



2026:CGHC:25548-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

FAM No. 231 of 2019

- Sarjan Kumar Soni S/o Mangal Prasad Soni Aged About 45 Years R/o Near Shitla Mandir, Aminpara, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

... Appellant/ Applicant

versus

- Smt. Sangeeta Soni W/o Sarjan Kumar Soni Aged About 41 Years R/o Through Baldau Prasad Swarnkar, Village - Dhamdha Vhaya - Gundardehi, Tahsil Patan, District - Durg Chhattisgarh. At Present - R/o Near Shitla Mandir, Aminpara , Raipur Chhattisgarh.

... Respondent/ Non-applicant

For Appellant	:	Mr. Sanjay Agrawal, Advocate with Ms. Vidhi Matlani, Advocate
For Respondent	:	Mr. Rudranath Mukherjee, Advocate

Division Bench

Hon'ble Shri Parth Prateem Sahu, Judge

Hon'ble Shri Sachin Singh Rajput, Judge

ORDER ON BOARD

Per Parth Prateem Sahu, Judge

17/06/2026

1. This appeal under Section 19(1) of the Family Courts Act, 1984 (for short "Act of 1984") is filed by appellant questioning the legality and sustainability of the impugned judgment and decree passed in Civil Suit No. 84-A/2018 dated 25.06.2019 by learned First Additional, Principal Judge, Family Court, Durg, District Durg, whereby the suit/ application filed by appellant under Section 13(1)(ia) of the Hindu Marriage Act, 1955 for dissolution of marriage between appellant and respondent was dismissed.

2. Facts of the case in brief are that the parties got married on 13.07.2008 according to Hindu rites and customs. From their wedlock, parties were blessed with a girl child on 18.10.2009 and they were further blessed with a girl child on 29.10.2012. Appellant had filed an application under Section 13(1) (ia) of the Act of 1955 making a prayer for dissolution of marriage by decree of divorce on 03.01.2018 pleading therein that after two months of marriage, respondent-wife started harassing appellant on trivial issues. Act and conduct of respondent was also informed to her parents and thereafter along with parents of respondent and the member of the community, attempt was made to get the respondent understood, however, parents of respondent have not made effective efforts to get the issue settle. It is also pleaded that respondent without any reason becomes aggressive and also starts quarreling, when she was being stopped from quarreling, she use to give threat of killing herself. Looking to the nature of conduct of respondent, the health of old aged parents of appellant started deteriorating. Parents of respondent upon informing use to make allegation against appellant. It is also pleaded that appellant is having suspicion of respondent's suffering with some mental disease. It is pleaded that on 29.10.2011, appellant was taken by the respondent to her parental home at Dhamna and immediately after reaching the house respondent along with her parents and brother started ill treating, abusing and have also made an attempt to assault appellant and thereafter report was also lodged to the concerned police station. It is contended that respondent lodged a false report in the Mahila Thana, Raipur on 10.11.2011. It is also pleaded that earlier also application for grant of decree of divorce was filed, however, compromise was entered into between the parties and written compromise deed/ application was submitted before the Family Court, Durg, on 01.02.2012. Police of the concerned police station recording proceeding under Section 155 of the CrPC on the complaint made by applicant in the year 2011. Again the respondent has started threatening of implicating appellant and the family members in

criminal case. It is routine conduct of respondent of giving threatening to appellant of implicating him in false case.

3. Respondent has submitted her reply to the application filed under Section 13(1)(ia) of the Act of 1955 denying allegations levelled against her in an application for grant of divorce filed by appellant. It is contended that respondent is mother of two girl child aged about 8 years and 5 years and therefore while performing her responsibility towards her family she is having no time to quarrel with appellant. She is discharging her duties as a wife, daughter-in-law and a mother. False allegation has been levelled against her that the parents of respondent is also supporting respondent. Parents of respondent did not interfered at any point of time in the marital life of respondent and appellant. She is not suffering with any mental disease but is of healthy mind and conscious. Respondent has not harassed appellant at any point of time and has not ill treated appellant. It is further pleaded that when respondent returned back to her matrimonial home from parental house, she was not permitted to entered into the house, door was locked and even after making several request door was not opened. As the respondent is a lady accompanying two minor daughters with her, was not having any other place for stay and therefore she went to the Mahila police station. It is contended that earlier also in the year 2012 a meeting was organized by elder members of two family and both of them agreed to reside together with peace and harmony and only on the basis of discussion and explaining the parties, they have moved an application/ affidavit before the Principal Judge, Family Court, Durg on 01.02.2012. Both the parties have given assurance that respondent would be given respect in her matrimonial home and she would also give respect to all the members of matrimonial home. From the pleadings made in the reply it is appearing that there was further dispute between the parties on trivial issues. Application for divorce was filed only to harass the respondent.

