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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgement reserved on: 17.09.2025***
Judgement delivered on: 08.10.2025

\+ MAT.APP.(F.C.) 142/2022, CM APPL. 40408/2022 & CM APPL. 40409/2022

[redacted] .....Appellant

Through: Ms. Mansi Sharma, Adv.

versus

[redacted] .....Respondent

Through: Mr. Tej Pratap, Ms. Illashree, Mr. Imtiyaz Hussain, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

JUDGMENT

HARISH VAIDYANATHAN SHANKAR, J.

1. The present appeal has been preferred under Section 19 of the Family Courts Act, 1984 read with Section 28 of the **Hindu Marriage Act, 1955**[1], assailing the **Judgment and Decree dated 07.06.2022**[2] passed by the learned **Principal Judge, Family Courts, Shahdara, Karkardooma Courts, Delhi**[3], in HMA No. 93/2014 (*renumbered as HMA No. 49220/2016*), titled as '*Shri Sanjay Sharma vs. Ms. Anupama Sharma*'.

2. By the Impugned Judgment, the learned Family Court allowed the petition filed by the Respondent-Husband and, having found cruelty proved under Section 13(1)(ia) of the HMA, granted a decree

[1] HMA
[2] Impugned Judgement
[3] Family Court

of divorce in his favour, thereby dissolving the marriage as against the Appellant-Wife. At the same time, the Court rejected the Respondent-Husband's plea of desertion as devoid of merit.

BRIEF FACTS:

3. The marriage between the Appellant-Wife and the Respondent-Husband was solemnized on 21.11.1997 at Shamli, Uttar Pradesh, in accordance with Hindu rites and ceremonies. From this union, a male child, Tushar, was born on 28.08.1998.

4. Following the marriage, the parties initially resided in Shamli. According to the Respondent, the Appellant was quarrelsome, suspicious, and frequently involved in disputes both within the family and at her workplace, which led to estrangement from his parents and ultimately necessitated a relocation to Delhi.

5. The Appellant, on the other hand, contends that she was subjected to continuous dowry demands, ill-treatment, and neglect. She alleges that she was forcibly turned out of the matrimonial home during her pregnancy in 1998, following which her mother paid Rs. 2,00,000/- to the Respondent to establish a clinic in Delhi.

6. The Appellant further alleges that the demands for money continued after the family moved to Delhi, including a demand of Rs. 20,00,000/- by her father-in-law and a requirement to contribute Rs. 3,00,000/- for her sister-in-law's marriage in 2003.

7. On 08.07.2012, the Respondent lodged a complaint at **Police Station**[4] - Seemapuri, Delhi, alleging that the Appellant was abusive, suspicious, and violent. He claimed that the Appellant insulted him, expelled him from the home, and seized his bike keys, registration

[4] PS

certificate and mobile phone. He further alleged that her conduct caused the closure of his clinic in April-2012, estrangement from his parents, and mental distress, and he sought police protection.

8. On 18.07.2012, the Appellant filed a complaint at PS - Seemapuri, Delhi, alleging that she had seen the Respondent in a rickshaw with another woman, *namely*, Sarita, who claimed to be pregnant with his child, constituting harassment and infidelity.

9. On 21.04.2013, the Appellant lodged **FIR**[5] No. 217/2013 at PS - Seemapuri, under Sections 498A and 323 of the **IPC**[6], alleging that the Respondent had left her after taking her jewellery, was in an illicit relationship with a woman named Ms. Snehlata, and had assaulted her when confronted. A medical examination of the Appellant was also conducted. The Respondent, in contrast, alleged that the Appellant and her relatives assaulted him at his clinic in Atairna, Muzaffarnagar, Uttar Pradesh, on that day, causing injuries and damage to property worth Rs. 30,000/-.

10. Over the years, tensions escalated, giving rise to multiple complaints and counter-complaints between the parties.

11. On 08.05.2013, the Appellant submitted a detailed complaint against the Respondent and his family, reiterating that her marriage in 1997 was accompanied by a dowry of Rs. 5,00,000/-, that jewellery was taken on the second day of marriage, and that she had been continuously harassed for additional dowry, including Rs. 20,00,000/-, and thrown out during her pregnancy. She further alleged theft of jewellery and money, illicit relations maintained by the Respondent, and threats of acid attacks. She sought recovery of her *stridhan*,

[5] Frist Information Report
[6] Indian Penal Code

punishment of the Respondent and his family, and protection for herself.

12. In light of these events, in May-2013, the Respondent filed a petition for divorce before the Civil Judge (Senior Division), Kairana, Uttar Pradesh, under Sections 13(1)(ia) and (ib) of the HMA, on the grounds of cruelty and desertion.

13. *Vide* order dated 16.12.2013, the Hon'ble Supreme Court, on the filing of a transfer petition by the Appellant herein, transferred the divorce proceedings to the Karkardooma Courts, Delhi.

14. Subsequently, on 25.01.2014, the Appellant lodged another complaint at PS - Farsh Bazar, Delhi, alleging that on 18.01.2014 at Karkardooma Mediation Centre, Delhi, and again on 25.01.2014 in the court parking, the Respondent and his brother verbally abused her, called her derogatory names, attempted to assault her, and threatened her life. She claimed that the Respondent had links with criminal elements, causing her to fear for her safety.

15. On 13.12.2014, the Respondent submitted his reply to the said complaint, asserting that the Appellant frequently quarrelled at home and workplace, was suspicious and egoistic, and repeatedly forced him out of the house. He alleged that she filed false criminal cases under Sections 498A and 323 of the IPC, had him arrested, vandalized his clinic with assistance, and instituted multiple proceedings, inter alia, for maintenance and lodged a complaint under **the Protection of Women from Domestic Violence Act 2005**[7]. He claimed that she misused her position as a Government servant and asserted women's

[7] Domestic Violence Act

rights to harass him and his family, and sought protection for himself and his ailing parents.

16. On 23.03.2019, the Appellant filed another Complaint in PS - Seemapuri, Delhi, alleging that the offence of bigamy and forceful sexual cohabitation against her will has been committed by the Respondent-Husband.

17. During the pendency of the divorce proceedings, in 2020, the Appellant filed a petition under Section 9 of the HMA seeking restitution of conjugal rights.

18. In the Divorce Proceeding, both parties presented evidence in support of their respective claims. The Respondent reiterated allegations of harassment, assault, and false complaints, while the Appellant testified to sustained dowry demands, misappropriation of jewellery and money, and the Respondent's alleged illicit relationships.

19. Upon consideration of the evidence, the learned Family Court, *vide* the Impugned Judgment and Decree dated 07.06.2022, dissolved the marriage on the ground of cruelty under Section 13(1)(ia) of the HMA, while holding that desertion was not established.

