

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Miscellaneous Appeal No. 6/2022

Divya Pareek W/o Shri Gaurav Pareek, D/o Shri Neeraj Pareek,
Aged About 35 Years, R/o Plot No. 3472 Purani Basti Nahargarh
Road, Jaipur Rajasthan.

----Appellant

Versus

Gaurav Pareek Son Of Shri Kamal Kishor Pareek, Aged About 38
Years, R/o Plot No. 2528, Kunj Gali Rewari Tehsil And Post -
Rewari Haryana.

----Respondent

For Appellant(s)	:	Mr. Jitendra Singh Tanwar.
For Respondent(s)	:	None present.

HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE BHUWAN GOYAL

Order

01/05/2026

1. This appeal has been filed on behalf of the appellant (hereinafter to be referred as 'wife') under Section 19 of the Family Courts Act, 1984 against the judgment and decree dated 02.11.2021 passed by the learned Family Court No.1, Jaipur Metropolitan-I, Jaipur whereby the application filed on behalf of the respondent (hereinafter to be referred as 'husband') under Section 13 of the Hindu Marriage Act, 1955 (hereinafter to be referred as 'Act of 1955') was allowed.

2. Brief facts of the case are that the husband filed a divorce petition under Section 13 of the Hindu Marriage Act, 1955 against the wife, stating therein that the marriage between the parties was solemnized on 22.04.2014. It was further stated that the

conduct and behaviour of the wife from the very inception of the marriage was cruel towards the husband and his family members. It was further stated that the wife was in a habit of insulting the husband in the presence of family members and friends and frequently created disturbances in the household. It was further stated that the wife on various occasions pressurized the husband to live separately from his family. It was further stated that during her pregnancy, the wife insisted the husband for residing at Jaipur, thereafter, she went at her parent's house, where she allegedly got the pregnancy terminated on 11.09.2014 without informing the husband. It was further stated that due to the disturbances created by the wife, the husband gone in depression and on that account he lost his job. It was further stated that on 24.04.2015, the wife lodged a false FIR against the husband and his family members, in which a final report was submitted and she also filed a false complaint against the husband under the Protection of Women from Domestic Violence Act, 2005 (hereinafter to be referred as 'Domestic Violence Act'). It was further stated that on 01.06.2014, the wife left the matrimonial home without informing anyone and started residing with her parents at Jaipur. On these grounds, the husband prayed for dissolution of marriage by a decree of divorce.

3. The wife filed her reply to the said application and denied all the allegations made by the husband. She stated that the husband and his family members were demanding dowry. She further stated that she never insulted the husband or his family members, nor did she create any disturbances in the household. She further stated that during her pregnancy, she was not properly cared by

the husband and his family members and was compelled to perform household work, due to which she suffered a miscarriage. She further stated that her mother-in-law and sister-in-law subjected her to cruelty without any reasonable cause, which compelled her to leave the matrimonial home. She further stated that the husband was having illicit relations with another woman. On these grounds, she prayed for dismissal of the divorce petition.

4. On the basis of the pleadings, the learned Family Court has framed the following issues:-

- “1. आया प्रार्थी अपने प्रार्थना पत्र में दर्ज आधारों पर अप्रार्थीया से विवाह विच्छेद की आज्ञाप्ति प्राप्त करने का अधिकारी है?
2. आया प्रार्थी अनुतोष हेतु न्यायालय के समक्ष स्वच्छ हाथों से नहीं आया है?
3. अनुतोष।”

5. The husband in support of his contentions submitted his own affidavit as 'AW-1' and also submitted the documentary evidence as Ex-1 to Ex.4.

6. On the other side, the wife submitted her own evidence as NAW-1 and also submitted the documentary evidence as Ex.NA-1.

7. The learned Family Court after recording the evidence and hearing both the parties allowed the application under Section 13 of the Act of 1955 filed by the husband vide judgment and decree dated 02.11.2021. Being aggrieved by the judgment and decree dated 02.11.2021 passed by the learned Family Court, the wife has filed the present appeal before this Court.

8. Counsel appearing on behalf of the wife submitted that the learned Family Court has erred in passing the impugned judgment and decree. Counsel further argued that during her pregnancy, the wife was not properly cared by the husband and his family members and was compelled to perform household work, due to which she suffered a miscarriage. Counsel further argued that the behaviour of the husband and his family members towards the wife was cruel throughout. Counsel further argued that the husband is having illicit relations with another woman and lastly, prayed that the appeal filed by the wife be allowed and the judgment and decree dated 02.11.2021 passed by the learned Family Court be set aside.

9. None present on behalf of the husband to argue the matter.

10. Heard counsel for the parties and perused the impugned judgment as well as material available on record.

11. The Hon'ble Supreme Court at length & in depth has dealt with the issue of cruelty in catena of judgments and in a recent judgment delivered in the matter of **Rakesh Raman Vs. Kavita** reported in **2023 17 SCC 433**, in paras No.24 & 25 has held as under:-

"24. Cruelty has not been defined under the Act. All the same, the context where it has been used, which is as a ground for dissolution of a marriage would show that it has to be seen as a 'human conduct' and 'behavior' in a matrimonial relationship. While dealing in the case of Samar Ghosh (supra) this Court opined that cruelty can be physical as well as mental:-

" 46...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.

