Kansabel, Tahsil- Bagicha, District Jashpur, Chhattisgarh

... Respondent

For Appellant	: Mr. Harish Kunthiya, Advocate
For Respondent	: Mr. Rajendra Kumar, Advocate

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

Judgment on Board

Per: Sachin Singh Rajput, Judge

23/06/2026

1. Challenge in this appeal filed under Section 19 of the Family Courts Act, 1984 read with Section 28 of the Hindu Marriage Act, 1955 is to the judgment and decree dated 28.06.2024 passed by the Judge, Family Court, Jashpur District- Jashpur (CG) in Civil Suit No. 15-A/2024, whereby the Judge, Family Court, Jashpur, District Jashpur (C.G.), has allowed the suit of respondent/husband filed U/s.13 of the



Hindu Marriage Act, 1955 granting decree of divorce and dissolved the marriage between the parties.

[For the sake of convenience, the parties herein would be referred to as appellant-wife and respondent - husband]

2. The facts relevant for disposal of this present appeal are that a suit under Sections 13 of the Hindu Marriage Act, 1955 was filed by the respondent-husband against the appellant-wife seeking a decree for dissolution of the marriage solemnized between the parties on the ground of mental cruelty and harassment pleading therein that marriage of respondent-plaintiff was solemnized with appellant on 18.06.2023 as per Hindu rites and rituals at Village Kukruna, Police Station Narayanpur, Tahsil Kunkuri District- Jashpur and out of their wedlock, two daughters namely Trisha Chouhan and Mayra Chouhan have been born on 16.04.2015 and 20.10.2020, respectively, who are living with the appellant / wife. After marriage, the appellant/wife started mistreating & misbehaving with the respondent/husband and his family members and forcing him to live separately from his parents. The appellant/wife, after quarreling with the respondent/husband, took the gift items given to her at the time of marriage from the respondent's house to her maternal home without permission and took some of the items given to her at the time of marriage like TV, Cooler, fan and utensils, and kept them in the house of her sister Sangeeta at village Khutera. It is also alleged that she entered into a relationship outside the marriage with one person namely- Md. Shah Aalam. When it was witnessed by respondent/husband, the appellant/wife abused him and refused to live with him. Since 2016, appellant / wife has stopped establishing marital relations with the respondent/wife. One daughter



namely Naira, was borne by the relationship with that Md. Shah Aalam, who has admitted her to be his daughter. The appellant/wife harasses the respondent/husband by accusing him of being black and appellant/wife also refused to provide tea, snacks, or meals to the respondent/husband and threatened him to send him jail in case of domestic violence and dowry. Respondent/husband made a complaint on 25.10.2023 to Police Station- Kunkuri and also made a complaint to the District President, Chikva Vikas Samati, Kunkuri on 27.12.2023. A social meeting was convened in this regard, where counseling was provided. The parties were living separately and the appellant / husband is facing a threat to his life from the respondent / wife, thus, he prayed for grant of decree of dissolution of marriage.

3. Defendant/wife filed written statement/reply denying the averments/allegation made in the plaint. It was pleaded that the respondent/husband treated her with cruelty on account of non giving adequate dowry like motorcycle and ornaments. She is also stated to have been subjected to cruelty on account of being blessed with two daughters. It is also alleged that the respondent/husband had a love affair with some other woman namely Sunaina Chauhan. Daughter of both the parties, namely Naira, is the child born out from the marital life of both the parties. The appellant/wife lived with the respondent/husband upto December, 2024 at the place of posting of the respondent/husband. Due to love affair with another woman, a false complaint has been made by the respondent/husband against appellant/wife at Police Station Kunkuri and Chikwa Society. The Society has directed to the parties to live together as husband and wife. Thus, the application be dismissed.



4. On the above brought pleadings, the learned Family Court framed three issues as under:
 - “01. Whether the husband /plaintiff is entitled to get decree of divorce by dissolving his marriage with the defendant/wife on 18.06.2013 ?
 02. Whether the husband/plaintiff harrassed the defendant/wife for not having a son and for having love affair with another woman ?
 03. Assistance and litigation expenses”
5. Respondent/husband examined himself and two other witnesses namely Sudema Mahanandi (his sister) and Manbahal *whereas* the appellant/wife examined herself as witness.
6. Learned Family Court on assessment of material available on record vide impugned order dated 28.06.2024 decided the issue No. 1 as “proved” whereas issue No. 2 was found to be “unproved” and thus allowed the application filed by the respondent-husband and granted decree of dissolution of marriage between the parties dated 18.06.2023. Learned family Court further directed the respondent / husband to pay a sum of Rs.7,00,000/- to the appellant / wife .
7. Being aggrieved & dissatisfied with the order passed by the Learned Family Court, the petitioner preferred instant first appeal questioning the same.
8. Mr. Khunthiya, learned counsel for the appellant/wife submits that learned Family Court fell into error in allowing the suit filed by plaintiff-husband without appreciating the evidence brought in record by the parties in appropriate manner. He further submits that the learned Family Court has not appreciated the evidence available on record in its proper perspective and decided the issue No. 1 against the



