



2025:DHC:9233-DB



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

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Judgment reserved on: 11.09.2025**Judgment pronounced on: 17.10.2025**+ **MAT.APP.(F.C.) 2/2024 & CM APPL. 360/2024****[REDACTED]**

.....Appellant

Through: Mr. Sarim Naved and
Mr. Zeeshan Ahmad, Advs. and
Appellant in-person through
VC.

versus

[REDACTED]

.....Respondent

Through: Mr. Rakesh Tikku, Senior
Advocate with Ms. Arpan
Wadhawan, Advocate and
Respondent in-person.

CORAM:**HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN****SHANKAR****J U D G E M E N T****HARISH VAIDYANATHAN SHANKAR J.**

1. The present appeal, is filed under Section 19 of the **Family Courts Act, 1984**¹, assailing the **Judgment dated 31.08.2023**² passed by the Learned **Principal Judge, Family Courts, Shahdara, Karkardooma Courts, Delhi**³, in HMA No. 741/2011 (*renumbered as HMA No. 48273/2016*), titled as '**[REDACTED]**
[REDACTED]', whereby the marriage between the Appellant-Wife and

¹ FC Act² Impugned Judgment³ Family Court



2025:DHC:9233-DB



the Respondent-Husband was dissolved on the ground of cruelty under Section 13(1)(ia) of the **Hindu Marriage Act, 1955**⁴.

BRIEF FACTS:

2. The marriage between the Appellant-Wife, who is a Group ‘A’ officer of the **Indian Railway Traffic Service**⁵, and the Respondent-Husband, who is an Advocate by profession, was solemnized on 25.01.2010 at Delhi in accordance with Hindu rites and ceremonies. The marriage was the second for both parties, and no children were born from this union.

3. Prior to this marriage, both parties had been divorced from their respective earlier spouses, the Appellant having obtained a decree of divorce in the year 2003 and the Respondent having secured a divorce from his previous marriage in the year 2007.

4. The matrimonial cohabitation between the parties herein proved to be short-lived, as serious differences arose soon after the marriage, and the Respondent eventually left the matrimonial home on 08.03.2011, bringing an end to their cohabitation.

5. According to the Respondent, the Appellant subjected him to cruelty throughout the marriage, causing immense mental agony. It has been alleged that she habitually used profane and degrading language towards him and his family members. Reliance was placed on a series of text messages purportedly sent by the Appellant between March and June 2011, which contained grave and scandalous imputations, including one suggesting that he ascertain his “actual father” and another casting a vile insinuation against his mother. A

⁴ HMA

⁵ IRTS



2025:DHC:9233-DB



specific message dated 27.06.2011 read: *“Now I realise why you resemble jethu (uncle). Yr character speaks of yr illegitimate origin. Goodbye.”*

6. The Respondent also referred to an incident in January 2011, where he was allegedly slapped by the Appellant when he expressed a desire to accompany her on a trip.

7. He alleged that she frequently quarreled with him and his mother, used abusive language, and humiliated him in private as well as in professional circles. She allegedly denied him conjugal relations and continuously interfered in his professional engagements.

8. The Respondent also claimed that the Appellant sent defamatory communications to his colleagues and clients, damaged his reputation, and threatened to implicate him in false criminal cases. He further alleged that she levelled baseless accusations against him during official and social interactions, causing him to lose face and ruin his reputation.

9. The Respondent further alleged that in the first week of March 2011, upon returning from Lucknow, the Appellant insisted that his parents vacate the matrimonial home. The Respondent also claimed that the Appellant used abusive language against his mother. He claimed that her behavior caused him immense mental agony, causing him to faint and be subsequently hospitalized on one occasion.

10. On these allegations of cruelty, the Respondent filed a petition for divorce under Section 13(1)(ia) of the HMA, before the learned Family Court.

11. The Appellant, in her defence, denied the allegations of cruelty and asserted that it was, in fact, she who was subjected to cruelty at the hands of the Respondent. According to her, the Respondent

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Signing Date: 17.10.2025
19:37:15

MAT.APP.(F.C.) 2/2024

Page 3 of 37



2025:DHC:9233-DB



persistently pursued her for marriage and, after solemnization, pressurized her to misuse her official position as a senior officer of the Indian Railways to secure his own appointment as a panel lawyer. When she resisted such demands, his conduct allegedly turned abusive and hostile. She claimed that his interest in the marriage was motivated, as he sought to leverage her official standing for professional gain.

12. She further alleged that on 12.01.2011, the Respondent locked her inside the matrimonial home, thereby preventing her from attending office, and that during a visit to Kolkata in February 2010, she was compelled to cook non-vegetarian food against her familial customs.

13. She also alleged that in February 2011, the Respondent's mother demanded Rs. 50,000 for a foreign trip and pressured her to add the Respondent's name to her self-acquired property.

14. The Appellant alleged that the Respondent humiliated her by making caste-based remarks, coerced her to perform domestic chores despite her professional responsibilities, and deserted her when she did not succumb to his demands. She also alleged that the Respondent threatened her into signing divorce papers by intimidating her with threats of false complaints to her superiors, including the Ministry of Railways and the President of India.

15. Her case has been that the Respondent and his mother subjected her to a barrage of false and frivolous litigation. For instance:

- (i). A theft complaint filed against her (Ct. Case No. 22194/2016, Patiala House Courts) which was dismissed at the pre-summoning stage on 25.06.2019.



2025:DHC:9233-DB



- (ii). A civil suit for defamation (Civil Suit No. 135/2012, Karkardooma Courts), which was dismissed for non-prosecution.
- (iii). A criminal complaint for defamation (Ct. Case No. 22498/2016), which is continuing without evidence being led.
- (iv). A civil plaint filed by the Respondent's mother in Kolkata (Case No. TS 128/2015), which was also dismissed for non-prosecution.

16. According to the Appellant, these proceedings reflected the Respondent's vindictive attitude and misuse of legal process.

17. The Appellant additionally claimed that, notwithstanding the filing of the divorce petition on 18.07.2011, the parties continued to cohabit between 2011 and 2013 at Delhi, Chandigarh and Kolkata. According to her, this cohabitation was entered into in good faith, influenced by the conciliatory proceedings before the learned Family Court and the Respondent's assurances of reconciliation.

18. After considering the allegations of both parties, the learned Family Court, by the Impugned Judgment dated 31.08.2023, dissolved the marriage between the Appellant and the Respondent on the ground of cruelty under Section 13(1)(ia) of the HMA.

