



2026:CGHC:22715-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

FA(MAT) No. 286 of 2024

Simon Ekka S/o Late Sinrilbiro Ekka Aged About 54 Years R/o Government Quarter B-Type, Kachna Raipur, Tehsil And District Raipur, Chhattisgarh.

--- **Appellant**

versus

Smt. Veena W/o Simone Ekka Aged About 50 Years R/o Government Quarter No. H-17, Panjri Plant, Raigarh, Tehsil And District Raigarh, Chhattisgarh.

---- **Respondent**

(Cause-title taken from Case Information System)

For Appellant	: Ms. Surya Kanwalkar Dangi, Advocate
For Respondent	: Mr. Sanjay Agrawal, Advocate

Division Bench

Hon'ble Shri Parth Prateem Sahu, Judge

Hon'ble Shri Sachin Singh Rajput, Judge

Order On Board

08.05.2026

Per Parth Prateem Sahu, Judge

1. Appellant has filed this appeal questioning the legality and sustainability of the judgment dated 23.04.2024, passed in Civil Suit No. 173-A/2022, whereby the Judge, Family Court, Raigarh, District –



Raigarh, has dismissed the suit filed U/s. 10 (1) (ix) (x) of the Indian Divorce Act, 1869.

2. The facts relevant for disposal of the present appeal are that a suit under Sections 10(1)(ix) and 10(1)(x) of the Indian Divorce Act, 1869 was filed by the appellant/husband against the respondent/wife seeking a decree for dissolution of the marriage solemnized between the parties on the ground of cruelty pleading therein that marriage of appellant/plaintiff was solemnized with respondent/wife on 11.05.1998 as per Christian customs and rituals and from their wedlock, they were blessed with two girl child on 14.03.1999 and another on 26.02.2001. After sometime of marriage, the relationship between them became bitter and due to dispute arose between them, they started living separately since 10.04.2001. It was pleaded that respondent/wife had submitted an application for divorce under the Indian Divorce Act, 1869, registered as Civil Suit No.6-A/99, which was partly allowed and respondent/wife was granted decree of judicial separation. In the year 2003, there was settlement and compromise between the parties and again they started residing together. Thereafter from their relationship, again they were blessed with two girl child. It was pleaded that after sometime of birth of girl child, respondent/wife started treating him with cruelty and misbehaved with him, due to which again relationship between the two became bitter. Respondent/wife doubted the character of appellant/husband. Respondent/wife is mostly residing in Raigarh at her place of service and she did not participate in the family function nor was maintaining relationship with his other family members. Respondent/wife used to misbehave, quarrel abuse and scold the appellant and threatened him to oust from the house and has



also publicized unpleasant thing in the community due to which he suffered mental harassment. Appellant is bearing all the education expenses of his daughters, respondent/wife is residing separately from appellant/husband since 2019 and there is no interaction or physical relationship of any kind between them since 2019.

3. Respondent/wife filed written statement/reply denying the averments/allegation made in the plaint. It was pleaded that after marriage, respondent was treated with cruelty on account of demand of dowry even during the pregnancy period. Initially, the respondent/wife tolerated the appellant's behaviour and cruel treatment in the hope that it would improve in future; however, it later became worse. Respondent/wife then came to know that appellant had an illicit relationship with another woman. Thereafter, she filed a suit/application seeking a decree of judicial separation, wherein the learned Trial Court held that, since the marriage, respondent/wife had been subjected to harassment by appellant, who used to beat her on account of demand of dowry and other matters, and had threatened to kill her by brandishing, scissors and knife and decree of judicial separation was passed in her favour. It was further pleaded that during the period of judicial separation, appellant approached respondent/wife, apologized and requested for reconciliation. Respondent/wife looking to her own future and that of her children, reconciled in 2003 and resumed her marital life with appellant, which resulted in birth of two daughters. However, appellant wanted a son, consequently, started taunting harassing respondent/wife after birth of daughter. It was further pleaded that respondent/wife never treated appellant/husband with cruelty and has never made any allegation of



having affair with another woman. She used to participate in the family function as and when needed. Respondent/wife has not publicized any unpleasant things in the society/community against appellant. Appellant continued to visit the respondent/wife at her official residence in Raigarh and they maintained marital relationship at the residence prior to August, 2022. It was also pleaded that one Ashok Yadav, a close friend of the appellant, resided at the appellant's house along with his daughter and provoked the appellant against the her.