appellant/wife. It has been further argued that the Respondent-husband has failed to produce any evidence to establish that appellant-wife has committed any cruelty against him. In support of his contention, counsel has placed reliance upon the judgment of Hon'ble Supreme Court in case of **Gurbux Singh Vs. Harminder Kaur**, reported in **(2010) 14 SCC 301** and prays that the appeal be allowed and the impugned judgment and decree passed by the Family Court be set aside

9. Per contra, Mr. Rajendra Kumar, learned counsel for the respondent while supporting the impugned judgment and decree would submit that the respondent/husband by cogent and prudent evidence was able to prove the cruelty meted out by the appellant/wife, thus, finding recorded on issue No. 1 is based upon proper appreciation of evidence available on record, which does not require any interference by this Court. It is further argued that there is no matrimonial relationship between the parties for more than 8 years, as there is mental cruelty by the appellant/wife to the respondent/husband, which has been duly considered by the learned Family Court in the impugned judgment and decree. The learned Family Court after proper appreciation of documentary and oral evidence brought in record by the respective parties has rightly come to the conclusion that the respondent-husband has made out a case for grant of decree of divorce on the ground of cruelty, which does not call for any interference.
10. We have heard learned counsel for parties and perused the documents placed on record.
11. The marriage between the parties is not in dispute. It is an admitted fact that the marriage was solemnized between the parties in



accordance with Hindu rites and rituals. Respondent-husband has instituted a suit under Section 13 of the Hindu Marriage Act, 1955 seeking a decree of divorce primarily on the grounds of desertion and cruelty. It is stated that, appellant-wife has refused to establish physical relations with respondent-husband, and no physical relationship was developed between the parties since 2016.

12. In order to examine the cruelty, the principles laid down by the Hon'ble Supreme Court in case of **Samar Ghosh v. Jaya Ghosh, (2007) 4 SCC 511**, would be a relevant guideline wherein the Court has indicated certain illustrative instances at para 101 whereby the inference of mental cruelty can be drawn. Para 101 reads as under :-

“101. No uniform standard can ever be laid down for guidance, yet we deem it 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, 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 sterilisation 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.

13. Further Hon'ble Supreme in case of **N.G. Dastane (Dr) v. S. Dastane, (1975) 2 SCC 326**, has considered the ground of mental cruelty and observed thus :-

“**30.** An awareness of foreign decisions could be a useful asset in interpreting our own laws. But it has to be remembered that we have to interpret in this case a specific provision of a specific enactment, namely, Section 10(1)(b) of the Act. What constitutes cruelty must depend upon the terms of this statute which provides:

“10. (1) Either party to a marriage, whether solemnized before or after the commencement of this Act, may present a petition to the District Court praying for a decree for judicial separation on the ground that the other party—

(b) has treated the petitioner with such cruelty as to cause a reasonable apprehension in the mind of the petitioner that it will be harmful or injurious for the petitioner to live with the other party;”

The inquiry therefore has to be whether the conduct charged as cruelty is of such a character as to cause in the mind of the petitioner a reasonable apprehension that it will be harmful or injurious for him to live with the respondent. It is not necessary, as under the English law, that the cruelty must be of such a character as to cause “danger” to life, limb or health or as to give rise to a reasonable apprehension of such a danger. Clearly, danger to life, limb or health or a reasonable apprehension of it is a higher requirement than a reasonable apprehension that it is harmful or injurious for one spouse to live with the other.