19. Aggrieved by the impugned judgment, the Appellant-Wife has preferred the present appeal, assailing the findings on cruelty and condonation of the same, and also seeking permanent alimony and compensation under Section 25 of the HMA.

APPELLANT'S SUBMISSIONS:

20. Learned counsel for the Appellant would contend that the learned Family Court failed to duly appreciate and evaluate the

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BHATIA
Signing Date: 17.10.2025
19:37:15

MAT.APP.(F.C.) 2/2024

Page 5 of 37



2025:DHC:9233-DB



specific, consistent, and corroborated allegations of cruelty levelled by the Appellant against the Respondent. He would further contend that the Appellant's defence before the learned Family Court clearly brought out a persistent pattern of controlling and oppressive behaviour on the part of the Respondent, which extended even to unwarranted interference with the Appellant's professional obligations and autonomy as a senior government officer.

21. Learned counsel would particularly rely upon a specific incident dated 12.01.2011, wherein the Respondent allegedly locked the Appellant inside the matrimonial home and submit that this incident, being illustrative of physical and mental cruelty, was supported by contemporaneous material but was unjustifiably disregarded by the learned Family Court.

22. It would further be submitted by the learned counsel for the Appellant that during a visit to Kolkata in February 2010, the Appellant was compelled by the Respondent and his family to cook and consume non-vegetarian food in violation of her familial and religious customs, and in February 2011, the Respondent's mother is stated to have demanded a sum of Rs. 50,000 for a proposed trip to Switzerland and simultaneously exerted pressure upon the Appellant to include the Respondent's name in her self-acquired properties. It would further be submitted that these acts cumulatively constituted mental cruelty and were part of a larger pattern of coercion and harassment which the learned Family Court failed to consider, having overlooked the Appellant's counter-narrative of cruelty altogether.

23. Learned counsel for the Appellant would next contend that the learned Family Court erred in not appreciating the Appellant's plea of condonation. He would further contend that after the filing of the

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BHATIA
Signing Date: 17/10/2025
19:37:15

MAT.APP.(F.C.) 2/2024

Page 6 of 37



2025:DHC:9233-DB



divorce petition on 18.07.2011, the parties had resumed cohabitation and lived together at Delhi, Chandigarh, and Kolkata between 2011 and 2013 on repeated assurances by the Respondent of reconciliation and restoration of matrimonial life, and this voluntary resumption of cohabitation would amount to condonation of the alleged acts of cruelty.

24. It would further be argued by the learned counsel for the Appellant that the learned Family Court failed to accord due weight to substantial documentary evidence on record, which clearly established the Respondent's vindictive and retaliatory conduct. He would then draw attention to the series of frivolous and malicious proceedings initiated by the Respondent and his mother against the Appellant, including a false theft case, a civil defamation suit, and a criminal complaint before the Kolkata court.

25. Learned counsel for the Appellant would contend that these multiple proceedings were designed solely to harass, intimidate, and mentally exhaust the Appellant, and that each of these cases was either dismissed for want of merit or allowed to languish due to non-prosecution, yet the learned Family Court failed to take note of the continuous harassment and trauma caused to the Appellant through such vexatious litigation.

26. Learned counsel for the Appellant would further submit that the Respondent's acts of cruelty extended to professional humiliation and defamation, and the Respondent, in order to malign the Appellant's reputation, made false and scandalous complaints to her superior officers in the Indian Railways and even addressed representations to the President of India. He would further argue that these actions were



2025:DHC:9233-DB



intended to jeopardize her career and public standing but were completely ignored by the learned Family Court in its findings.

27. It would also be urged by the learned counsel for the Appellant that the Respondent subjected the Appellant to persistent electronic harassment, making over 50 calls a day and sending hundreds of messages, thereby intruding into her privacy and creating unbearable mental distress, and the relentless nature of such conduct compelled the Appellant to seek judicial protection to secure herself from further abuse.

28. Learned counsel for the Appellant would further contend that the learned Family Court has examined and relied upon the evidence in the present case in contravention of the provisions of the **Indian Evidence Act, 1872**⁶. In particular, it would be submitted that the learned Family Court erred in considering electronic evidence without the mandatory filing of a certificate under Section 65B thereof, which is a statutory requirement for the admissibility of such evidence.

29. Learned counsel for the Appellant would emphasize that the learned Metropolitan Magistrate, Mahila Court, South District, Saket Courts, after considering the material placed before it, recognized the seriousness of this conduct and, by order dated 09.04.2014, passed a restraining order against the Respondent, thereby affirming the Appellant's version of continuous harassment.

30. It would further be contended that the learned Family Court failed to appreciate the Appellant's entitlement to permanent alimony under Section 25 of the HMA, and the omission to consider and grant such relief, despite the peculiar circumstances of the case and the

⁶ Evidence Act



2025:DHC:9233-DB



Respondent's culpable conduct, has caused grave prejudice to the Appellant and warrants interference by this Hon'ble Court.

RESPONDENT'S SUBMISSIONS:

31. *Per contra*, learned senior counsel for the Respondent would contend that it was the Appellant who consistently subjected the Respondent to cruelty by using abusive and demeaning language, humiliating him in social and professional circles, denying him conjugal companionship, and misbehaving with his mother, and that such conduct caused deep emotional and psychological distress to the Respondent.

32. Learned senior counsel for the Respondent would highlight that the Appellant habitually addressed the Respondent with degrading epithets such as “janwar”, “son of a bitch”, “haramzada”, “kutta” and “kamina”, and that this verbal abuse was not confined to the Respondent alone but was also directed at his family, particularly his mother, as the Appellant made scandalous and filthy allegations impugning her character and even questioning the Respondent's legitimacy, and it was submitted that this campaign of humiliation and verbal aggression was carried out both in person and through numerous text messages which were duly exhibited during trial.

33. It would be further asserted by the learned senior counsel for the Respondent that the Appellant deliberately isolated the Respondent socially and emotionally, as she persistently refused to accompany him to social or family gatherings and openly declared that he was not a “presentable person” before her relatives, particularly her sister's family, on account of his being a Bengali and a non-vegetarian.



2025:DHC:9233-DB



34. He would further submit that from the very inception of the marriage, the Appellant refused to allow the Respondent any physical intimacy or marital relations, thereby depriving him of conjugal companionship and affection, which amounted to grave mental cruelty.

35. Learned senior counsel would also draw attention to specific incidents of humiliation and misconduct by the Appellant, including an incident in January 2011 when she allegedly slapped the Respondent merely for expressing his desire to accompany her to Mumbai and, in the presence of her parents, demeaned his professional standing, and further instances such as her verbal abuse of the Respondent's mother over a proposed trip to Switzerland, her directive in early March 2011 which compelled the Respondent's parents to vacate the matrimonial home, and her ultimate act of forcing the Respondent himself to leave the house on 08.03.2011.