20. Aggrieved by the Impugned Judgment, the Appellant has filed the present appeal.

CONTENTIONS BY THE APPELLANT:

21. Learned Counsel for the Appellant-Wife would submit that the Impugned Judgment suffers from serious infirmities, as the Respondent failed to discharge the burden of proof cast upon him under Section 13(1)(ia) of the HMA, and though the law mandates that the party who asserts must prove, the Respondent has not

produced cogent, reliable, or corroborated evidence to substantiate the alleged acts of cruelty.

22. It is further contended by the learned Counsel for the Appellant that the learned Family Court erred in proceeding on the premise that since the Appellant failed to establish her defence in its entirety, the case of the Respondent stood automatically proved, whereas the failure of a spouse to prove her defence does not by itself entitle the other spouse to a decree of divorce, and matrimonial relief must flow only from positive and independent proof of the statutory grounds pleaded.

23. Learned Counsel for the Appellant would also submit that the learned Family Court wrongly placed reliance on the concept of "irretrievable breakdown of marriage", and while such a ground is not recognized under the HMA, only the Hon'ble Supreme Court, in exercise of powers under Article 142 of the **Constitution of India**[8], can grant relief on this basis, and therefore, the learned Family Court clearly exceeded its jurisdiction by considering this factor while dissolving the marriage.

24. Learned Counsel for the Appellant would further urge that the Respondent cannot be permitted to take advantage of his own wrongs as prohibited under Section 23(1)(a) of the HMA. Learned Counsel would then submit that she was subjected to repeated dowry demands and was turned out of the matrimonial home even during her pregnancy in 1998, and was compelled to meet demands for money on several occasions, including Rs. 2,00,000/- for setting up the Respondent's clinic in Delhi and Rs. 3,00,000/- for his sister's

[8] Constitution

marriage, and since the Respondent himself is guilty of neglect and misconduct, he cannot claim relief by attributing cruelty to the Appellant.

25. Learned Counsel for the Appellant would also contend that the Appellant's resort to legal remedies, such as filing complaints on 18.07.2012 after allegedly seeing the Respondent with another woman, and lodging FIR No. 217/2013 dated 21.04.2013 under Sections 498A and 323 IPC alleging his illicit relationship, was *bona fide* and intended to protect her matrimonial rights, and mere filing of such complaints cannot constitute cruelty unless the allegations are proved to be false and malicious, which the Respondent has conspicuously failed to establish.

26. Learned Counsel would lastly argue that the learned Family Court has placed undue reliance on isolated and stray incidents, such as the Respondent's allegation of being assaulted at his clinic on 21.04.2013, without appreciating the wider context in which such events occurred, and cruelty, to justify dissolution of marriage, must be of such gravity and severity as to render cohabitation impossible, and in the absence of consistent, credible, and substantive evidence, the finding of cruelty is unsustainable in law.

CONTENTIONS BY THE RESPONDENT:

27. *Per contra*, learned Counsel for the Respondent would support the Impugned Judgment and submit that the decree of divorce has been rightly granted on the basis of the material on record, for the Appellant's conduct throughout the matrimonial life was abusive and disrespectful, and such behaviour cumulatively caused grave mental cruelty to the Respondent.

28. Learned Counsel for the Respondent would point to the police complaint dated 08.07.2012, wherein it was alleged that the Appellant was abusive, suspicious, and violent, and that she insulted the Respondent for earning less, repeatedly ousted him from the matrimonial home, and even seized his bike keys and mobile phone, and such conduct, it would be urged, led to estrangement from his parents and compelled him to close his medical clinic at Shamli, in April 2012.

29. It would further be submitted by the learned Counsel that on 21.04.2013, the Appellant, along with her brothers and relatives, forcibly entered the Respondent's clinic at Atairna, Muzaffarnagar, Uttar Pradesh, assaulted him, and damaged medical supplies and property worth Rs. 30,000/-, and such acts of physical assault, coupled with repeated harassment, clearly demonstrate cruelty of a grave and serious nature.

30. Learned Counsel for the Respondent would also submit that the Appellant has lodged a series of complaints and initiated multiple criminal proceedings against the Respondent and his family members, including FIR No. 217/2013 under Sections 498A and 323 IPC as well as proceedings under the Domestic Violence Act, and the cumulative effect of these litigations has subjected the Respondent to immense harassment, mental agony, and social humiliation, thereby amounting to cruelty.

31. Learned Counsel for the Respondent would deny the allegations of dowry demands and illicit relationships as baseless and scandalous, and contend that the repeated levelling of such unsubstantiated allegations by the Appellant without proof itself constitutes mental

cruelty, as it tarnishes the Respondent's reputation and dignity in society.

32. It is submitted by the learned Counsel for the Respondent that the marriage has broken down irretrievably, as the parties have been living separately for more than a decade and all attempts at reconciliation have failed, and in such circumstances continuation of the marital tie serves no useful purpose, and therefore, the learned Family Court rightly dissolved the marriage on the ground of cruelty.

ANALYSIS:

33. We have carefully considered the submissions advanced on behalf of both parties, examined the evidence adduced before the learned Family Court, and meticulously scrutinized the entire record of the case.

34. In the Impugned Judgment, the learned Family Court framed two principal issues for determination, *namely*:

(a) Whether the Respondent-Husband would succeed in proving the allegations of cruelty and desertion against the Appellant-Wife, and

(b) Whether the Respondent-Husband is entitled to a decree of divorce.

35. Upon a detailed consideration of the pleadings and evidence placed on record, the learned Family Court answered the issue of desertion under Section 13(1)(ib) of the HMA in the negative, holding that the essential ingredients necessary to establish desertion had not been satisfactorily proved.

36. However, in so far as the ground of cruelty under Section 13(1)(ia) is concerned, the learned Family Court, having examined the

overall conduct of the parties in the light of the material before it, came to the conclusion that the Appellant-Wife had subjected the Respondent–Husband to cruelty of such a nature and degree that it was impossible for the Respondent-Husband to reasonably be expected to live with her. Consequently, the learned Family Court proceeded to grant a decree of divorce on the ground of cruelty.

37. With respect to the second issue concerning the Respondent-Husband's entitlement to a decree of divorce, the learned Family Court observed that such entitlement was dependent on proof of cruelty and/or desertion. Since the Court found substance in the allegation of cruelty made by the Respondent-Husband, it accordingly held him entitled to a decree of divorce.

38. As the finding on desertion has not been challenged by the Respondent-Husband, the only issue which arises for consideration in the present appeal is whether the learned Family Court was correct in holding that the Appellant-Wife had committed cruelty upon the Respondent-Husband, thereby justifying the grant of a decree of divorce on that ground.