* * * *

46. In regard to the conduct of the respondent as reflected in her admissions, two contentions raised on her behalf must be considered. It is urged in the first place that the various letters containing admissions were written by her under coercion. There is no substance in this contention. In her written statement, the respondent alleged that the appellant's parents had coerced her into writing the letters. At the trial she shifted her ground and said that the coercion proceeded from the appellant himself. That apart, at a time when the marriage had gone as under and the respondent sent to the appellant formal letters resembling a lawyer's notice, some of them by registered post, no allegation was made that the appellant or his parents had obtained written admissions from her. Attention may be drawn in this behalf to the letters Exs. 299 and 314 dated March 23 and May 6, 1961 or to the elaborate complaint Ex. 318 dated May 19, 1961 which she made to the Secretary to the Government of India, Ministry of Food and Agriculture. Prior to that, on September 23, 1960 she had drawn up a list of her complaints (Ex. 424) which begins by saying: "He has oppressed me in numerous ways like the following". But she does not speak therein of any admission or writing having been obtained from her. Further, letters like Exs. 271 and 272 dated respectively June 23 and July 10, 1960 which besides containing admissions on her part also contain allegations against the appellant could certainly not have been obtained by coercion. Finally, considering that the respondent was always surrounded by a group of relatives who had assumed the role of marriage-counsellors, it is unlikely that any attempt to coerce her into making admissions would have been allowed to escape unrecorded. After all, the group here consists of greedy letter-writers.

14. In case of **Shobha Rani v. Madhukar Reddi, (1988) 1 SCC 105**, Hon'ble Supreme Court has examined the plea of cruelty and observed



that the word “cruelty” has not been defined in the Hindu Marriage Act.

It has been used in Section 13(1)(i-a) of the Act in the context of human conduct or behaviour in relation to or in respect of matrimonial duties or obligations. It is a course of conduct of one which is adversely affecting the other. The cruelty may be mental or physical, intentional or unintentional. If it is physical, it is a question of facts. If it is mental, the enquiry must begin as to the nature of the cruel treatment and then as to the impact of such treatment on the mind of the spouse. Whether it caused reasonable apprehension that it would be harmful or injurious to live with the other, ultimately, is a matter of inference to be drawn by taking into account the nature of the conduct and its effect on the complaining spouse. There may, however, be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect on the other spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted. The absence of intention should not make any difference in the case, if by ordinary sense in human affairs, the act complained of could otherwise be regarded as cruelty. Intention is not a necessary element in cruelty. The relief to the party cannot be denied on the ground that there has been no deliberate or willful ill-treatment.

15. In case of **V. Bhagat v. D. Bhagat, (1994) 1 SCC 337**, Hon’ble Supreme Court while dealing with the issue of mental cruelty has observed as under :-

“**16.** Mental cruelty in Section 13(1)(i-a) can broadly be defined as that conduct which inflicts upon the other party such mental pain and



suffering as would make it not possible for that party to live with the other. In other words, 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. It is not necessary to prove that the mental cruelty is such as to cause injury to the health of the petitioner. While arriving at such conclusion, regard must be had to the social status, educational level of the parties, the society they move in, the possibility or otherwise of the parties ever living together in case they are already living apart and all other relevant facts and circumstances which it is neither possible nor desirable to set out exhaustively. What is cruelty in one case may not amount to cruelty in another case. It is a matter to be determined in each case having regard to the facts and circumstances of that case. If it is a case of accusations and allegations, regard must also be had to the context in which they were made."

(Emphasis supplied)

16. Hon'ble Supreme Court in case of **Sonal Talpada Vs. Veerbhan Singh, in SLP (C) No. 10422 of 2024, decided on 02.06.2026** while considering the plea and the grounds raised by husband in an application filed under Section 13 (1) of the Act, 1955 of refusal of wife for establishing physical relation with her husband has observed thus -

"19. As held in the case of Samar Ghosh (supra) and other catena of judgments by this Court, denial of conjugal rights including persistent



refusal of sexual intercourse without a reasonable cause constitutes mental cruelty and is a valid ground for divorce under Section 13(1) (ia) of the HMA. The courts in India have repeatedly established that withholding sexual intimacy inflicts severe emotional distress and undermines the bedrock of marriage. Therefore, the conclusion of the High Court is sustained. The decree of divorce as granted by allowing the appeal of the Respondent-husband is upheld.

(Emphasis supplied)

17. Facts of the case are required to be examined in light of the afore-cited law laid down by the Hon'ble Supreme Court. The allegation of the respondent/husband in the suit is that he was subjected to cruelty by the appellant/wife and they have not been able to have marital relationship since 8 years. It is also an allegation against the appellant/wife that she has entered into the relationship out side the marriage with one Md. Shah Aalam an out of their relationship a daughter has also been born, though, such allegations have been denied by the appellant/wife. The issue No. 1 has been framed on the basis of pleadings of the respondent/husband. In his affidavit filed under order 18 Rules 4 CPC, he has narrated the incidences of cruelty in detail, in which he has categorically stated that after he went to his duty, the appellant/wife called his lover Md. Shah aalam in the rented room of the respondent/husband and they were found in a compromised position and seen by the respondent/husband after he came back from his duty. When she was asked "not to do so", the appellant/wife started abusing the respondent/husband and stated that she does not like him and stopped marital /physical relationship



between them since 2016. It is further alleged that appellant/wife concealing the fact that she had physical relationship with one Mh. Sahab Aalam and out of their wedlock, one daughter namely Naira was born. Since then, Md. Saheb Alam used to abuse him many times calling the appellant/wife as his wife and used to say that the younger daughter i.e. Naira, is not his daughter, rather she is a symbol of love between him (Md. Saheb Alam) and the appellant/wife.