36. Learned senior counsel for the Respondent would submit that the Appellant's own evidence affidavit dated 13.08.2019 clearly reflects her inconsistent and self-contradictory position, as in Paragraph 59 thereof, she explicitly stated that a decree of divorce may be granted in her favour, subject to payment of Rs. 50 lakhs, and this stance was reiterated by her during cross-examination on 25.11.2019.

37. It would be urged by the learned senior counsel for the Respondent that while the Appellant opposed the Respondent's divorce petition, she simultaneously refused to resume cohabitation and demanded a substantial monetary settlement as a precondition for divorce, which demonstrated that her opposition to the decree was not *bona fide* but financially motivated, and this conduct of resisting

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BHATIA
Signing Date: 17.10.2025
19:37:15

MAT.APP.(F.C.) 2/2024

Page 10 of 37



2025:DHC:9233-DB



dissolution of marriage without any genuine intent to continue matrimonial life itself constituted mental cruelty.

38. Learned senior counsel for the Respondent would further point out that this position was duly recorded by the learned Family Court in its order sheet dated 18.03.2019, wherein it was noted that the Appellant was disinclined towards restitution of conjugal rights and expressed conditional willingness to accept divorce upon receipt of monetary compensation and this corroborated the Respondent's case of manipulative and insincere conduct.

39. Learned senior counsel for the Respondent would urge that the present appeal is a continuation of the same conduct intended to harass and financially pressure the Respondent, as is evident from the submissions made before this Court, which focus solely on securing monetary benefits rather than restoration of matrimonial ties.

40. He would further submit that such conduct is particularly unreasonable considering the Appellant's financial independence as a senior government officer with pensionary and medical benefits, and therefore, she is not entitled to any alimony.

41. Learned senior counsel for the Respondent would also contend that the Appellant inflicted further cruelty by instituting false and frivolous criminal proceedings against the Respondent and his family, which caused prolonged mental agony and reputational damage. It would further be highlighted by the learned senior counsel that the Appellant's complaint under the Protection of Women from Domestic Violence Act, 2005, was dismissed, and that in the FIR registered under Section 498A IPC, this Hon'ble Court, in W.P. (Crl.) No. 3072/2019, discharged the Respondent while observing that he had been wrongly implicated.

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BHATIA
Signing Date: 17.10.2025
19:37:15

MAT.APP.(F.C.) 2/2024

Page 11 of 37



2025:DHC:9233-DB



ANALYSIS:

42. We have heard learned counsel for both parties at length, carefully perused the Impugned Judgment, the pleadings and the documents placed on record in this appeal, and have also considered the written submissions filed by the parties.

43. The issues that arise for determination in this appeal are twofold, *first*, whether the learned Family Court erred in granting a decree of divorce in favour of the Respondent-Husband on the ground of cruelty while disregarding the Appellant-Wife's defence of condonation and the alleged acts of cruelty and misconduct attributed to the Respondent; and *second*, whether, in the event the decree of divorce is upheld, the Appellant-Wife would be entitled to an award of permanent alimony or compensation under Section 25 of the HMA.

44. At the outset, it would be appropriate to reproduce the deliberation and findings of the learned Family Court in the Impugned Judgment on the aspect of "cruelty". The relevant extract of the Impugned Judgment is set out below:

"6. After the pleadings of the parties were completed, vide order dated 15.12.2018, following issues were framed:

- (1) Whether the petitioner is entitled to decree of divorce on the ground of cruelty under section 13(1)(ia) HMA? OPP
- (2) Whether the petitioner is not entitled to any relief on the ground that the petitioner has condoned the alleged acts of cruelty by cohabiting with the respondent after filing of the petition? OPP.
- (3) Relief.

Issue No.(1): Whether the petitioner is entitled to decree of divorce on the ground of cruelty under section 13(1)(ia) HMA? OPP

14. The present petition has been filed by the husband seeking divorce under section 13(1) (ia) of The Hindu Marriage Act, 1955 on the ground of cruelty. The word cruelty has not been defined in The Hindu Marriage Act. It has been used in the Act in the context of human conduct or behaviour in relation to or in respect of matrimonial duties or obligations. It is a course of conduct of one spouse which adversely affects the other.

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By: HARVINDER KAUR
BHATIA
Signing Date: 17.10.2025
19:37:15

MAT.APP.(F.C.) 2/2024

Page 12 of 37



19. The facts which are not in dispute are that the parties to this petition got married to each other in accordance with Hindu rites and ceremonies on 25.01.2010. No child was born to the parties. Parties separated on 08.03.2011 and the present petition was filed on 19.07.2011. Both parties are well settled in their lives. The petitioner is a practicing Advocate. The respondent is a member of Indian Railway Traffic Service (IRTS) of 1995 batch. Both parties were divorcees at the time of their marriage. Material on record would show that before the marriage, the petitioner was rendering legal services to the Central Government and in that situation, the parties met each other and friendship developed between them.

20. Allegations of the petitioner in his petition have been noted in some detail in the earlier part of this judgment. The relevant allegations of the petitioner against the respondent in brief are as follows:

(a) The respondent was addressing the petitioner in a most undesirable manner. The respondent was also sending messages to the petitioner abusing him and his mother. The respondent would often address the petitioner '*janwar*', '*son of a bitch*', '*haramzada*', '*kutta*', '*kamina*' etc in these messages. The respondent would also call the petitioner an illegitimate child and would address his mother in a filthy manner.

(b) The respondent was not taking the petitioner to the house of her relatives. The respondent used to go alone and say that the petitioner is not a presentable person before the family of her sister as he is a non-vegetarian.

(c) The respondent did not allow the petitioner to touch her or to have sexual relations with her.

(d) In the second week of October 2010, the petitioner took the respondent to his native place Taki in District North 24 Pragan, West Bengal during *Durga pooja*. At that time, the respondent tormented the petitioner by using abusive language and cursed him for having brought her to a village which lacks amenities and was below her status.

(e) In January 2011, the respondent was going to Mumbai to participate for a marathon. At that time, the petitioner expressed his desire to accompany her on which the respondent slapped him and asked the petitioner to find another woman '*for company*'. Next day, the respondent called her parents from Lucknow and in their presence, the respondent called the petitioner '*kamina aadmi hamesha bimar raheta hai.*' The parents of the respondent also taunted the petitioner by saying that he is only an advocate who does not have social status and advocates are freely available on streets. They also said that the petitioner should feel obliged that their daughter, who is a bureaucrat having high status in the society, has married him.