39. At this stage, it is considered appropriate to reproduce the analysis and findings of the learned Family Court on the issue of cruelty, as recorded in the Impugned Judgment. The relevant extract is set out below:

> "**12.** After the pleadings of the parties were completed, vide order dated 22.04.2014, following issues were framed by my learned predecessor:
> **1. Whether respondent is guilty of acts of cruelty and desertion as pleaded in the petition? OPP**
> **2. Whether petitioner is entitled to decree of divorce, as prayed for? OPP**

3. Relief.

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17. My issue-wise findings are as follows:-

Issue No.1: Whether respondent is guilty of acts of cruelty and desertion as pleaded in the petition? OPP

18. This issues needs consideration in two parts cruelty and desertion.

Cruelty

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21. Coming back to the facts of this case, it is not in dispute that parties to this petition were married on 21.11.1997 and a male child was born to the parties on 28.08.1998. The male child is residing with the respondent and is now about 24 years of age. At the time of their marriage, the parties were residing at Shamli but after some time they shifted to Delhi.

22. The petitioner has maintained that the parties are living separate since the year 2012 after he was taken in custody by police on a complaint of the respondent. The respondent in her cross examination admitted that the petitioner is living separate since 2012 but at the same time claimed that he has been coming to meet her and he makes physical relations with her. She admitted, that she has not stated so in her written statement to the petition or affidavit of evidence.

23. Both parties are well educated. Petitioner is BHMS (Doctor in Homeopathy) who may be running his own clinic or selling Ayurvedic medicines at Uttar Pradesh. The respondent was earlier working as a lecturer at a Government Polytechnic and now she is working as Sub Divisional Engineer with Mahanagar Telephone Nigam Limited.

24. The petitioner has made following allegations which as per him constitute cruelty:

(a) The respondent is a proudy and arrogant woman due to her service at MTNL. Because of this, she used to consider the petitioner as not upto her level and she used to insult him. She was not doing household work and it was the petitioner who was often required to do that work. Ultimately, the petitioner was thrown out of the house.

(b) On 21.04.2013 at about 12 noon, the petitioner was in his clinic. At that time, the respondent along with her brothers and certain other persons came to his clinic and started abusing him in a filthy language. The petitioner was beaten by the

persons who had accompanied the respondent. The petitioner sustained injuries. The goods and medicines in the clinic were also damaged and the petitioner had to suffer a loss of Rs.30,000/-. However, the petitioner kept his cool and did not make any complaint hoping that the anger of the respondent would settle down.

25. The counsel for the petitioner also drew the attention of the court to the allegations of adulterous relationship of the petitioner and the allegations of demand of dowry made by the respondent, during the proceedings and contended that the respondent has not been able to substantiate these allegations. He also drew the attention of the court to various cases filed by the respondent against the petitioner. He further contended that the petitioner deserves divorce for this reason as well.

26. The respondent has denied the allegations of the petitioner. She alleges that she was harassed in her matrimonial home for demand of dowry. She has alleged that the petitioner has married another woman and he is residing with that woman. She contends that the marriage between the parties has not broken down irretrievably.

Allegation (a)

27. Allegation (a) is about the respondent being an arrogant woman and not doing the household work and the petitioner being thrown out of the home by the respondent. This allegation is vague and without particulars, it is held that this allegation is not proved.

Allegation (b)

28. This allegation is in relation to incident dated 21.04.2013. It is the case of the petitioner that on that day the respondent came to the clinic of the petitioner at Shamli and got him beaten by certain relatives and other persons who had accompanied her. He alleges that same day the respondent also got the petitioner arrested by Delhi Police and he remained in custody for some time. It would appear from the documents in the court file that the above incident was also reported in certain local newspapers though the authors of the news reports have not been examined as the witnesses. It would also appear from the documents on record that during the scuffle at the clinic of the petitioner, the respondent also sustained some bruises and she was subjected to MLC at GTB Hospital, Delhi.

29. There was no cross examination of the petitioner in relation to the above incident. It is the respondent who had gone to the clinic of the petitioner at a far away place from Delhi. Even if the

respondent felt that she had a valid grievance against the petitioner, that would not justify the respondent assaulting the petitioner in such a manner in his clinic. An act of violence by one spouse against the other spouse cannot be condoned. The respondent is an educated woman. She is a government official.

30. There is also substance in the additional contention on behalf of the petitioner that he deserves a divorce as the respondent has been making indiscriminate allegations against him and his family members in this proceeding. The respondent has alleged that she had seen the petitioner with a woman on a rickshaw but the name of that woman is not disclosed. She has also alleged that the petitioner on 21.04.2013 was residing with one Ms. Snehlata as her husband at village Alipur Ataima. The petitioner in his cross examination was not suggested that he had illicit relations with other woman or was residing with Ms. Snehlata. The particulars of Ms. Snehlata have not been disclosed. The respondent has filed a certificate dated 21.04.2013 (Mark-C) stated to have been issued by the Pradhan of village Alipur Atairna in which it has been certified that the petitioner was residing with one woman by the name of Snehlata for about six months in that village and he was claiming that she was his wife. The author of this document has not been examined as a witness. In absence of opportunity to cross examine the author of this document, this document will not be of any help to the respondent. Authors of news reports have not appeared as witnesses. In absence of same, contents therein would of no use to either of the parties.

31. The petitioner has also filed certain photographs Ex.RW1/A (colly). These are photographs of some women but these photographs do not show that the petitioner was in adulterous relationship with these women.

32. The respondent has also filed a hand written document of alleged messages (Mark-A). This document was filed by the respondent with her affidavit of evidence. It would appear that the respondent through this document intends to show that intimate messages were being exchanged between the petitioner and certain women. The respondent has not given any explanation as to how this hand written document came to be prepared or who has prepared this document. Print outs/screen shots of these messages have not been filed on record. This document or the messages were not referred in the written statement or in the cross examination of petitioner by the respondent. It is not disclosed as to how the respondent is in possession of these alleged messages. This

document is of no help to the respondent. On the other hand it substantiates the contention on behalf of the petitioner that the respondent has been making indiscriminate allegations of extra marital relations against the petitioner.

33. The respondent has also made various allegations of demand of dowry and consequent cruelty on her by the petitioner and his family members. There was no cross examination of the petitioner on this aspect. Other than oral assertions of the respondent, there is no evidence on record to show that either in her matrimonial home at Shamli, UP or at Delhi the respondent was harassed for alleged demand of dowry. The respondent in her cross examination admitted that she had three properties in her name and one of these properties was sold by her without the consent of the petitioner. The cause of dispute between the parties does not appear to relate to any demand of money on the part of the petitioner or his family members. Making of such allegations would also constitute cruelty.

34. The petitioner has stated that parties have been residing separate since the year 2012. The respondent in her cross examination claimed that the petitioner has been coming to meet her and make physical relations with her. The respondent had made no such allegation in her written statement or in the affidavit of evidence. No such suggestion was given in cross examination of petitioner. It was as late as 23.03.2019, the respondent appears to have made a complaint (Ex.RW1/B) to police station Seemapuri.