18. Evidence further reflects that when the respondent/husband asked for food from the appellant/wife, the wife angrily threw the utensils and food on the husband and told him that she does not like him, therefore, she refuses to have physical relations with him and told that she will never have physical relation with him as he is 'black'. It is alleged that the appellant /wife does not want to live with the parents of respondent / husband and was forcing him to live separately and was threatening and abusing the respondent/husband and his family to implicate them in domestic violence and dowry cases and send them to jail and she harassed the husband mentally and even visited his workplace to mistreat him.
19. Manbahal (P.W.-2) independent witness and sister of respondent/husband namely Sudema Mahanandi (PW-3), in their respective depositions, have corroborated with the evidence given by the respondent/husband and have specifically stated that respondent/husband is under threat that appellant may give him poison or kill him by another man.
20. Appellant/wife examined herself as DW-1 has denied the averments/allegation made in the plaint. It is stated that since their



marriage, the respondent/husband has harrassed her for not giving adequate dowry and for repeatedly having a daughter. The respondent has love affair with one Sunaina Chauhan. Their daughter, Naira, is the child of their marriage. Until the filing of suit in December, 2024, they lived together as husband and wife at the workplace of respondent husband. Due to the respondent's/husband love affair with another woman, he made false complaint against her at the police station and the Chikwa community. As such, the suit filed by the respondents/ husband be dismissed.

21. Upon careful consideration of the pleadings and evidence on record, it is clear that respondent-husband has succeeded in proving that, after the marriage, the appellant-wife was unwilling to live together and failed to fulfill her marital obligations towards the husband. The conduct of defendant in avoiding cohabitation by accusing him of being black and she also refused to provide tea, snacks, or meals to the respondent/husband and threatened the respondent/husband to send him to jail in case of domestic violence and dowry, without any justifiable cause clearly establishes desertion. The version of respondent/husband stands corroborated by other witness, who deposed about quarrel and dispute between the parties and absence of cordial relations and refusal of defendant on social occasions. Even her behaviour towards her husband, in his workplace was not proper and was humiliating in nature. They have also stated about strained relations and absence of normal marital interaction between the parties. The appellant-wife has made vague and general allegations of cruelty and harassment against respondent-husband and his family



members, which remain unsubstantiated by any cogent or independent evidence. Moreover, respondent/husband has made specific admission in cross-examination that he has been living separately from the appellant/wife since 2016, that there has been no physical relationship between the parties since then, and that their relationship remained extremely strained.

22. The Hon'ble Supreme Court in case of **Samar Ghosh (supra)** and other catena of judgments has held that denial of conjugal rights including persistent refusal of sexual intercourse without a reasonable cause constitutes mental cruelty and is a valid ground for divorce under Section 13 (1) (ia) of the Act, 1955. Perusal of the record clearly shows that parties have not cohabited as husband and wife in the true sense for a substantial period and there has been complete emotional, physical and matrimonial estrangement between them.
23. Continuous and frequent use of rude language and neglect by the appellant/wife, along with her petulant manner, indifference, and negligence, has reached such a degree that it has made the matrimonial life of plaintiff/husband absolutely intolerable. The plaintiff is an educated person working in a private firm and enjoys a good reputation in society. The conduct and behaviour of appellant/wife as is culled out from the evidence, in the opinion of this Court, would amount to cruelty as discussed by the Hon'ble Supreme Court in **Samar Ghosh (supra)** in paragraph 101, as well as in the other decisions of the Hon'ble Supreme Court referred to here-in-above.
24. For the foregoing discussions, facts pleaded, evidence of the parties and in the light of the law and the guidelines laid down by the Hon'ble



Supreme Court in the afore quoted judgments, we are of the view that the finding arrived at by learned Family Court allowing the suit filed under Section 13 of the Hindu Marriage Act, 1955 granting decree of divorce in favour of plaintiff-husband is based on proper appreciation of the facts, evidence and law applicable, therefore, it does not call for any interference.

25. As a fallout and consequence of the aforesaid discussion, the instant appeal, being devoid of substance, is liable to be and is hereby dismissed.

Sd/-

(Parth Prateem Sahu)
Judge

Sd/-

(Sachin Singh Rajput)
Judge