4. Learned trial Court based on the pleadings made by respective parties have formulated as many as three issues for consideration and upon considering the evidence brought in record by the respective parties, has dismissed the suit by the impugned judgment.
5. Learned counsel for appellant would submit that learned trial Court fell into error in dismissing the suit filed by appellant/plaintiff without appreciating the evidence brought in record by the appellant/plaintiff in appropriate manner. It is contention of learned counsel for appellant that learned trial Court fell into error to take note of the fact that appellant is working as Chief General Manager, District Commerce and Industries, Durg. Respondent/wife levelled allegation against appellant of adultery with daughter of close friend of appellant. She also contended that respondent/wife has lodged FIR against appellant of theft of her undergarments and humiliated appellant and caused cruelty upon him. In evidence has narrated all facts whereby respondent/wife has treated appellant with mental cruelty.
6. Learned counsel for respondent would vehemently oppose the submission of learned counsel for appellant and would submit that



allegation levelled against her is baseless, false and fabricated.

Respondent/wife is continuously residing in company of appellant and from their wedlock they blessed with four daughters. It is also contended that appellant frequently visited the place of resident of respondent. He supported the impugned judgment.

7. We have heard learned counsel for parties and perused the documents placed on record.
8. Appellant/plaintiff examined himself as (P.W.-1) and has exhibited certified copy of application filed for divorce by respondent/wife as (Ex.P-1 and P-2), certified copy of judgment and decree dated 04.02.2003 passed in Civil Suit No. 06-A/99 as (Ex.P-3 & P-4), copy of reply submitted by appellant in suit for divorce as (Ex.P-5) and copy of Adhar Card as (Ex.P-6). Respondent/wife examined herself as (D.W.-1) and has placed on record the photographs as Article A-1 to A-10.
9. Learned trial Court upon appreciating the documentary and oral evidence brought on record have decided the issue No.1 of cruelty against appellant in negative. Learned trial Court has taken into consideration the evidence of appellant/plaintiff. Appellant plaintiff in affidavit filed under Order 18 Rule 4 of C.P.C. has stated that his marriage was solemnized with respondent on 11.05.1998 and from their wedlock, they were blessed with two girl child one on 14.03.1999 and second on 26.02.2001. He also stated that due to some dispute between them they started living separately since 10.04.2001 and further that respondent/wife have submitted an application for divorce under the Indian Divorce Act, 1869, which was registered as Civil Suit



No.6-A/99. Suit was partly allowed and plaintiff therein/respondent herein was granted decree of judicial separation. He also stated that in the year 2003, there was settlement and compromise between the parties and again started residing together. He also stated that from their relationship, they were blessed with two girl child and after sometime of birth of girl child, respondent/wife started treating him with cruelty, due to which, again relationship between the two became bitter. She was mostly residing in Raigarh at her place of service and she do not participate in the family function nor was maintaining relationship with his other family members. It is also stated that defendant/respondent has also publicized unpleasant thing in the community due to which he suffered mental harassment. He also stated that defendant/wife thereafter has also started quarreling, abusing him and scolding, threatened him to oust from the house. He also stated that earlier allegation of adultery was levelled was also not proved, therefore, decree of divorce be granted on the ground of cruelty.

10. Appellant/plaintiff was cross-examined and in his cross-examination, he admitted that he is having four girl child and two of them are pursuing their MBBS Course from Sankaracharya Medical Institute of Bhilai. Two daughters are residing with their mother. He also stated that from October, 2010 till December, 2013, he resided along with defendant/wife at Raigarh and thereafter from July, 2017 till October, 2019 at Raigarh and since 2019 he is residing at Raipur. He also admitted that wife during his stay at Raipur in 2019 used to visit his house and resided together and lastly in the month of August, 2021.