Cruelty can be even unintentional:-

...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 wilful ill- treatment."

This Court though did ultimately give certain illustrations of mental cruelty. Some of these are as follows:

- (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.
- (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. (emphasis supplied)

25. We have a married couple before us who have barely stayed together as a couple for four years and who have now been living separately for the last 25 years. There is no child out of the wedlock. The matrimonial bond is completely broken and is beyond repair. We have no doubt that this relationship must end as its continuation is causing cruelty on both the sides. The long separation and absence of cohabitation and the complete breakdown of all meaningful bonds and the existing bitterness between the two, has to be read as cruelty under Section 13(1) (ia) of the 1955 Act. We therefore hold that in a given case, such as the one at hand, where the marital relationship has broken down irretrievably, where there is a long separation and absence of cohabitation (as in the present case for the last 25 years), with multiple Court cases between the parties; then continuation of such a 'marriage' would only mean giving sanction to cruelty which each is inflicting on the other. We are also conscious of the fact that a dissolution of this marriage would affect only the two parties as there is no child out of the wedlock."

12. The Hon'ble Supreme Court in the matter of **Narendra Vs. K Meena** reported in **2016 (9) SCC 455** wherein para No.14 it is held as under:-

"14. In the opinion of the High Court, the wife had a legitimate expectation to see that the income of her husband is used for her and not for the family members of the Respondent husband. We do not see any reason to justify the said view of the High Court. As stated hereinabove, in a Hindu society, it is a pious obligation of the son to maintain the parents. If a wife makes an attempt to deviate from the normal practice and normal custom of the society,

she must have some justifiable reason for that and in this case, we do not find any justifiable reason, except monetary consideration of the Respondent wife. In our opinion, normally, no husband would tolerate this and no son would like to be separated from his old parents and other family members, who are also dependent upon his income. The persistent effort of the Respondent wife to constrain the Appellant to be separated from the family would be torturous for the husband and in our opinion, the trial Court was right when it came to the conclusion that this constitutes an act of 'cruelty.'

13. The Hon'ble Supreme Court in the matter of **Raj Talreja Vs. Kavita Talreja** reported in **2017 (14) SCC 194** wherein para No.11, it is held as under:-

"11. Cruelty can never be defined with exactitude. What is cruelty will depend upon the facts and circumstances of each case. In the present case, from the facts narrated above, it is apparent that the wife made reckless, defamatory and false accusations against her husband, his family members and colleagues, which would definitely have the effect of lowering his reputation in the eyes of his peers. Mere filing of complaints is not cruelty, if there are justifiable reasons to file the complaints. Merely because no action is taken on the complaint or after trial the accused is acquitted may not be a ground to treat such accusations of the wife as cruelty within the meaning of the Hindu Marriage Act, 1955 (for short "the Act"). However, if it is found that the allegations are patently false, then there can be no manner of doubt that the said conduct of a spouse levelling false accusations against the other spouse would be an act of cruelty. In the present case, all the allegations were found to be false. Later, she filed another complaint alleging that her husband along with some other persons had trespassed into her house and assaulted her. The police found, on investigation, that not only was the complaint false but also the injuries were self-inflicted by the wife. Thereafter, proceedings were launched against the wife under Section 182 IPC."

14. We have carefully perused the judgment and decree passed by the learned Family Court, as well as the evidence adduced by the husband. In his testimony, the husband stated that the wife had been pressurizing him to live separately from his parents, in our considered view, such conduct on the part of the wife amounts to cruelty towards the husband.

15. We have also taken into consideration the fact that the wife lodged an FIR against the husband and his family members, in which the Police, after investigation, submitted a Final Report in favour of the husband. In our considered view, the filing of a false criminal complaint against the husband and his family members amounts to cruelty.

16. We have further considered the fact that the wife allegedly got her pregnancy terminated without informing the husband or his family members. In our considered view, such conduct of the wife also amounts to cruelty towards the husband.

17. We have also considered the fact that the wife has levelled the allegations against the husband with regard to having illicit relations with another lady, in our considered view, levelling of false allegations against the husband amounts to cruelty.

18. We have also considered the fact that the wife was in a habit of insulting the husband in front of his friends and relatives, in our considered view, this act on the part of the wife also amounts to cruelty with the husband.

19. We have also gone through the fact that the husband and wife both are living separately for last 12 years, therefore, in our considered view, there is no chance of their reunion and asking both the husband and wife to live together at this stage after a period of 12 years would amount to cruelty to both of them.

20. In view of the above discussion, we are of the considered view that learned Family Court has not committed any illegality in deciding issue No.1 in favour of the husband.

21. In that view of the matter, no case is made out for interference by this Court.

22. Hence, this appeal is dismissed.

23. Record of the court below be sent back.

(BHUWAN GOYAL),J

(INDERJEET SINGH),J