(f) Sister and brother-in-law of the petitioner were going to Switzerland and they asked the mother of the petitioner to accompany them. The mother of the petitioner called the petitioner



2025:DHC:9233-DB



for some money for that purpose from the petitioner. This was not liked by the respondent and at that time she called the mother of the petitioner a 'witch'.

(g) In early March 2011, parents of the petitioner were living with him at Delhi. On 03/4.03.2011, the respondent went to her parental home at Lucknow and from there she made a call to the petitioner and told him that she would not like to see his parents at her house when she would return to Delhi on 08.03.2011. The petitioner was forced to shift his parents to the house of his relative.

(h) The respondent purchased a flat in Mumbai but did not inform this to the petitioner. The petitioner came to know about this from his parental family and he asked the respondent about that flat. On this, the respondent said that parental family of the petitioner is full of liars and the petitioner is making fuss of a small thing. At that time, mother of the petitioner tried to speak to the respondent on which the respondent addressed the mother of the petitioner as '*do kori ki aurat*'.

(i) On 08.03.2011, the respondent came back to Delhi. Same day, the respondent forced the petitioner to leave the house. After about a week, the respondent asked the petitioner to take his remaining belongings immediately failing which, she will throw those on the street. The petitioner then started living alone. Even after separation, the respondent continued sending him undesirable messages. In May 2011, the petitioner went to Kolkata to look after his ailing mother. At that time, the respondent sent another SMS using filthy language against the petitioner.

21. The respondent has denied the allegations of the petitioner. The respondent on her part has made certain allegations against the petitioner and his family members. The allegations of the respondent are to the effect that the petitioner is a person of dominating character who even desired to be a part of the official work of the respondent. She has alleged that the petitioner and his mother desired that the petitioner should be made a co-owner in the properties of the respondent. She has alleged that she was made to cook non-vegetarian food for the petitioner and his family members though she belongs to a vegetarian family. She has also alleged that after the marriage, she asked the petitioner about having children on which the petitioner refused to have children and asked her to take divorce if so she desired. The respondent has alleged that in this context, the petitioner refused her suggestion to get himself medically examined and also refused to adopt a child. The respondent has alleged that the petitioner has been harassing her by filing various litigations against her and sending her messages.

22. I have considered the allegations and counter allegations made by the parties.

23. The petitioner has alleged that the respondent was sending him messages using most undesirable language against him and his mother. The petitioner has proved printouts of some messages

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By: HARVINDER KAUR
BHATIA
Signing Date: 17.10.2025
19:37:15

MAT.APP.(F.C.) 2/2024

Page 14 of 37



2025:DHC:9233-DB



allegedly sent by the respondent as Ex.PW1/1 (colly). In one of those messages, the respondent has allegedly called the petitioner 'bastard' and she has allegedly asked him to find out who his actual father is. She has also stated that *'why does not your mother start earning through prostitution instead of asking from you.'* In another message dated 09.05.2011, the respondent has allegedly called the petitioner 'son of bitch.' Another message dated 15.05.2011 would show that the petitioner objected to the respondent addressing his mother 'randi' on which the respondent allegedly replied that *'you gave that word to her'*. In another message dated 27.06.2011, the respondent allegedly sent a message to the petitioner stating *'now I realise why you resemble jethu (uncle) Yr character speaks of yr illegitimate origin, Goodbye'*.

24. The petitioner in his evidence has proved these messages. The respondent did not dispute that these messages were sent by a phone having the same sim number (mobile number) as her mobile phone. The petitioner in his cross examination was suggested that messages/emails Ex.PW1/I (colly.) are not accompanied by the certificate under section 65B of Evidence Act on which the certificate under section 65B of Evidence Act in the judicial file was shown by the petitioner. No suggestion was given to the petitioner in his cross examination that these messages were sent by the petitioner from the mobile phone of the respondent to his own phone or that he was using the mobile phone of the respondent or that the mobile phone of the respondent remained with the petitioner. However, the respondent in her affidavit of evidence and cross examination claimed that even after the parties separated on 08.03.2011, the petitioner kept on coming to meet her and to have physical relations with her on the pretext of making attempts to normalise the relationship implying thereby that during these visits, the petitioner surreptitiously sent these messages from her mobile phone to his mobile phone. She also claimed that after separation her mobile phone was with the petitioner.

25. Above explanation of the respondent in her evidence does not inspire confidence. In the written statement, no such plea was taken by the respondent. The petitioner in his cross examination was not suggested that he kept on coming to meet the respondent even after separation of the parties. The mobile phone of the respondent would be with her and if such messages were sent by the petitioner to his own phone, the respondent would have come to know about these messages. It is not explained as to why the respondent, who is a government official holding high position, did not take any action and informed the police in this regard. The respondent in her cross examination admitted that the mobile phone in issue was given to her by the government. The attempt of the respondent to explain the messages is clearly an afterthought. Section 14 of The Family Courts Act, 1984 stipulates that a Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a

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By: HARVINDER KAUR
BHATIA
Signing Date: 17/10/2025
19:37:15

MAT.APP.(F.C.) 2/2024

Page 15 of 37



2025:DHC:9233-DB



dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872.

26. As far as other allegations of the petitioners are concerned, it is significant that the petitioner was not cross examined in respect of any of these allegations.....

27. I am of the opinion that various allegations of the cruelty made by the petitioner against the respondent stand proved.

28. Most of the counter allegations of the respondent in her written statement are vague and general in nature. Apart from self serving assertions of the respondent which are denied by the petitioner, there is nothing to substantiate these allegations. However, material on record shows that certain litigations were filed by the petitioner against the respondent and one case was filed by the mother of the petitioner at Kolkata. These litigations did not succeed. The material on record also shows that the petitioner had filed complaints against the respondent to her administrative superiors and the Central Government. The record would also show that the petitioner had attempted to obstruct grant of passport to the respondent, through he was not successful. In these circumstances, there is substance in the case of the respondent that the conduct of the petitioner has also not been entirely desirable and he was filing complaints and litigations against the respondent to put pressure on her to agree his demand for divorce by mutual consent. However, that would not justify the respondent abusing the petitioner and his mother in the manner in which she did, and inflicting other cruelties.