He admitted the photographs, which was produced and shown to appellant. Appellant in his evidence have admitted that prior to 04.02.2003, appellant was having two daughters from the marital relationship with respondent/wife and after some time of passing of judgment and decree of judicial separation by learned trial Court on an application submitted by wife for divorce had again started residing together. They were blessed with two more daughters. He denied the suggestion given to him that as there was no male child from marriage of parties, he started harassing and treating the defendant/wife with cruelty and other suggestions given with regard to cruel treatment and earlier etc. He also admitted in para 28 of the evidence that prior to their marriage, both of them is in government service, due to which they are required to reside separately in their place of posting and at the same time, they also resided together. It is also admission of this witness that two daughters are residing with their mother and she is taking care of them. In para 30 of evidence, he admitted that he has not placed on record any documents to show that there was any family/social meeting and even after notice, she did not appear. He further clarified that in the meeting, parents of defendants used to remain present. In cross-examination in particular para 30, he also admitted that he has not made any statement in affidavit that he has called any meeting on account of misbehaviour or harassment given to him by defendant/wife. He further admitted that two sister and mother of defendant are not residing with her and mother of defendant is residing in her village Shrishinga, Jashpur. He also admitted that he has not made any complaint in any police station regarding misbehaviour and cruelty committed upon him by his wife/ He has not



placed on record any documents to show that defendant/wife in any manner has publicized in the society/community making allegation causing mental harassment to him.

11. Defendant/wife in her evidence have denied the allegation. In affidavit she stated that all four daughters are prosecuting their studies residing with her and on the date of preparing of affidavit two daughters of her were prosecuting their studies residing in women hostel Bhilai. She apart from the discharging his official duties has also discharged the responsibility towards his family being wife and mother. At the same time, she participated in the family function, she at no point of time has misbehaved with the plaintiff and treated the plaintiff with cruelty. During covid period, she started residing along with her husband and children and at that time also physical relationship were developed between them. Her husband was provoked by one Ashok Yadav against her. In cross-examination, he denied suggestion given to her. She submits that she could not able to join last rituals of her father-in-law because at that time divorce proceeding was pending. She also fairly admitted that college fees and hostel fees of her two daughters studying in Bhilai is being born by her husband/plaintiff. In para-23 upon giving suggestion as to how Ashok Yadav provoked appellant, upon which she clarified that in her absent, Ashok Yadav visited the house of her husband at Raipur along with her daughter. She has not made any unpleasant statement with regard to relationship but for the fact that Ashok Yadav and her daughter resided in the house of her husband at Raipur.



12. It is a well-settled principle of law that burden of proving allegation of cruelty lies squarely on the parties who seeks dissolution of marriage on that ground. Mere making of allegations in the pleadings is not sufficient; the party asserting cruelty must establish the same by leading clear, cogent, reliable, and legally admissible evidence before the Court. The standard of proof in such cases is based on the preponderance of probabilities; however, the evidence produced must be of such nature that it inspires confidence and is capable of convincing the Court that the conduct complained of amounts to cruelty within the meaning of law. Vague assertions, general allegations, or unsubstantiated statements, without supporting material, cannot form the basis for granting a decree of divorce.
13. In order to examine the cruelty, the principles laid down by the Hon'ble Supreme Court in **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.

14. Perusal of plaint as also the evidence of appellant/plaintiff shows that allegations levelled against respondent/wife are vague, general, and omnibus in nature. Appellant/plaintiff has merely alleged that the respondent/wife treated him with cruelty and frequently taunted him on account of maintaining illicit relations and living in adultery with other women. However, no specific instances, dates, particulars, or material evidence have been brought on record to substantiate the said allegations. It has further been stated that respondent/wife did not participate in family functions, failed to extend cooperation to the appellant in matrimonial life, and discharge her matrimonial family obligations and responsibilities. However, these allegations also remain general and unsupported by any cogent, convincing, or independent evidence. The appellant/plaintiff also failed to produce any document relating to the community meeting allegedly held in connection with the matrimonial dispute between the parties, nor was any member of the community examined in support of the said claim. Appellant/plaintiff has also stated that respondent/wife has publicized unpleasant things in the community/society causing him mental harassment, however, it has also not been proved by any documentary oral evidence, demonstrating conduct of such a nature as would constitute cruelty within the meaning of law.



15. Appellant has also stated that respondent/wife deserted him from year 2019, however, in his cross-examination he admitted that during covid period, he resided with his wife and children. Both the parties are in government service and under obligation to discharge their government duties. Respondent has to reside at her place of posting at Raigarh. Therefore, the statement of appellant that respondent/wife deserted him since 2019 does not appear to be reliable.
16. From a close scrutiny of the evidence adduced by the respective parties in the light of the guidelines laid down by the Hon'ble Supreme Court in the aforesaid judgment, the appellant has failed to prove his case for grant of dissolution of marriage on the ground of cruelty. The finding arrived by learned trial Court dismissing the suit filed by the appellant is based on proper appreciation of the facts and law and does not call for any interference.
17. 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