4. Learned Trial court upon considering pleadings made in the suit as also reply has formulated three issues for consideration including the issue as to whether respondent has treated appellant with cruelty and whether appellant is entitled for divorce from respondent.
5. Plaintiff has examined three witnesses in support of pleadings made in the application for grant of divorce. Respondent-wife has examined herself as NAW-1. Upon conclusion of trial, appreciating the facts and evidence, learned trial Court came to the conclusion that appellant-plaintiff (husband) failed to prove the allegation of cruelty and accordingly dismissed the suit for grant of decree of divorce by impugned judgment and decree.
6. Learned counsel for appellant would submit that learned Trial court has not appreciated entire evidence, oral and documentary, in an appropriate manner and came to erroneous finding. It is contended that the Trial court committed error in not considering the act of threat given by the respondent-wife of committing suicide to be one of cruelty, ill treatment of old age parents of appellant, quarreling with appellant as also other family members to be also the act and conduct of cruelty. He contended that the respondent-wife has admitted that the threat given to appellant is serious and therefore on that ground itself learned Trial court ought to have allowed the application submitted by appellant for grant of decree of divorce. He also referred to document Ext. P-19 ie., counselling proceeding at Mahila police station, Raipur. The proceedings drawn under Section 155 of CrPC, Ext. P-20 on the report lodged by respondent.
7. Learned counsel for respondent vehemently opposes the submission of learned counsel for appellant and would submit that learned trial Court/ Family Court upon proper appreciation of documentary and oral evidence has rightly came to the conclusion that the appellant failed to prove the ground of cruelty as raised in his application. It is contended that it is appellant who used to quarrel with respondent and therefore after becoming the quarrel between the

two, unbearable, she gave threat to commit suicide once in the year 2011-12. After settlement of the dispute between the parties during counselling proceedings at Mahila police station, respondent came to the house of appellant, they started residing together and thereafter from their marital relationship second girl child was also born. Respondent continuously resided thereafter till 2018 for sufficient long time. No specific evidence and instance have been shown with regard to threat or there is allegation of continuous threat given by respondent. Respondent from the beginning bound to reside in her matrimonial house, however, it is appellant who does not want to keep the respondent along with him in his house.

8. We have heard learned counsel for the parties and also perused the record available before this Court.
9. Appellant in support of application under Section 13 filed before the trial court has submitted copy of application given to the Station House Officer, Purani Basti, Raipur as Ext. P-1, report lodged in Mahila police station, Raipur as Ext. P-2, affidavit submitted by respondent as Ext. P-3, copy of order-sheet of the Court of Principal Judge, Family Court, Durg, as Ext. P-4, application under Section 13 filed by appellant against respondent before the Family Court, Durg (undated), copy of complaint made to the Mahila police station, Raipur as Ext. P-6, information report to the Superintendent of Police, Raipur as Ext. P-7, another information report to the Superintendent of Police, Durg dated 02.11.2011 as Ext. P-8, copy of agreement executed between the parties as Ext. P-13. Respondent has also submitted documents from article A to E.
10. Bhagwandin Soni, is examined as PW-1. He is neighbor of appellant. In examination-in-chief, he made statement that he used to hear noise of quarrel from the house of appellant. Respondent used to quarrel with her in-laws. She also used to abuse old aged father-in-law and sister-in-law and gave life threat. In cross-examination, he made statement according to the pleadings made in the affidavit filed under Order 18 Rule 4 CPC. In para-10 of the cross-

examination, he admitted that on 11.11.2018 in the night about 9-10 pm, respondent was out of the house and was eager to enter into the house along with her two small children but the house was locked. He also stated that he has not offer the respondent to come and wait in his house. He also made statement that he was not having mobile number of appellant. He also stated that respondent broke upon the lock by mean of stone.