29. In view of the foregoing, I am of the opinion that the petitioner has been able to establish his allegations against the respondent that the respondent was using abusive language against him and his mother. She addressed the petitioner as a bastard. She used abusive language against the mother of the petitioner and called her a prostitute. The respondent made the parents of the petitioner leave her house and shift elsewhere. The respondent called her parents to Delhi who said to the petitioner that he is only an advocate and the advocates do not have any social status and are freely available on streets and the petitioner should feel obliged that their daughter who is a bureaucrat having high social status in the society, has married him. I am of the opinion that these acts would constitute cruelty against the petitioner within the meaning of section 13(1)(ia) of The Hindu Marriage Act, 1955.

30. I am further of the opinion that the marriage between the parties has irretrievably broken down. The parties were married on 25.01.2010. At that time, the respondent was posted at Mumbai and she got transferred to Delhi in May, 2010. Both parties lived together for about ten months and separated on 08.03.2011. The parties have been living separate for the last more than twelve years and the present petition itself has remained pending since

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BHATIA
Signing Date: 17.10.2025
19:37:15

MAT.APP.(F.C.) 2/2024

Page 16 of 37



July, 2011. Order sheet of this case would A show that the attempts made for settlement of this case at various points of time have not been successful. The parties filed cases against each other. The relationship between the parties had turned so bitter that the parties, were restrained from communicating with each other as is apparent from the order dated 24.08.2011 in this case. Order sheet shows that on that day, the petitioner made a complaint that the respondent came to his office, tore his clothes and threw items in his office. The record further shows that thereafter on 30.08.2011, the predecessor court recorded the statements to the effect that the respondent will not visit the office/residence of the petitioner. The petitioner had also undertaken before the court that he shall not communicate the respondent in any manner and shall communicate only through the process of court and law. Attention of the court was also drawn to the order dated 18.03.2019 passed in this case in which my learned predecessor has noted that during the proceedings, efforts for reconciliation were made on which the respondent stated that she is not inclined for restitution of conjugal rights and wants divorce in the present divorce petition but desires Rs.50lacs in full and final settlement on which the petitioner refused to pay any money to the respondent.

31. Long separation accompanied by litigation is an evidence of irretrievable breakdown of marriage. Long separation causes a marriage to become a fiction though supported by a legal tie. It has been held that 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 situation, it may itself lead to mental cruelty. [Naveen Kohli vs. Neelu Kohli (2006) 4 SCC 558, Sanghamitra Ghosh vs. Kajal Kumar Ghosh (2007) 2 SCC 2201].

36. Issue No. (1) is decided in favour of the petitioner and against the respondent.

Issue No. (2): Whether the petitioner is not entitled to any relief on the ground that the petitioner has condoned the alleged acts of cruelty by cohabiting with the respondent after filing of the petition? OPP

37. I have held above that taking into consideration of the totality of facts and circumstances of this case, the petitioner has been able to show that the respondent treated the petitioner with cruelty after solemnization of her marriage with him. No cause is shown as to why the petitioner be not granted the decree of divorce on the ground of cruelty. Issue No. (2) is thus decided in favour of the petitioner and against the respondent.

Issue No. (3): Relief

38. In view of foregoing, marriage between petitioner Shri [REDACTED] and respondent Ms. [REDACTED] is dissolved on the ground of cruelty under section 13(1)(ia) of The Hindu Marriage



2025:DHC:9233-DB



Act, 1955 with effect from today i.e. 31.08.2023. Parties to bear their own costs.”

45. After a thorough examination, we find no merit in the present Appeal. The learned Family Court’s decision to grant a decree of divorce on the ground of cruelty, is based on a cogent and balanced appreciation of the evidence and a correct application of legal principles.

46. At the outset, it is imperative to note the seminal decision of the Hon’ble Supreme Court in ***Samar Ghosh v. Jaya Ghosh***⁷, where the Court undertook an exhaustive analysis of mental cruelty in matrimonial relationships. The Apex Court emphasized that 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 marital obligations without justification, and sustained conduct rendering cohabitation intolerable. 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.

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

⁷ (2007) 4 SCC 511



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.”

(emphasis supplied)

47. In **V. Bhagat v. D. Bhagat**⁸, the Hon'ble Supreme Court clarified that the 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 only; it suffices if it makes marital cohabitation impossible. The relevant portion of the judgment is reproduced herein below:

“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

⁸ (1994) 1 SCC 337



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)

48. The principle was further reinforced in **Parveen Mehta v. Inderjit Mehta**⁹, which held that 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”.

⁹ (2002) 5 SCC 706



2025:DHC:9233-DB



49. In *A. Jayachandra vs. Aneet Kaur*¹⁰, the Hon'ble Supreme Court reiterated that 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:

“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. ...”

50. In *Ravi Kumar v. Julmidevi*¹¹, 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:

¹⁰ (2005) 2 SCC 22

¹¹ (2010) 4 SCC 476.



“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.”

(emphasis supplied)

51. Further, in *Roopa Soni v. Kamalnayan Soni*¹², 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. The relevant portion of the judgment is reproduced herein below:

“ 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)

52. Having regard to the prefatory judgments referred to above, and being mindful of the legal principles they enunciate, we now proceed to a detailed examination of the Impugned Judgment under challenge and apply these guiding principles to the facts and evidence on record.

¹² 2023 SCC OnLine SC 1127



2025:DHC:9233-DB



53. In the present Appeal, the Appellant's primary challenge is directed against the learned Family Court's finding on cruelty. The evidence on record unequivocally establishes a sustained pattern of mental cruelty inflicted by the Appellant upon the Respondent.

54. The most compelling evidence comprises the series of text messages sent from the Appellant's mobile number between March and June 2011. These messages, which contained vile, derogatory, and scandalous language, including questioning the Respondent's legitimacy and making reprehensible allegations against his mother, were proved beyond doubt.

55. Specific messages dated 09.05.2011, 15.05.2011, and 27.06.2011, which included terms such as "bastard", "son of a bitch," and suggestions that his mother should "earn through prostitution", are by themselves sufficient to constitute mental cruelty of the gravest kind.

56. The Appellant's explanation that the Respondent must have sent these messages to himself from her phone is inherently improbable and was rightly rejected by the learned Family Court as an afterthought, particularly since this defense was never pleaded in the written statement and no corroborative evidence was adduced to support it.

57. Words and communications of the sort proved in this case are not innocuous. The law recognizes that mental cruelty may be visited by persistent and deliberate verbal abuse and conduct that degrades a spouse and injures reputation and self-respect. The text messages in question contained imputations of illegitimacy, filthy epithets directed at the Respondent's mother and other degrading expressions a pattern



2025:DHC:9233-DB



of conduct which, cumulatively, the learned Family Court was entitled to regard as causing grave mental agony to the Respondent.

