



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK KUMAR SINGH

&

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 9th OF MARCH, 2026

FIRST APPEAL No. 135 of 2024

SMT. AALOKITA(SEETA)

Versus

VIKAS MISHRA

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Appearance:

Shri Shashank Pandey - Advocate for the appellant.

Shri Abhishek Pandey - Advocate appearing on behalf of Shri

Pushpenndra Kumar Verma - Advocate for the respondent.
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ORDER

Per. Justice Deepak Khot

Appellant has filed this appeal under Section 19 of the Family Court Act, 1984 being aggrieved by the judgment and decree dated 20th December, 2023 passed in RCS HM No. 27 of 2022 by the Principal Judge, Link Family Court, District Umariya, whereby the learned court below has allowed the application under Section 13 of the Hindu Marriage Act filed by the respondent.

2. Facts of the case, in short, are that the respondent/husband has filed an application under Section 13 of the Hindu Marriage Act seeking divorce against the appellant/wife bearing RCS HM 27of 2022 on 21 March 2022.2.

3. As per the averments in the application, the marriage between the



parties was solemnized on 18th April 2016 as per Hindu rites and customs, at village Lakhaha, Tahsil Rampur Baghelan, Amarpatan, District Satna, M.P. After completion of successful two year of marriage, as averred in the appeal, the appellant has deliberately implicated the respondent and his family members in false and fabricated cases on 14 Aug. 2017. The respondent was trying to bring the appellant with him but the appellant and her family members refused and abused the respondent. Thereafter, the respondent sent legal notice to the appellant and the same was returned with an endorsement that the notice is unserved as the house was locked. The respondent has made his best efforts to reconstitute the conjugal relationship with the appellant, but in vain. Consequently, when no option left with the respondent/husband, he filed an application under Section 13 of the Hindu Marriage Act seeking decree of divorce.

4. The appellant filed her written statement denying all the allegations made against her. In the said written statement, the appellant specifically averred that her father-in-law had cast evil intentions upon her. The appellant further stated that she had informed the respondent/husband about the said conduct of his father; however, the respondent did not take the matter seriously and, on the contrary, directed the appellant to obey the instructions of his father. The appellant objected to such conduct, but in retaliation to her objection, the respondent and his family members allegedly started demanding dowry from her. Disgruntled with the said acts, the appellant lodged an F.I.R. under Sections 354 and 498-A of the Indian Penal Code at Police Station Indawar against the respondent.



5. It is further stated that although the appellant has been granted maintenance under Section 125 of the Code of Criminal Procedure, but a sum of Rs. 65,500/- is due towards arrears of maintenance. In view of the above facts and circumstances, the appellant prayed before the learned Court below for rejection of the application filed by the respondent under Section 13 of the Hindu Marriage Act. However, after considering and appreciating the evidence, statements of the witnesses, and pleadings of the rival parties, the learned Court below allowed the application filed under Section 13 of the Hindu Marriage Act and granted a decree of divorce in favour of the respondent vide judgment and decree dated 20th December, 2023 (Annexure A/1). Hence, the present first appeal.

6. It is submitted by the counsel for the appellant that court below has erred in law and on facts in holding that the appellant committed cruelty and lodged a false and fabricated F.I.R. under Sections 354 and 498-A of the Indian Penal Code against the respondent and his family members. The learned Court below failed to consider the material fact that the said criminal case under Sections 354 and 498-A of the IPC is still pending adjudication before the competent court. It is a well-settled proposition of law that the allegations made in a criminal prosecution can only be held to be proved or not proved upon the final adjudication and verdict of the competent criminal court. However, in the present case, the learned Court below has prejudicially concluded that the appellant lodged a false and fabricated F.I.R. against the respondent and his family members, without awaiting or relying upon the final outcome of the said criminal proceedings. Such a finding is



premature, unsustainable in law, and liable to be set aside.

7. It is submitted that the learned Court below failed to consider the material fact that the appellant has been granted maintenance under Section 125 of Cr.P.C. It is a well-settled proposition of law that in a proceeding under Section 125 Cr.P.C., maintenance is granted only when the applicant establishes that she was subjected to cruelty or neglect. Thus, the grant of maintenance itself indicates that the appellant had been subjected to cruelty.

8. It is further submitted that the learned Court below erred in holding that the appellant deserted the respondent two years prior to the filing of the application under Section 13 of the Hindu Marriage Act. The Court below failed to consider the material fact that the appellant had left her matrimonial home due to cruelty inflicted upon her, which subsequently led her to lodge an F.I.R. under Sections 354 and 498-A of the IPC. Upon such submission, it is prayed that the impugned judgment and decree may be set aside.