11. Jainarayan Soni, PW-3, brother-in-law of appellant has also made statement in examination-in-chief as per affidavit filed under Order 18 Rule 4 of CPC, supporting the case of appellant-plaintiff. In the examination-in-chief of both the witnesses as referred above, there is no specific mention about the reasons for the quarrel between the parties. He stated that he came to know about quarrel between appellant and the respondent upon information being given to him by his father-in-law. In cross-examination, he also stated that respondent used to come out of the house stating that she was going for work.
12. Appellant is examined as PW-3, he submitted affidavit under Order 18 Rule 4 CPC in the tune to the pleadings made in the application filed under Section 13(1) of the Act of 1955. In cross-examination, this witness had admitted that the house in which respondent is residing as of now is her matrimonial home. It is a house of father-in-law of respondent in which she again resided against the will of her father-in-law. He also stated that from the date of marriage, respondent is creating dispute in her matrimonial home. In cross-examination, he further stated that respondent came to his house after marriage on 13.07.2008. On 15.07.2008, there was a marriage party. During party, in the stage, respondent had stated to appellant that he has not given to her father even a glass of water. When father of respondent came to his house for the first time to take back his daughter, appellant requested to him to give proper advice to his daughter to live in her matrimonial home with peace and harmony. He also admitted that he has not submitted any document with regard to allegation of statement made by the respondent. He also admitted

that on all complaints made by him to the police station, police has drawn proceeding under Section 155 of CPC. It is also stated that respondent is an influential person as he is also involved in politics. The respondent has entered into the house of his father forcefully and on next day there was counselling organized between his father and his wife (respondent). This witness in his evidence has made statement that due to act and conduct of respondent there was apprehension of riots in area of their resident. He also stated that at the time of quarrel, respondent used to call him time and again on mobile phone asking him to come to house. Due to act and conduct of respondent, there was threat of law and order. He denied suggestion given that appellant has filed application under Section 107 of CrPC in which the respondent has appeared in the court of Sub-Divisional Magistrate. He admitted that he has signed the agreement, Ext. P-13 and also made assurance that he will keep the respondent properly and thereafter she was kept properly, however, even thereafter she started raising dispute.

13. Respondent got herself examined before the trial court and has given statement in examination-in-chief to the tune of pleadings made in reply. In her cross-examination, she denied suggestion given with regard to allegation of instance made at the time of party that, respondent stated that her parents were not even given a glass of water. She denied the suggestion that in the year 2008 when they went to Jagannath Puri, she quarreled with appellant, however, she made further statement that when she was purchasing cosmetic and bangles for her mother, she was stopped by her husband stating that all these goods which she wanted to purchase are available at Raipur, but even thereafter she purchased the said articles.
14. In her statement, no question has been posed to her in cross-examination with regard to her act of threatening to commit suicide time and again but cross-examined with regard to the fact that there was dispute between family members in home and the complaint made against her that she used to

quarrel with her in-laws. She admitted that on 10.11.2011, she went to Mahila police station, Raipur along with other person residing in the area. She further made self statement that she went to police station because appellant and his family members have not opened the doors of the house. On next date, counselling was done by the police in police station. She also stated that proceedings on the said complaint was closed. She is not aware as to why proceedings were closed.

15. From the oral and documentary evidence available on record, it is appearing that both the parties have lodged report against each other. In the proceedings recorded on 16.11.2016 of counselling, respondent has stated that in-laws used to abuse in filthy language, her children are being scolded and when she used to scold her niece, her in-laws used to quarrel with her. She went to reside along with her husband, she gave threat of committing suicide once earlier in the year 2012 on which ground only she was being harassed. The proceedings is dated 16.11.2016.
16. From the proceedings, it is appearing that threat of suicide is of the year 2011-2012. After counselling, parties to the proceedings started living together and from their relationship second girl child is also born.
17. From the evidence, it also appears that no specific reason/ cause is appearing with regard to the dispute and quarrel between the parties. There is no specific allegation against respondent that she gave threat of committing suicide continuously. The report which is stated to have been lodged by the husband to the SHO vide Ext. P-6 is dated 11.11.2011. In the report, there is mention that respondent wants to implicate the appellant in a false case, attempt is made to lodge a false complaint in the police station, Purani basti and further his old age father and his widow sister are having life threat. Another complaint, Ext.P-7 shows that the alleged incident taken place in the parental house of respondent. It is alleged that respondent along with her parents, brother gave threat to appellant of assault, which was reported in the police station Ranchirai and further mentioned that he is apprehending that his

wife/ respondent and her parents made alleged report against him. Another report to the Superintendent of Police dated 02.11.2011, Ext. P-8, is also with regard to the same incident of the parental house of respondent making same allegation and apprehension. On the report lodged by the appellant, proceeding under Section 155 of CrPC was drawn on 19.11.2011, vide Ext. P14.