58. The learned Family Court's finding on cruelty was not, however, predicated solely upon the text messages. It also relied upon contemporaneous incidents narrated by the Respondent, *for instance*:

- (a) The Appellant habitually used derogatory epithets such as 'janwar', 'son of a bitch', 'haramzada', 'kutta', and 'kamina' in daily interactions.
- (b) In January of 2011, the Appellant slapped the Respondent for merely expressing a desire to accompany her to Mumbai, an act that constitutes physical cruelty and profound disrespect.
- (c) From the inception of the marriage, the Appellant refused conjugal relations and explicitly told the Respondent they should live like two individuals sharing a room, thereby denying him marital companionship and frustrating a fundamental aspect of marriage.
- (d) During the Durga Puja in October 2010, the Appellant tormented the Respondent for taking her to his native village, which she deemed below her status.
- (e) In early March 2011, the Appellant, from Lucknow, instructed the Respondent that his parents should not be present in the matrimonial home upon her return, forcing him to shift them out immediately.
- (f) On 08.03.2011, the Appellant, in the presence of her father, abused the Respondent and his mother in filthy language, calling him a "bastard" and alleging his mother was "characterless", ultimately forcing him to leave the matrimonial home.



2025:DHC:9233-DB



59. Taken together, these incidents formed a pattern of repetitive and escalating hostility which the learned Family Court found to be proved on the evidence. The Respondent's testimony on these incidents remained largely unchallenged in cross-examination on material points and the learned Family Court correctly applied the principle that uncontroverted evidence, particularly when supported by corroborative material, must be given due weight.

60. The Appellant's attempt to blunt the effect of the proved communications by pointing to counter-allegations of cruelty by the Respondent, such as the episode dated 12.01.2011 when she alleges she was locked indoors, or claims of pressure to cook non-vegetarian food in February 2010, cannot be permitted to displace the finding of the learned Family Court unless those allegations were proved to the same standard.

61. Mere assertion of counter-cruelty does not automatically nullify established acts of cruelty; each averment must be judged on its evidential merits. The learned Family Court scrutinized the Appellant's counter-case and reached reasoned conclusions which are not vitiated by any demonstrable error of law or perversity of fact.

62. The Appellant's plea of condonation, based on alleged cohabitation between 2011 and 2013 after the filing of the divorce petition, is without substance. Crucially, the Appellant has failed to place any material on record to substantiate her claim of cohabitation on specific dates. In the absence of such corroboration, her bald assertions cannot be accepted.

63. Moreover, even if some instances of cohabitation had occurred, they would not amount to condonation in the facts of this case. Condonation requires a full knowledge of the wrongs and a conscious



2025:DHC:9233-DB



intention to forgive and restore the marital relationship. The Appellant's own conduct subsequent to the alleged cohabitation, including her refusal to reconcile, her persistent demands for money, and her stance before the learned Family Court in 2019, where she expressly stated she was not inclined for restitution of conjugal rights and would only accept divorce upon payment of Rs. 50 lakhs, does not lead us to believe that there was a condonation of the behavior and certainly no intent to revive the marriage.

64. The Appellant's argument that the learned Family Court failed to consider the cruelty meted out to her through frivolous litigations and complaints to her office, while factually noted by the learned Family Court in its judgment, does not absolve her of her own misconduct.

65. The learned Family Court, in a balanced observation, acknowledged that the Respondent's conduct in filing multiple cases was "not entirely desirable". However, it correctly held that such conduct by the Respondent could not justify or erase the independently established cruelty inflicted by the Appellant through her unabashed verbal and textual abuse. Two wrongs do not make a right. The Appellant's proven acts of cruelty, including the use of abusive language, physical violence, and social isolation, stand on their own footing and are severe enough to warrant the dissolution of the marriage.

66. The Hon'ble Supreme Court in ***A. Jayachandra v. Aneel Kaur***¹³ held that cruelty may be inferred from a course of conduct causing "*immeasurable mental agony and torture*". The Apex Court

¹³ (2005) 2 SCC 22



2025:DHC:9233-DB



further noted that a consistent course of conduct inflicting immeasurable mental agony and torture may suffice, and mental cruelty may consist of verbal abuses and insults by using filthy and abusive language, leading to constant disturbance of mental peace. The relevant paragraphs of the judgment are extracted herein below:

“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. Conduct has to be considered, as noted above, in the background of several factors such as social status of parties, their education, physical and mental conditions, customs and traditions. It is difficult to lay down a precise definition or to give exhaustive description of the circumstances, which would constitute cruelty. It must be of the type as to satisfy the conscience of the court that the relationship between the parties had deteriorated to such an extent due to the conduct of the other spouse that it would be impossible for them to live together without mental agony, torture or distress, to entitle the complaining spouse to secure divorce. Physical violence is not absolutely essential to constitute cruelty and a consistent course of conduct inflicting immeasurable mental agony and torture may well constitute cruelty within the meaning of Section 10 of the Act. Mental cruelty may consist of verbal abuses and insults by using filthy and abusive language leading to constant disturbance of mental peace of the other party.

13. The court dealing with the petition for divorce on the ground of cruelty has to bear in mind that the problems before it are those of human beings and the psychological changes in a spouse's conduct have to be borne in mind before disposing of the petition for divorce. However insignificant or trifling, such conduct may cause pain in the mind of another. But before the conduct can be called cruelty, it must touch a certain pitch of severity. It is for the court to weigh the gravity. It has to be seen whether the conduct was such that no reasonable person would tolerate it. It has to be considered whether the complainant should be called upon to endure as a part of normal human life. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty. Cruelty in matrimonial life may be of unfounded variety, which

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MAT.APP.(F.C.) 2/2024

Page 28 of 37



2025:DHC:9233-DB



can be subtle or brutal. It may be words, gestures or by mere silence, violent or non-violent.”

(emphasis supplied)

67. The duration of the matrimonial relationship further reinforces the finding of cruelty and the absence of any semblance of a marital relationship. The parties cohabited for a mere period of about one year, from January 2010 to March 2011, and have been living separately for over fourteen years. Such a short-lived marital life, marred by persistent acrimony and followed by a prolonged separation, unequivocally indicates that, for all practical purposes, no matrimonial “relationship” existed as between the parties. The relationship has been consumed by bitterness, mutual allegations, and litigation, rendering any possibility of reconciliation entirely implausible.

68. The Appellant has raised contention with respect to non-adherence of the Evidence Act in the present case by the learned Family Court.

69. The records, however, show that this contention of the Appellant is misconceived. The learned Family Court, in Para 24 of the Impugned Judgement, which we agree with, has addressed this issue in detail, including a specific finding that the certificate under Section 65B of the Evidence Act was produced in the judicial file and shown to the counsel for the Appellant during the cross-examination of the Respondent on 28.03.2019.