9. In support of his submissions, counsel for the appellant/wife has relied upon a judgment passed by the Hon'ble Apex Court in the case of **Rani Narasimha Sastry vs. Rani Suneela Rani** reported in (2020) 18 SCC 247.

10. In rebuttal to the above submissions, counsel for the respondent has submitted that the present appeal filed by the appellant is devoid of merits and liable to be dismissed. The learned Court below has rightly appreciated the pleadings, evidence, and testimonies of the parties and has passed the impugned judgment and decree dated 20 December 2023 after due consideration of the material available on record. The allegations made by the appellant regarding cruelty and misconduct on the part of the respondent



and his family members are false, baseless, and have been levelled only to create a defence in the matrimonial dispute. The learned Court below has rightly observed that the conduct of the Appellant in lodging criminal proceedings has caused mental cruelty to the respondent. The finding of the learned Court below regarding desertion and cruelty is based on proper appreciation of evidence and does not call for any interference by this Hon'ble Court. The impugned judgment is well-reasoned and passed in accordance with law. Hence, the present appeal being without merit deserves to be dismissed and the judgment and decree passed by the learned Court below be affirmed.

11. Heard the learned counsel for the parties and perused the record.

12. The learned Court below before granting decree of divorce in favour of the respondent/husband has appreciated the oral and documentary evidence on record, recorded its finding from para 6 onwards and held that the allegations made by the appellant/wife regarding the alleged incident dated 02.11.2017 involving the father of the respondent/husband were unreliable and improbable. The Court observed that the appellant/wife had already left the matrimonial home on 04.08.2017 and therefore, the alleged incident dated 02.11.2017 was improbable and could not have occurred. The Court below further noted that the appellant/wife did not make any complaint for the alleged incident for a considerable period and the report was lodged only on 25.05.2018, which created serious doubt regarding the veracity of the allegations.

13. The Court also observed that the appellant/wife failed to produce



independent evidence in support of her allegations and did not examine material witnesses, including her father, before whom the incident was allegedly disclosed. On the contrary, the evidence of the respondent/husband and his witnesses remained consistent and unchallenged on material particulars.

14. On the basis of the evidence on record, the learned Court below concluded that the appellant/wife had caused mental cruelty to the respondent/husband by getting him and his family members implicated in criminal proceedings under Sections 498-A and 354 of IPC and by sending him to the police station.

15. Further, the Court held that the appellant/wife had been living separately since 14.08.2017 and had clearly stated in her cross-examination that she was not willing to live with the respondent/husband and desired dissolution of marriage. Accordingly, the Court held that the respondent/wife had deserted the applicant/husband for more than the statutory period and had treated him with cruelty.

16. Upon careful consideration of the pleadings, evidence on record, and the findings recorded by the learned Court below, this Court finds no illegality or perversity in the impugned judgment and decree. The learned Court below has duly appreciated the oral and documentary evidence and has assigned cogent and convincing reasons while arriving at the conclusion that the appellant/wife treated the respondent/husband with cruelty and deserted him.

17. The learned Court below has rightly observed that the allegations



made by the appellant/wife regarding the alleged incident dated 02.11.2017 are improbable and not supported by reliable evidence, particularly when it has come on record that the appellant/wife had already left the matrimonial home prior to the said date. The delay in lodging the complaint and the absence of supporting evidence further weaken the credibility of the said allegations.

18. The evidence on record clearly establishes that the appellant/wife initiated criminal proceedings against the respondent/husband and his family members, which the learned Court below has rightly considered while examining the issue of mental cruelty. Further, it is evident from the material available on record that the appellant/wife has been living separately from the respondent/husband since 14.08.2017 and has expressed unwillingness to resume matrimonial cohabitation, thereby establishing the ground of desertion.

19. Although counsel for the appellant/wife has relied on the case of *Rani Narasimha Sastry (supra)*, but, considering the facts and circumstances of the case, the said judgment does not support the case of the appellant/wife.

20. While dealing with the false accusation and cruelty, the Hon'ble Apex Court in the case of *K. Srinivas vs. K. Sunita* reported in (2014) 16 SCC 34 in para 5 has held as under:-

"5. The respondent wife has admitted in her cross-examination that she did not mention all the incidents on which her complaint is predicated in her statement under Section 161 CrPC. It is not her case that she had actually narrated all these facts to the investigating officer, but that he had neglected to mention them. This, it seems to us, is clearly indicative of the fact that the criminal complaint was a contrived afterthought. We affirm the



view of the High Court that the criminal complaint was “ill advised”. Adding thereto is the factor that the High Court had been informed of the acquittal of the appellant husband and members of his family. In these circumstances, the High Court ought to have concluded that the respondent wife knowingly and intentionally filed a false complaint, calculated to embarrass and incarcerate the appellant and seven members of his family and that such conduct unquestionably constitutes cruelty as postulated in Section 13(1)(i-a) of the Hindu Marriage Act.”