18. From the pleadings and evidence available on record and further considering that after 2011, parties have blessed with second child on 29.10.2012 would show that thereafter they started residing together. On 14.11.2016, again a report was made by the appellant to the Mahila police station, Raipur in which counselling proceeding was conducted and in the counselling proceeding appellant has made statement that he is not willing to keep respondent, however, respondent has made clear statement that she wants to live along with appellant.
19. The case of appellant is based on cruelty. 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 customs. Plaintiff-husband has instituted a suit under Section 13 of the Act of 1955 seeking a decree of divorce primarily on the grounds of desertion and cruelty.
20. In case of **Shobha Rani v. Madhukar Reddi**, reported in (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 Act of 1955. 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 fact and degree. 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.

21. In the case of **Chetan Das vs. Kamla Devi** reported in **(2001) 4 SCC 250** while considering issue with respect to mental cruelty by one spouse against another, Hon'ble Supreme Court has observed as under :-

“14. Matrimonial matters are matters of delicate human and emotional relationship. It demands mutual trust, regard, respect, love and affection with sufficient play for reasonable adjustments with the spouse. The relationship has to conform to the social norms as well. The matrimonial conduct has now come to be governed by statute framed, keeping in view such norms and changed social order. It is sought to be controlled in the interest of the individuals as well as in broader perspective, for regulating matrimonial norms for making of a well-knit, healthy and not a disturbed and porous society.....”

22. In the case of **Praveen vs. Inderjit Mehta** reported in **(2002) 5 SCC 706** while dealing with provisions of Section 13(1)(i-a) of the Act of 1955, Hon'ble Supreme court has examined 'mental cruelty' and observed as under :-

“21. Cruelty for the purpose of Section 13(1)(i-a) is to be taken as a behaviour by one spouse towards the other, which causes reasonable apprehension in the mind of the latter that it is not safe for him or her to continue the matrimonial relationship with the other. Mental cruelty is a state of mind and feeling with one of the spouses due to the behaviour or behavioural pattern by the other. Unlike the case of physical cruelty, mental cruelty is difficult to establish by direct evidence. It is necessarily a matter of inference to be drawn from the facts and circumstances of the case. A feeling of anguish, disappointment and frustration in one spouse caused by the conduct of the

other can only be appreciated on assessing the attending facts and circumstances in which the two partners of matrimonial life have been living. The inference has to be drawn from the attending facts and circumstances taken cumulatively. In case of mental cruelty it will not be a correct approach to take an instance of misbehaviour in isolation and then pose the question whether such behaviour is sufficient by itself to cause mental cruelty. The approach should be to take the cumulative effect of the facts and circumstances emerging from the evidence on record and then draw a fair inference whether the petitioner in the divorce petition has been subjected to mental cruelty due to conduct of the other.”

23. In order to examine the cruelty, the principles laid down by the Hon’ble Supreme Court in case of **Samar Ghosh vs. Jaya Ghosh**, reported in **(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.”

24. In ***Samar Ghosh's case*** (*supra*), Hon'ble Supreme Court has further held that cruelty in one case may not amount to cruelty in another case and may depend upon social status, customs, tradition, religious belief, human values and value system. 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.
25. In the case at hand, from the evidence of parties it is appearing that no serious allegation is made by appellant-husband.
26. In the light of aforesaid law laid down by Hon'ble Supreme Court, if we examine facts of instant case, we find that whatever conduct/ behaviour of respondent-wife has been alleged as cruelty by appellant-husband, is not found to be proved by the appellant to that of a degree to grant decree of divorce on the ground of cruelty.
27. 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 dismissing the suit filed under Section 13 of the Act of 1955 seeking decree of divorce, is based on proper appreciation of the facts, evidence and law applicable, therefore, it does not call for any interference.
28. Accordingly, the appeal being devoid of merit is liable to be and it is hereby dismissed.

Sd/-

(Parth Prateem Sahu)
Judge

Sd/-

(Sachin Singh Rajput)
Judge