70. Regarding the applicability of the Evidence Act, Section 14 of the FC Act is noteworthy, which reads as under:

“14. Application of Indian Evidence Act, 1872.—A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be

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MAT.APP.(F.C.) 2/2024

Page 29 of 37



2025:DHC:9233-DB



otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).”

71. On the applicability of the Evidence Act, the Hon’ble Supreme Court in **Aman Lohia v. Kiran Lohia**¹⁴ has observed as under:

“37. The Family Courts came to be established under the 1984 Act. Section 7 specifies the jurisdiction of the Family Court and about the nature of claims to be adjudicated by it in the form of suits and proceedings delineated in the Explanation in sub-section (1). Section 10 predicates about the procedure generally. The provisions of the CPC are made applicable for resolution of disputes falling under the 1984 Act. The Family Court is deemed to be a civil court having all powers of such court. Consequent to bestowing such power on the Family Court, comes with it a primary duty to make efforts for settlement, as prescribed under Section 9. If that does not happen, during the resolution of disputes between the parties, the Family Court then has to bear in mind the principles enunciated in the Evidence Act, 1872, which had been made applicable in terms of Section 14 of the 1984 Act. A Family Court can receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Evidence Act, 1872.

38. There is another provision, which gives insight into the working of the Family Court in the form of Section 15. It posits that the Family Court shall not be obliged to record the evidence of witnesses at length, but the Judge, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of the substance of what the witness deposes, and such memorandum shall be signed by the witness and the Judge and shall form part of the record. An incidental provision regarding efficacy of recording of evidence can be traced to Section 16 of the 1984 Act. That envisages that evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Family Court.

39. These provisions plainly reveal that the Family Court is expected to follow procedure known to law, which means insist for a formal pleading to be filed by both sides, then frame issues for determination, record evidence of the parties to prove the facts asserted by the party concerned and only thereafter, to enter upon determination and render decision thereon by recording reasons for such decision. For doing this, the Family Court is expected to give notice to the respective parties and provide them sufficient time and

¹⁴ (2021) 5 SCC 489



2025:DHC:9233-DB



opportunity to present their claim in the form of pleadings and evidence before determination of the dispute.”

(emphasis supplied)

72. The Bombay High Court on the same issue in **Premdeep v. Bhavana**¹⁵ has observed as under:

“19. The evidence of respondent was over on 8-10-2020. On 15-10-2020, she filed a pursis closing her evidence. On 22-10-2020, the Advocate for the appellant made an application at Exh. 69 under section 14 of the Family Courts Act, 1984 and sought the leave of the Court to produce on record the matrimonial profile of the respondent uploaded by her on Bharat Matrimony. com and Shaadi. com. The learned Advocate for the respondent filed his say contending that the application is not legal and tenable and therefore, prayed for rejection of the same. It is pertinent to note that along with this application the Advocate for the appellant has produced the matrimonial profile uploaded on the above two websites by the respondent. It is pertinent to mention that on being confronted with the documents, sought to be produced on record, the respondent was supposed to file a detailed reply and place on record her side of the story. The respondent could have either denied the documents or placed on record plausible explanation vis-a-vis the documents. But, the respondent chose not to do either of it. The learned Judge of the Family Court, on 22-10-2020, allowed the production of the documents. The documents are part of the record. The learned Advocate for the appellant placing reliance on section 14 of the Family Courts Act, 1984 submitted that these documents can be read in evidence. Section 14 of the Family Courts Act, 1984 provides that the Family Court may receive as evidence any report, statement, documents for deciding the dispute effectively. It further provides that the Family Court can receive the documents whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872. Section 14 of the Family Courts Act, 1984 is an exception to the application of Evidence Act, 1872 and allows the Family Court to admit the documents on record provided the same are necessary for effective resolution of the dispute. On plain reading of section 14 we have no reason to reject the submissions advanced by the learned Advocate for the appellant. In our opinion, the documents produced on record in the form of matrimonial profile uploaded by the respondent on 22-10-2020 can be taken into consideration for deciding the question in controversy in this appeal.”

(emphasis supplied)

¹⁵ 2021 SCC OnLine Bom 13714



2025:DHC:9233-DB



73. Similarly, in *Shiv Anand Damodar Shanbhag v. Sujata Shiv Anand Shanbhag*¹⁶, the Bombay High Court has held that:

“15. On the above aspect so far as the admissibility of the contents of the divorce deed, it is submitted on behalf of appellant-husband that the said document is not proved in the strict sense of proof of any document by way of examining the executor. It is further submitted that it was must for respondent-wife to examine her first husband in order to put rest the said dispute whether there was valid divorce between those parties. On this, we have gone through the reasoning given by the trial Court and also we have ascertained the import of section 14 of the Family Courts Act, 1984. Said section 14 of the Family Courts Act, 1984 reads thus:

“14. Application of Indian Evidence Act, 1872. — A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).”

Section 14 of the Family Courts Act provides for exception to the general rule of evidence regarding admissibility of statements and documents if permissible by the Court etc. It has been So provided looking to the nature of the cases which are decided by the Family Courts. The Court should not go into technicality and should take a decision on the material before it in a broad based manner. The parties appear before the Court personally and advocates are not allowed, hence the technical aspect is to be ignored and whatever material is placed before the Court, which it considers necessary to assist it and to deal it effectively can be looked into. Section 14 of the Family Courts Act is a special legislation and the principles of admissibility of documents as provided under the Evidence Act are not relevant in such cases.”

(emphasis supplied)

74. We next turn to the submission that the Appellant’s opposition to the decree of divorce was not founded upon any *bona fide* intent to restore matrimonial harmony, but was rather motivated by an attempt to secure a substantial financial settlement. This contention deserves close scrutiny in light of the material placed before the Court and the conduct of the Appellant during the proceedings.

¹⁶ 2013 SCC OnLine Bom 421



2025:DHC:9233-DB



75. The learned Family Court has recorded that in her affidavit of evidence dated 13.08.2019, as well as in the course of her cross-examination, the Appellant had unequivocally stated that she would have no objection to the dissolution of marriage if the Respondent were to pay her a sum of Rs. 50 lakhs.

76. Such a statement, emanating directly from the Appellant herself, assumes significance as it reflects a conditional acceptance of divorce contingent upon the payment of a considerable monetary amount. This position, coupled with her subsequent conduct before the learned Family Court, provides material evidence of her predominant concern with financial terms rather than a sincere inclination towards reconciliation or restoration of conjugal relations.