35. Above discussion would show that the respondent assaulted the petitioner in his clinic. The respondent has made allegations of the petitioner having illicit relationship with various women and demand of dowry by the petitioner and his family members which she has not been able to substantiate.

36. The parties are now living separate for about ten years. It has come on record that the respondent has filed various litigations against the petitioner. The respondent has got registered an FIR under sections 498A/323 IPC in which the petitioner is facing trial. He remained in custody for about ten days in that FIR. There was another complaint filed by the respondent alleging theft of Rs.1,00,000/- and jewellery by the petitioner in which case also the petitioner was taken in custody under Delhi Police Act. As late as 23.03.2019 (Ex.RW1/B), the respondent filed another police complaint against the petitioner alleging making of physical relations without her consent. Other cases filed by the respondent against the petitioner include a civil suit and a case for alleged

defamation, I am of the opinion that marriage between the parties has irretrievably broken down. Keeping of such a marriage alive would only be a source of misery for both the parties.

37. In view of above discussion, it is held that the petitioner has been able to establish that after marriage, the respondent has treated the petitioner with cruelty within the meaning of section 13(1)(ia) of the Act.

Desertion

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Issue No.2: Whether petitioner is entitled to decree of divorce, as prayed for? OPP

Issue No.3: Relief.

41. I have held above that the petitioner has proved that after the marriage, the respondent has treated the petitioner with cruelty within the meaning of section 13(1)(ia) of the Act. No cause is shown as to why the petitioner be not granted the relief as prayed for.

42. The marriage between petitioner Shri Sanjay Sharma and respondent Ms. Anupama Sharma is dissolved on the ground of cruelty under section 13(1)(ia) of The Hindu Marriage Act, 1955 w.e.f. today i.e. 07.06.2022. Parties to bear their own costs."

40. At the outset, it is imperative to note the seminal decision of the Hon'ble Supreme Court in ***Samar Ghosh v. Jaya Ghosh***[9], where the Court undertook an exhaustive analysis of mental cruelty in matrimonial relationships. The Apex Court emphasized that human behaviour is complex and what amounts to cruelty varies with individual temperament, upbringing, education, cultural background, social status, financial position, and value systems. Mental cruelty is not static; each case must be adjudicated on its facts, considering the cumulative conduct of the parties, rather than isolated incidents. Illustrative examples include persistent mental pain, abusive or humiliating conduct, neglect of conjugal duties, refusal to engage in

[9] (2007) 4 SCC 511

marital obligations without justification, and sustained conduct rendering cohabitation intolerable. However, trivial irritations, ordinary quarrels, or isolated acts do not constitute cruelty. The pertinent observations of the said judgment merit reproduction hereinbelow:

> "**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.
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> **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 strait-jacket 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.
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> **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:
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> *(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.
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> *(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."
>
> ***(emphasis added)***

41. In ***V. Bhagat v. D. Bhagat***[10], the Hon'ble Supreme Court clarified that mental cruelty is conduct causing such mental pain and suffering that the aggrieved spouse cannot reasonably be expected to live with the other. Determination of cruelty depends on the social and educational background of the parties, their manner of life, and the context in which allegations are made. Mental cruelty need not injure health physically; it suffices if it makes marital cohabitation impossible. The relevant portion of the judgment is reproduced hereinbelow:

> "**16.** Mental cruelty in Section 13(1)(*ia*) 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)***

[10] (1994) 1 SCC 337

42. The principle was further reinforced in ***Parveen Mehta v. Inderjit Mehta***[11], which held that mental cruelty must be assessed cumulatively, considering the facts and circumstances of the matrimonial life of the parties. A single instance of misbehaviour cannot alone justify a finding of cruelty; the inference must be drawn from the overall conduct and its effect on the aggrieved spouse. The relevant portion of the said judgment reads as follows:

> "**21**……Mental cruelty is a state of mind and feeling with one of the spouse due to the behaviour or behavioural pattern by the other…
> …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".

43. In ***A. Jayachandra v. Aneet Kaur***[12], the Hon'ble Supreme Court reiterated that mental cruelty must be evaluated in light of societal norms, social values, and the environment of the parties. The conduct complained of must be "grave and weighty" to the extent that the petitioner cannot reasonably be expected to live with the other spouse. Ordinary marital disagreements or minor irritations do not constitute cruelty; the conduct must be assessed in context to determine its seriousness. The relevant excerpt of the said judgment is reproduced herein below:

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[11] (2002) 5 SCC 706
[12] (2005) 2 SCC 22

> "**10.** …The question of mental cruelty has to be considered in the light of the norms of marital ties of the particular society to which the parties belong, their social values, status, environment in which they live. Cruelty, as noted above, includes mental cruelty, which falls within the purview of a matrimonial wrong. Cruelty need not be physical. If from the conduct of the spouse same is established and/or an inference can be legitimately drawn that the treatment of the spouse is such that it causes an apprehension in the mind of the other spouse, about his or her mental welfare then this conduct amounts to cruelty
>
> *xxxxx*
>
> **12.** To constitute cruelty, the conduct complained of should be "grave and weighty" so as to come to the conclusion that the petitioner spouse cannot be reasonably expected to live with the other spouse. It must be something more serious than "ordinary wear and tear of married life". The conduct taking into consideration the circumstances and background has to be examined to reach the conclusion whether the conduct complained of amounts to cruelty in the matrimonial law. …"

44. In ***Ravi Kumar v. Julmidevi*** [13] , the Apex Court further emphasized that cruelty cannot be precisely defined and must be judged according to the facts and circumstances of each case. It encompasses the absence of mutual respect and understanding, may manifest as violence, neglect, attitudes, gestures, words, or even silence, and the categories of cruelty are never closed. The nature of cruelty may be subtle or severe, and judicial assessment must consider the cumulative effect of conduct on the marital relationship. The relevant paragraphs of the said judgment are reproduced herein below:

> "**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.

[13] (2010) 4 SCC 476.

> **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."
>
> ***(emphasis supplied)***

45. Further, in ***Roopa Soni v. Kamalnarayan Soni***[14], the Hon'ble Supreme Court held that "cruelty" under Section 13(1)(ia) of the HMA, has no fixed meaning, granting wide discretion to courts to apply the concept liberally and contextually. What constitutes cruelty in one case may not in another, and it must be assessed with reference to the individual circumstances of the parties and the totality of their matrimonial life. The relevant portion of the judgment is reproduced hereinbelow:

> " **5.** The word "cruelty" u/s 13(1)(ia) of the 1955 Act has got no fixed meaning, and therefore, gives a very wide discretion to the Court to apply it liberally and contextually. What is cruelty in one case may not be the same for another. As stated, it has to be applied from person to person while taking note of the attending circumstances."
>
> ***(emphasis supplied)***

46. Having regard to the prefatory judgments referred to above, we now proceed to examine the Impugned Judgment under challenge, in light of the principles and observations contained therein.