21. In the case of **Raj Talreja vs. Kavita Talreja** reported in (2017) 14 SCC 194, the Hon'ble Apex Court in paras 9, 10 and 11 has held as under:

"9. This Court in para 16 of *K. Srinivas Rao v. D.A. Deepa* [*K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226 : (2013) 2 SCC (Civ) 775 : (2013) 2 SCC (Cri) 963] has held as follows: (SCC p. 234)

“16. Thus, to the instances illustrative of mental cruelty noted in *Samar Ghosh v. Jaya Ghosh* [*Samar Ghosh v. Jaya Ghosh*, (2007) 4 SCC 511] , we could add a few more. Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing notices or news items which may have adverse impact on the business prospect or the job of the spouse and filing repeated false complaints and cases in the court against the spouse would, in the facts of a case, amount to causing mental cruelty to the other spouse.”

10. In *Ravi Kumar v. Julmidevi* [*Ravi Kumar v. Julmidevi*, (2010) 4 SCC 476 : (2010) 2 SCC (Civ) 185] , this Court while dealing with the definition of “cruelty” held as follows: (SCC pp. 480-81, paras 19-20)

“19. It may be true that there is no definition of cruelty under the said Act. Actually such a definition is not possible. In matrimonial relationship, cruelty would obviously mean absence of mutual respect and understanding between the spouses which embitters the relationship and often leads to various outbursts of behaviour which can be termed as cruelty. Sometimes cruelty in a matrimonial relationship may take the form of violence, sometimes it may take a different form. At times, it may be just an attitude or an approach. Silence in some situations may amount to cruelty.

20. Therefore, cruelty in matrimonial behaviour defies any definition and its categories can never be closed. Whether the husband is cruel to his wife or the wife is cruel to her husband has to be ascertained and judged by taking into account the entire facts and circumstances of the given case and not by any predetermined rigid formula. Cruelty in matrimonial cases can be of infinite variety—it may be subtle or even brutal and may be by gestures and words. That possibly explains why Lord Denning in *Sheldon v. Sheldon* [*Sheldon v. Sheldon*, 1966 P 62 :



(1966) 2 WLR 993 (CA)] held that categories of cruelty in matrimonial cases are never closed.”

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.”

22. In respect of mental cruelty, the Hon'ble Apex Court in the case of **Samar Ghosh vs. Jaya Ghosh** reported in (2007) 4 SCC 511 in paras 99, 100 and 101 has held as under:

"99. Human mind is extremely complex and human behaviour is equally complicated. Similarly human ingenuity has no bound, therefore, to assimilate the entire human behaviour in one definition is almost impossible. What is cruelty in one case may not amount to cruelty in other case. The concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, traditions, religious beliefs, human values and their value system.

100. Apart from this, the concept of mental cruelty cannot remain static; it is bound to change with the passage of time, impact of modern culture through print and electronic media and value system, etc. etc. What may be mental cruelty now may not remain a mental cruelty after a passage of time or vice versa. There can never be any straitjacket formula or fixed parameters for determining mental cruelty in matrimonial matters. The prudent and appropriate way to adjudicate the case would be to evaluate it on its peculiar facts and circumstances while taking aforementioned factors in consideration.

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."

23. When facts and evidence of the present case have been marshalled, it is found that the allegation against father-in-law of outraging modesty by the appellant according to her own testimony is not established as appellant herself has stated in her oral evidence that she had never returned back to her matrimonial house after August, 2018 (which seems to be a typographical mistake in her cross-examination) as according to her testimony, FIR was lodged on 25.05.2018 when she returned back to her parents house, which is also corroborated by oral evidence of respondent witnesses that appellant left the matrimonial house in August, 2017. Contrary to said statement, she had made allegation of Section 354 of IPC against her father-in-law of an incident said to have been occurred on 02.11.2017, which definitely is a character assassination and maligned the image and reputation of the person. These findings by this Court and the court below are on the basis of evidence led by parties which is independent to criminal trial. Thus, it is observed that it shall not affect the trial in any manner.

24. In view of the above enunciation of law and the totality of the facts and circumstances of the present case in hand, this Court is of the considered



opinion that the learned Court below has properly appreciated the evidence and has rightly granted the decree of divorce. The findings recorded by the learned Court below are well-reasoned and do not warrant any interference by this Court.

25. The appeal fails and is hereby dismissed. The judgment and decree dated 20th December, 2023 passed in RCS HM No. 27 of 2022 passed by the learned Court below is hereby affirmed.

(VIVEK KUMAR SINGH)
JUDGE

(DEEPAK KHOT)
JUDGE

RAGHVENDRA