77. The contemporaneous assertions made by the Appellant, together with the learned Family Court's notations in the order sheet, are legitimate and relevant factors in evaluating the genuineness of a party's professed desire for restitution of matrimonial life. The learned Family Court, being the fact-finding authority, was fully entitled to draw reasonable inferences from the conduct and admissions of the parties.

78. During the proceedings in the present Appeal, considering the relative seniority in terms of age of the parties as well as the positions they held in their professional lives, we had considered it appropriate to request the parties to be present to elicit their views and ascertain whether an amicable resolution could be arrived at. During the hearing before us as well, the Appellant re-iterated the need for "financial security" and for which the demand for money was re-iterated. She would contend that she was nearing retirement and she would need a sufficient corpus to be able to live comfortably post-retirement. The

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MAT.APP.(F.C.) 2/2024

Page 33 of 37



2025:DHC:9233-DB



Appellant did not appear to be averse to the Divorce itself, but was seeking to canvass the need for financial security.

79. When a spouse, while ostensibly resisting the dissolution of marriage, simultaneously predicates consent thereto upon payment of a substantial sum, such conduct inevitably indicates that the resistance is not anchored in affection, reconciliation, or the preservation of the marital bond, but in pecuniary considerations. The inference drawn by the learned Family Court that the Appellant's approach bore a clear financial dimension cannot be said to be unfounded or unreasonable; rather, it was a logical conclusion based on the evidence before it.

80. In this context, it becomes pertinent to advert to the principles underlying Section 25 of the HMA, which vests the Court with discretion to award permanent alimony and maintenance, having regard to the income, earning capacity, property, and conduct of the parties, as well as other relevant circumstances.

81. The Hon'ble Supreme Court in **Parvin Kumar Jain v. Anju Jain**¹⁷, while considering the aspect of permanent alimony, laid down guiding principles. The relevant portion of the judgment reads as follows:

“38. This Court in **Rajnish v. Neha**, (2021) 2 SCC 324, provided a comprehensive criterion and a list of factors to be looked into while deciding the question of permanent alimony. This judgment lays down an elaborate and comprehensive framework necessary for deciding the amount of maintenance in all matrimonial proceedings, with specific emphasis on permanent alimony. The same has been reiterated by this Court in **Kiran Jyot Maini v. Anish Pramod Patel**, (2024) 13 SCC 66. The primary objective of granting permanent alimony is to ensure that the dependant spouse is not left without any support and means after the dissolution of the marriage. It aims at protecting the interests of the dependant spouse and does not provide for penalising the other

¹⁷ (2025) 2 SCC 227



2025:DHC:9233-DB



spouse in the process. The Court in these two judgments laid down the following factors to be looked into:

- 38.1. Status of the parties, social and financial.
- 38.2. Reasonable needs of the wife and the dependant children.
- 38.3. Parties' individual qualifications and employment statuses.
- 38.4. Independent income or assets owned by the applicant.
- 38.5. Standard of life enjoyed by the wife in the matrimonial home.
- 38.6. Any employment sacrifices made for the family responsibilities.
- 38.7. Reasonable litigation costs for a non-working wife.
- 38.8. Financial capacity of the husband, his income, maintenance obligations, and liabilities.
39. These are only guidelines and not a straitjacket rubric. These among such other similar factors become relevant.”

82. The provision under Section 25 is fundamentally equitable in nature and aims to secure financial justice between spouses, ensuring that a party lacking independent means of subsistence is not left destitute following the dissolution of marriage. However, the grant of such relief is not automatic; it is contingent upon proof of genuine financial necessity and equitable considerations.

83. In the present case, the Appellant is an officer of the IRTS, a highly esteemed branch of the Indian Civil Services, whereas the Respondent is a practicing lawyer.

84. It is an undisputed fact that the Appellant, being a Group ‘A’ officer, holds a senior and responsible position in the Government of India and receives a regular and substantial salary along with numerous allowances and service benefits commensurate with her post. The material on record does not disclose any evidence of financial hardship, dependency, or extraordinary circumstances that would render her incapable of maintaining herself with dignity. There is also no pleading or proof of any financial liability, medical condition, or familial obligation that could necessitate monetary



2025:DHC:9233-DB



support from the Respondent. Additionally, there is no evidence to suggest a substantial difference between the incomes of the parties.

85. Judicial discretion under Section 25 cannot be exercised to award alimony where the applicant is financially self-sufficient and independent, and such discretion must be exercised properly and judiciously, based on the record, the relative financial capacities of the parties, and the absence of any material demonstrating economic vulnerability on the part of the Appellant.

86. A careful examination of the record further reveals that the parties cohabited as husband and wife only for a brief and transitory period, and the marriage did not evolve into a stable or enduring union characterized by emotional, social, or financial interdependence. The absence of any child from the wedlock further eliminates a continuing financial responsibility that might otherwise justify an award of alimony or maintenance.

87. It is a settled principle that permanent alimony is intended as a measure of social justice and not as a tool for enrichment or equalizing the financial status of two capable individuals. The law requires that the applicant demonstrate a genuine need for financial assistance. In the present case, the Appellant's position as a senior government officer, her steady and substantial income, and the absence of dependents collectively establish that she is fully capable of maintaining herself. No evidence of financial incapacity, duress, or other compelling circumstances has been presented to justify judicial intervention.

88. In light of the foregoing analysis, we find ourselves in complete agreement with the reasoning adopted by the learned Family Court. The short duration of cohabitation, the absence of children, the

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MAT.APP.(F.C.) 2/2024

Page 36 of 37



2025:DHC:9233-DB



Appellant's substantial and independent income, and the lack of credible evidence of financial necessity cumulatively negate any claim for permanent alimony.

89. Accordingly, we find no justifiable ground to interfere with the findings of the learned Family Court, and the prayer for permanent alimony is therefore rejected.

DECISION:

90. For the reasons stated above, which demonstrate the proved and serious nature of the abusive communications and related conduct by the Appellant, the corroborative contemporaneous incidents, the inadequacy of the Appellant's counter-case on material points and the legitimate inference available to the learned Family Court that the Appellant's stance was motivated by a monetary element, we are satisfied that the learned Family Court was fully justified in concluding that the Respondent had established cruelty and no case of permanent alimony has been made out by the Appellant.

91. Accordingly, we find no merit in the present appeal, which is therefore dismissed.

92. The present appeal, along with the pending application(s), if any, stands dismissed.

93. No Order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
OCTOBER 17, 2025/sm/ds/her

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MAT.APP.(F.C.) 2/2024

Page 37 of 37