47. In the Impugned Judgment, while dealing with the issue of cruelty, the learned Family Court recorded the following findings, which, though not exhaustive, are significant:

[14] 2023 SCC OnLine SC 1127

(a) The Husband alleged that the Wife was arrogant, insulted him, neglected household duties, and eventually drove him out of the matrimonial home. However, these allegations were found to be vague and unproven.

(b) The Husband further alleged that on 21.04.2013, the Wife, accompanied by her relatives, assaulted him at his clinic at Atairna, Muzaffarnagar, Uttar Pradesh, inflicted injuries upon him, and damaged property worth Rs. 30,000/-. The learned Family Court held that this act of violence amounted to grave cruelty, as it was wholly unjustifiable.

(c) The Husband also contended that the Wife made baseless allegations of his adulterous relationships and dowry demands, supported by unauthenticated documents and photographs, which were neither properly proved nor tested through cross-examination. These allegations were therefore found to be unsubstantiated.

(d) The Wife's own version was found to suffer from material inconsistencies. She deposed in cross-examination that the Husband visited her for physical relations, but such an assertion was absent from her written statement and affidavit, and no complaint in this regard was filed prior to 2019, and after which the petition under section 9 of the HMA seeking restitution of conjugal rights was filed by the Wife. Further, she did not make any suggestion during the Husband's cross-examination that he had illicit relations or was residing with Ms. Snehlata, nor did she ever disclose particulars about Ms. Snehlata.

(e) The Wife's allegations of harassment for dowry were unsupported by evidence. On the contrary, she admitted to

owning and independently selling properties, which further undermined her allegations of cruelty by the Husband or his family.

(f) The learned Family Court also noted that the parties have been living separately since 2012, and that the Wife had initiated multiple proceedings against the Husband and his family members, including FIRs under Sections 498A/323 IPC, civil suits, and police complaints. These proceedings caused harassment, mental agony, and social humiliation to the Husband.

(g) Taking into account the overall conduct of the parties, the unsubstantiated nature of the Wife's allegations, and the prolonged separation, the learned Family Court opined that the marriage had broken down irretrievably and it was no longer feasible for the parties to live together.

(h) On these grounds, the learned Family Court concluded that the Husband had established cruelty within the meaning of Section 13(1)(ia) of the HMA, and thus, granted a decree of divorce in favour of the Husband.

48. In essence, the learned Family Court anchored its conclusion against the Appellant-Wife on a three pronged assessment. *First*, the act of physical violence allegedly committed by her at the Respondent's clinic at Atairna, Muzaffarnagar, Uttar Pradesh, on 21.04.2013; *second*, the initiation of multiple proceedings without substantive foundation, which caused the Husband considerable mental anguish, and *third*, the breakdown of the marital relationship to such an extent that cohabitation was no longer viable, thereby rendering the continuation of the conjugal bond unworkable.

49. The grievance of physical cruelty in the present case primarily emanates from the incident dated 21.04.2013. On this day, the Respondent alleged that the Appellant, accompanied by certain persons, visited his clinic at Atairna, Muzaffarnagar, Uttar Pradesh, and instigated those accompanying her to physically assault him.

50. The learned Family Court found substance in the Respondent-Husband's submissions regarding this incident.

51. It remains an undisputed fact that on 21.04.2013, the Appellant, accompanied by others, did go to the Respondent's clinic. The parties, however, advanced divergent versions about what transpired thereafter. It is further admitted by the Appellant that the Respondent was taken into custody on the same day from that very place. Though the incident was also reported in a local newspaper, the learned Family Court rightly rejected reliance upon the said news report in the absence of oral testimony of its author, rendering the contents unsubstantiated.

52. The record further discloses that within a few days of the said incident, the Respondent instituted the impugned divorce petition, specifically citing this occurrence as an act of cruelty. Throughout the proceedings before the learned Family Court, the Respondent remained consistent in his narration of events and adduced supporting evidence, which was never challenged or tested by the Appellant during cross-examination.

53. It is also admitted that, pursuant to FIR No. 217/2013 lodged by the Appellant at Police Station Seemapuri, Delhi, on the same day, the Respondent was taken into custody by the Delhi Police and remained detained for a few days. On the same day, a medical examination of

the Appellant was conducted, which revealed minor superficial abrasions.

54. We are mindful that incidents of this nature cannot be viewed in isolation but must be tested against established judicial precedent. Matrimonial relationships are delicate and fragile, founded on mutual trust, respect, affection, and regard, along with the need for reasonable adjustment and understanding. The Hon'ble Supreme Court in ***Chetan Dass v. Kamla Devi***[15] has succinctly laid down the guiding principles, observing that matrimonial conduct is to be examined against social norms and statutory standards in a modern social order. The relevant portion of the said judgment reads as follows:

> "**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..."

55. This Court is of the considered view that physical violence of any kind, whether by a husband or wife, is wholly impermissible in a matrimonial relationship and cannot be condoned. In the present case, the material on record clearly establishes that an incident of physical altercation occurred on 21.04.2013, which became public and even led to the Respondent's custody for a few days.

56. Furthermore, the record unmistakably demonstrates that the relationship between the parties deteriorated into a series of litigations. Since 2012, the Appellant has initiated multiple complaints against the Respondent, resulting in protracted criminal and civil proceedings. For clarity, as appears from the record, the sequence of complaints, FIRs,

[15] (2001) 4 SCC 250.

and cases filed between the parties, even during the pendency of the divorce proceedings, is tabulated below:

Date	Filed by & Forum	Particulars
08.07.2012	Respondent-Husband (Complaint to PS: Seemapuri)	Alleged that the wife was abusive, violent, and suspicious, frequently insulting him over his income, assaulting him, and expelling him from the matrimonial home. He claimed continuous mental harassment, financial distress, closure of his clinic, and even suicidal thoughts due to her conduct. He further alleged that she snatched his bike keys, RC, and mobile, and threatened him, forcing him to live separately.
18.07.2012	Appellant-Wife (Complaint to PS: Seemapuri)	Alleged manhandling, theft, and an adulterous/ bigamous relationship with one woman named Sarita.
21.04.2013	Appellant-Wife (FIR No. 217/2013, PS: Seemapuri)	Alleged assault, cruelty, and related offences under Sections 498A/323 IPC. Further alleged that the Respondent is having an illicit relationship with a woman named Ms. Snehlata.
08.05.2013	Appellant-Wife (Complaint to PS: Seemapuri)	Alleged dowry demand, criminal intimidation, harassment, criminal breach of trust, illicit relations, assault, and threats of acid attack by the Respondent and his family members.
13.05.2013	Respondent-Husband (before family Court)	Filed the impugned divorce petition under Sections 13(1)(ia) & (ib) HMA, citing cruelty and desertion.
25.01.2014	Appellant-Wife	Alleged misbehaviour, insult to her modesty,

	(Complaint to PS: Farsh Bazar)	and assault by the Respondent and his brother.
23.03.2019	Appellant-Wife (Complaint to PS: Seemapuri)	Alleged bigamy and forceful sexual cohabitation against her will by the Respondent.
10.02.2020	Appellant-Wife (HMA No. 262/2020)	Filed a petition under Section 9 HMA seeking restitution of conjugal rights.

57. From the list of litigations and complaints, it is evident that, except for a divorce petition and a police complaint dated 08.07.2012 filed by the Respondent-Husband, all other complaints, FIRs, and proceedings have been initiated by the Appellant-wife against him. Importantly, even this list is not exhaustive, as the pleadings and documents reveal references to several additional cases including complaint under Domestic Violence Act and defamation suit, all pursued by the Appellant-Wife. The picture that emerges is not of isolated disputes but of a consistent pattern of aggressive litigation directed against the Respondent.

58. The very nature of these allegations, predominantly criminal in character, and their repeated lodging over a prolonged period, particularly when the parties were not even cohabiting, cannot be dismissed as casual or ordinary.

59. It doesn't end here. The Appellant herself admitted during cross-examination dated 20.08.2019 before the learned Family Court that the Respondent had been arrested in two such cases. This admission itself highlights the gravity of the ordeal inflicted upon the Respondent.

60. Upon closer scrutiny, most of the allegations were sweeping, vague, and unsubstantiated. Baseless imputations of illicit relations were flung without a shred of credible proof. Certificates, photocopied messages and photographs etc, were casually placed on record, but their authors were never examined and their authenticity never established. Even more telling is that the Appellant did not cross-examine the Respondent on these alleged materials, thereby rendering them wholly devoid of evidentiary value. Such reckless and vindictive conduct not only lacked foundation but also reflected a deliberate attempt to malign the Respondent's reputation. The learned Family Court, in our view, was therefore entirely correct in concluding that these acts constituted cruelty.

61. What is striking is the consistency of this behaviour. The Appellant, both in her pleadings and complaints, repeatedly cast aspersions upon the Respondent's character by alleging adulterous conduct. The cruelty lies not in whether adultery was proved, indeed it was not, but in the reckless, stigmatic, and unverified nature of the allegations. To accuse a spouse of infidelity without particulars, corroboration, or proof is not only irresponsible but also inherently cruel.

62. The harassment did not stop there. The Appellant instituted a series of proceedings, including FIR No. 217/2013 under Sections 498A/323 of the IPC, which led to the Respondent's custody. She further alleged theft of jewellery, acid threats, and implicated his family members in other proceedings. None of these accusations stood the test of law. Yet, they caused the Respondent prolonged humiliation, harassment, and damage to his professional and social standing. The sheer seriousness of these unfounded accusations,

coupled with their persistence over time, speaks volumes about the cruelty inflicted upon him.

63. The Hon'ble Supreme Court has authoritatively spoken on this very issue. In ***Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate***[16], it was held that reckless and unfounded allegations of unchastity or illicit relations strike at the very foundation of marriage and amount to grave mental cruelty. The Apex Court emphasized that such imputations are not mere words but weapons that cause deep emotional trauma and irreparably tarnish reputation. The relevant portions of the ***Vijaykumar Ramchandra*** (*supra*) are reproduced herein below:

> "**7**……. The position of law in this regard has come to be well settled and declared that levelling disgusting accusations of unchastity and indecent familiarity with a person outside wedlock and allegations of extramarital relationship is a grave assault on the character, honour, reputation, status as well as the health of the wife. Such aspersions of perfidiousness attributed to the wife, viewed in the context of an educated Indian wife and judged by Indian conditions and standards would amount to worst form of insult and cruelty, sufficient by itself to substantiate cruelty in law, warranting the claim of the wife being allowed. That such allegations made in the written statement or suggested in the course of examination and by way of cross-examination satisfy the requirement of law has also come to be firmly laid down by this Court……. We find that they are of such quality, magnitude and consequence as to cause mental pain, agony and suffering amounting to the reformulated concept of cruelty in matrimonial law causing profound and lasting disruption and driving the wife to feel deeply hurt and reasonably apprehend that it would be dangerous for her to live with a husband who was taunting her like that and rendered the maintenance of matrimonial home impossible."

64. We find it apposite to place reliance on ***Raj Talreja v. Kavita Talreja***[17], wherein the Hon'ble Supreme Court categorically held that

[16] (2003) 6 SCC 334.
[17] (2017) 14 SCC 194.

lodging false complaints against a spouse and his family members is cruelty within the meaning of Section 13(1)(ia) HMA. The Apex Court made clear that mere filing of complaints may not constitute cruelty, but when the allegations are patently false, there is no manner of doubt that cruelty stands established. The relevant portion of the judgment is reproduced herein below:

> "**11.** Cruelty can never be defined with exactitude...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."

65. The aforesaid principle has been reaffirmed in ***Mangayakarasi v. M. Yuvaraj***[18], where the Hon'ble Supreme Court held that baseless allegations of dowry demand or similar imputations, exposing the husband and his family to criminal litigation, if ultimately found to be without basis, amount to mental cruelty. The relevant observations of the Court are reproduced herein below:

> "**14.** It cannot be in doubt that in an appropriate case the unsubstantiated allegation of dowry demand or such other allegation has been made and the husband and his family members are exposed to criminal litigation and ultimately if it is found that such allegation is unwarranted and without basis and if that act of the wife itself forms the basis for the husband to allege that mental cruelty has been inflicted on him, certainly, in such circumstance, if a petition for dissolution of marriage is filed on that ground and evidence is tendered before the original court to allege mental cruelty it could well be appreciated for the purpose of dissolving the marriage on that ground..."

[18] (2020) 3 SCC 786

66. This Court too, in ***Dhan Vati v. Satish Kumar***[19] has emphasized that mere lodging of an FIR without cogent evidence cannot establish cruelty. This judicial consistency underscores that false, reckless, and vindictive complaints cannot be condoned as mere marital discord. The relevant observation made in the said judgment is as follows:

> "**35.** At the same time, to augment, it is apposite to refer to the judgment by the Co-Ordinate Bench of this court in ***Preeti v. Vikas*** wherein it has been held that mere lodging of an FIR, in the absence of substantive proof, cannot by itself establish allegations of cruelty or dowry harassment. The court further emphasized that such allegations must be supported by cogent and reliable evidence. Where complaints are filed immediately after the institution of divorce proceedings, such conduct has often been regarded as a counter-blast to the petition, reflecting their use as a weapon against the opposite party and his family. The relevant portions of the said judgment are reproduced hereinbelow:
>
> > "*32.* It is also pertinent to note that the complaint has been filed on 07.06.2019, i.e., one day after the respondent has filed the divorce petition. Thus, it appears that such complaints were merely a counter-blast to the said petition for divorce and is being used as a weapon against the respondent and his family.
> >
> > *33.* To conclude, not only criminal case under Section 498-A has been filed against the respondent and his family members on the ground of dowry demand, but also allegations of molestation have been made against the brother-in-law Ashish, which have not been substantiated in the present case.
> >
> > *34.* While the term "cruelty" as used in Section 13(1)(ia) of the Act, 1955 cannot be defined in given parameters, there cannot be a comprehensive definition of "cruelty" within which all kinds of cases of cruelty can be covered and each case has to be considered depending upon its own unique factual circumstances. In the case of ***K. Srinivas Vs. K. Sunita X (2014) SLT 126***. The Hon'ble Supreme Court held that filing of the false complaint against the husband and his family members also constitutes mental cruelty for the purpose of Section 13 (1) (ia) of the Hindu Marriage Act.
> >
> > *35.* Similarly, it has been held by the Supreme Court in ***Mangayakarasi v. M. Yuvaraj (2020) 3 SCC 786***, that an

[19] 2025:DHC:8280-DB

> unsubstantiated allegation of dowry demand or such other allegations made against the husband and his family members exposed them to criminal litigation. Ultimately, if it is found that such allegations were unwarranted and without basis, the husband can allege that mental cruelty has been inflicted on him and claim a divorce on such a ground.
> *36.* This Court in the case of ***Nishi Vs. Jagdish Ram 233 (2016) DLT 50*** held that the filing of false complaint against the husband and his family members constitutes mental cruelty. Similar observations were made by a coordinate bench of this court in the case of ***Rita v. Jai Solanki 2017 SCC OnLine Del 9078***.
> *37.* Thus, such complaints which are not substantiated by evidence, and remain unproved are acts of cruelty against the respondent."
>
> ***(emphasis added)***"

67. Further reliance may be placed on ***Kitty Bhardwaj v. Lalit Pyare Lal Bhardwaj***[20], where a Co-Ordinate Bench of this Court held that reckless and defamatory allegations, lowering the reputation of the husband and his family in society, constitute the ultimate form of cruelty, severing the very foundation of marriage. The relevant observations read as follows:

> "**37.** The Supreme Court in the case of ***Ravi Kumar Vs. Julmidevi (2010) 4 SCC 476*** has categorically held that "reckless, false and defamatory allegations against the husband and family members would have an effect of lowering their reputation in the eyes of the society" and it amounts to cruelty
> **38.** This Court in its earlier decisions has already held that the sacrosanct bond of marriage is based upon faith and trust and so, raising false allegation of illicit relationship, is ultimate kind of cruelty, which drives the spouses apart and shakes the foundation of marriage."

68. In the present case, the conduct of the Appellant was not sporadic or occasional. It was a sustained and deliberate course of action spanning several years, beginning in 2012. By repeatedly filing complaints, FIRs, and instituting litigations, without credible

[20] 2024:DHC:2031-DB

substantiation, the Appellant subjected the Respondent to sustained mental agony, humiliation, and public embarrassment.

69. The law is now settled beyond doubt that reckless, defamatory, humiliating, and unsubstantiated allegations by one spouse, which sully the reputation of the other, constitute extreme cruelty. The Appellant's repeated and baseless allegations of infidelity inflicted sustained harassment, humiliation, and mental agony on the Respondent. Marriage rests upon trust and respect. The Respondent was instead met with public humiliation and reckless allegations from his own spouse. No person can reasonably be expected to continue cohabiting under such conditions.

70. It is true that many complaints were filed after the divorce petition. Yet, since these were produced on record by the parties themselves, the Court is bound to consider them. The Appellant cannot both rely upon these complaints to justify her case and simultaneously deny their relevance. Her conduct, seen cumulatively, presents an unbroken chain of harassment.

71. The Hon'ble Supreme Court in ***A. Jayachandra v. Aneel Kaur***[21] clarified that even subsequent events, after the filing of the divorce petition, may be considered to discern a continuing pattern of cruelty. Here too, the Appellant's subsequent conduct only reinforced the pattern of harassment already established. The relevant portion of the said judgment reads as follows:

> "**16.** ……If acts subsequent to the filing of the divorce petition can be looked into to infer condonation of the aberrations, acts subsequent to the filing of the petition can be taken note of to show a pattern in the behaviour and conduct……."
>
> ***(emphasis supplied)***

[21] (2005) 2 SCC 22.

72. The allegation that the Respondent failed to prove his case is unsustainable. On the contrary, the Appellant's reckless complaints, allegations, and failure to justify her conduct conclusively establish cruelty. Her case is riddled with inconsistencies and devoid of credible evidence.

73. The learned Family Court also, after appreciating the pleadings and evidence on record, observed that the parties have been living separately for nearly a decade. During this prolonged period of separation, the Appellant-Wife instituted multiple criminal and civil proceedings against the Respondent-Husband, including cases under Sections 498A and 323 IPC, as well as complaints relating to theft, defamation, and other allegations. Taking note of the protracted separation, the hostile litigation pursued by the parties, and the irreconcilable bitterness that has marked their relationship, the learned Family Court concluded that the marriage had broken down beyond repair. The learned Family Court further reasoned that continuation of such a marriage would serve no meaningful purpose and would only aggravate the mental and emotional suffering of both parties.

74. Learned Counsel for the Appellant, however, has contended that irretrievable breakdown of marriage is not a statutory ground for divorce under the HMA, and that dissolution of marriage on this basis falls exclusively within the extraordinary jurisdiction of the Hon'ble Supreme Court under Article 142 of the Constitution.

75. In this context, reliance may be placed upon the judgment of this Co-ordinate Bench in ***Anita Sharma v. Naresh Kumar Sharma***[22],

[22] 2025 DHC 5066 DB

wherein the concept of irretrievable breakdown of marriage was comprehensively discussed. The relevant observations are as follows:

> **"40.** Admittedly, as noted hereinabove, the parties have not cohabitated since 2010-11 and have been fighting this litigation for a very long time. We may refer to the decision of the Supreme Court in Rakesh Raman (supra), wherein the Court had observed that even though irretrievable breakdown of marriage is not a ground for dissolving a marriage, cruelty is. The Court further observed that prolonging a marital relationship which has become increasingly bitter and acrimonious over the years, does nothing but cause injustice to the parties involved and would ultimately result in cruelty. The relevant paragraphs of the said Judgment are extracted herein below:
>
> > "22. Irretrievable breakdown of a marriage may not be a ground for dissolution of marriage, under the Hindu Marriage Act, but cruelty is. A marriage can be dissolved by a decree of divorce, inter alia, on the ground when the other party has, after the solemnisation of the marriage treated the petitioner with cruelty.
> >
> > 23. In our considered opinion, a marital relationship which has only become more bitter and acrimonious over the years, does nothing but inflict cruelty on both the sides. To keep the façade of this broken marriage alive would-be doing injustice to both the parties. A marriage which has broken down irretrievably, in our opinion spells cruelty to both the parties, as in such a relationship each party is treating the other with cruelty. It is therefore a ground for dissolution of marriage under Section 13(1)(i-a) of the Act."
>
> **41.** In this regard, we may also refer to the decision in ***Shankar Routh v. Soma Dutta, 2007 SCC OnLine Gau 254***, wherein it was held that since the parties had been living separately, continuously for a long period of seven years, their marriage was beyond repair.
>
> **42.** Furthermore, this Court in the case titled ***Ritesh Babbar v Kiran Babbar, 2022 SCC OnLine Del 726***, has held that as the parties had lived separately for 12 long years, there was no chance of reconciliation. It was further observed therein that no useful purpose would be served by maintaining the matrimonial bond and hence, divorce was granted.
>
> **43.** Similarly, in ***S. Rajendran v K. Geetha, C.M.S.A. No. 34 of 2010***, vide Judgment dated 28.06.2019, the High Court of Madras held that as both the parties therein had been living separately for the past 15 years, it would be difficult for them to bury the past and

begin a new relationship as husband and wife. Accordingly, the marriage was dissolved.

44. In view of the facts and submissions in the present case, and the law laid down in the Judgments mentioned hereinabove, we find that the learned Family Court has rightly dissolved the marriage between the parties by finding the allegations of cruelty were proved based on the evidence adduced by the respondent before it. Furthermore, the fact that the parties have been living separately for a long time period of time, that is, around fifteen years now, without any resumption of marital cohabitation between the parties, can also be considered as an added ground while deciding the divorce petition.

(emphasis supplied)

76. Equally apposite is the judgment of the Hon'ble Supreme Court in ***K. Srinivas Rao* v. *D.A. Deepa***[23], wherein the Court held that when bitterness, estrangement, and irreparable breakdown exist, dissolution becomes necessary to relieve both parties of further suffering. The relevant extracts are:

"**29.** In our opinion, the High Court wrongly held that because the appellant husband and the respondent wife did not stay together there is no question of the parties causing cruelty to each other. Staying together under the same roof is not a precondition for mental cruelty. Spouse can cause mental cruelty by his or her conduct even while he or she is not staying under the same roof. In a given case, while staying away, a spouse can cause mental cruelty to the other spouse by sending vulgar and defamatory letters or notices or filing complaints containing indecent allegations or by initiating number of judicial proceedings making the other spouse's life miserable. This is what has happened in this case.

30. It is also to be noted that the appellant husband and the respondent wife are staying apart from 27-4-1999. Thus, they are living separately for more than ten years. This separation has created an unbridgeable distance between the two. As held in ***Samar Ghosh case***, if we refuse to sever the tie, it may lead to mental cruelty.

31. We are also satisfied that this marriage has irretrievably broken down. Irretrievable breakdown of marriage is not a ground for divorce under the Hindu Marriage Act, 1955. But, where marriage

[23] (2013) 5 SCC 226

> is beyond repair on account of bitterness created by the acts of the husband or the wife or of both, the courts have always taken irretrievable breakdown of marriage as a very weighty circumstance amongst others necessitating severance of marital tie. A marriage which is dead for all purposes cannot be revived by the court's verdict, if the parties are not willing. This is because marriage involves human sentiments and emotions and if they are dried-up there is hardly any chance of their springing back to life on account of artificial reunion created by the court's decree.
>
> ***
>
> **34.** In the ultimate analysis, we hold that the respondent wife has caused by her conduct mental cruelty to the appellant husband and the marriage has irretrievably broken down. Dissolution of marriage will relieve both sides of pain and anguish. In this Court the respondent wife expressed that she wants to go back to the appellant husband, but, that is not possible now. The appellant husband is not willing to take her back. Even if we refuse decree of divorce to the appellant husband, there are hardly any chances of the respondent wife leading a happy life with the appellant husband because a lot of bitterness is created by the conduct of the respondent wife."
>
> ***(emphasis supplied)***

77. The present case is not one of mere estrangement or emotional detachment, where parties have drifted apart without reason. It is a case where the relationship has reached such levels of hostility, bitterness, and acrimony that reconciliation is wholly impossible. The allegations levelled, pursued in the public domain through multiple complaints and litigations, and sustained over several years, reflect not only an irretrievable breakdown but cumulatively establish a case of absolute cruelty.

78. While agreeing with the contention that "irretrievable breakdown of a marriage" is not a ground on which either the High Court of the learned Trial Court can grant a divorce, we would like to clarify that in the present matter, upon an appraisal of the relevant facts and circumstances which clearly establishes cruelty as also the fact that continuance of the relationship would only foist upon the

parties unnecessary cruelty, further degrading the already cancerous state of affairs, the Courts would necessarily have to take a view which would ensure that the situation giving rise to such a scenario is brought to an end.

79. It is significant to note that the Appellant-Wife has failed to substantiate her allegations of harassment on account of dowry demands. The complaints forming the basis of FIR under the IPC and proceedings under the Domestic Violence Act have already been found to be baseless by the competent courts.

80. On the contrary, the Respondent-Husband has successfully demonstrated that the conduct of the Appellant caused him immense mental agony, humiliation, and frustration, rendering it wholly unreasonable to expect him to continue the marital relationship. He has specifically pleaded the fact that he, along with his family members, was subjected to criminal proceedings initiated by the Appellant, which even resulted in his incarceration for several days. The cumulative effect of such conduct is far beyond the ordinary wear and tear of conjugal life and constitutes grave cruelty.

81. The making of false, reckless, and unsubstantiated allegations, coupled with the initiation of multiple vexatious litigations against the Respondent and his family members, reveals a vindictive intent on the part of the Appellant. Such conduct clearly amounts to extreme cruelty. Instead of seeking reconciliation or peaceful resolution, the Appellant has consistently chosen adversarial proceedings as a means to perpetuate hostility and acrimony, thereby destroying the very foundation of matrimonial harmony.

CONCLUSION:

82. In light of the foregoing analysis, this Court is satisfied that the learned Family Court correctly applied the legal principles governing cruelty under Section 13(1)(ia) of the HMA. When the Appellant's conduct is viewed in its totality, it becomes evident that continued cohabitation was rendered unreasonable and intolerable and such continuation would be permitting the parties to perpetuate cruelty against each other. The learned Family Court's findings flow from a careful appraisal of the evidence on record and are consonant with settled judicial precedent dealing with cruelty and the impractical nature of continuance of a relation that could only engender further cruelty.

83. For these reasons, the decree of divorce granted by the learned Family Court *vide* the Impugned Judgment and Decree dated 07.06.2022 in HMA No. 49220/2016 is affirmed. The appeal is devoid of merit and is accordingly dismissed.

84. The present appeal, along with all pending application(s), if any, stands disposed of in the above terms.

85. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER 08, 2025/sm/kr