



2025:DHC:10200-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 10.11.2025

Judgment pronounced on: 20.11.2025

+ MAT.APP.(F.C.) 173/2025



.....Appellant

Through: Mr. S.D. Dikshit and Ms. Anu Tyagi, Advocates along with Appellant in person.

versus



.....Respondent

Through: Mr. Advocate (Appearance not given) along with Respondent in person.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

ANIL KSHETARPAL, J.

1. Through the present Appeal, the Appellant assails the correctness of the Impugned Judgment and Decree dated 20.03.2025 [hereinafter referred to as “Impugned Judgment”] passed by learned Family Court, whereby the Appellant’s petition under section 13(1)(ia) of the Hindu Marriage Act, 1955 [hereinafter referred to as “HMA”], for dissolution of marriage on the ground of cruelty, was dismissed.

2. The short question that arises for consideration in this Appeal is whether the Family Court rightly concluded that cruelty was not proved and, relatedly, whether it correctly invoked the principle that a



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party must approach the Court with “clean hands”.

FACTUAL MATRIX

3. The brief facts, giving rise to the present Appeal, are as follows. The parties were married on 01.03.2016 according to Hindu rites and customs at Karawal Nagar, Delhi. Owing to the marital discord, the Appellant/Husband filed [REDACTED] on 24.03.2021 alleging that the Respondent/Wife subjected him to mental cruelty by a series of acts and omissions including:

- i. disclosure on 16.12.2016 that her marriage was against her will and that she desired another man;
- ii. insistence that the Appellant live separately from his aged parents and a threat of suicide on 17.07.2017 when resisted;
- iii. demand that a new house be purchased in her name and throwing a cup of tea at the Appellant on 18.08.2018 when he was unable to comply;
- iv. repeated abusive references to the Appellant’s mother as “*langdi*” and threats to leave home if he continued contact with her (occurring *inter alia* on 19.09.2019 and 10.10.2019);
- v. refusal of physical relations since 10.10.2019 and threats to implicate the Appellant and his family in false criminal cases; and
- vi. leaving the matrimonial home with clothes and jewellery on 17.01.2020 and thereafter refusing to resume cohabitation despite overtures by the Appellant and his family.



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4. The Respondent contested [REDACTED] and in her written statement and affidavit alleged, among other things, demand for dowry by the Appellant's family, harassment by in-laws, an attempt to molest her by the Appellant's father and physical ouster from the matrimonial home. The Respondent relied upon documents including a list of dowry articles, a jewellery bill, her NGO identity card (Sankalp), and subsequent proceedings initiated after filing of the present petition, including an FIR and a petition under Section 125 of the Code of Criminal Procedure, 1973.

5. On 24.08.2022 the Family Court framed the following issues:

(i) Whether the petitioner seeks to take advantage of his own wrongs by filing this petition having treated the respondent with cruelty over demand of dowry? — OPP

(ii) Whether the petitioner has been treated with cruelty by the respondent? — OPP

(iii) Relief

6. The Appellant filed his affidavit in evidence (Ex.PW-1/A) and relied upon marriage photographs, invitation card and other identity documents. The Appellant's father gave an affidavit but was later withdrawn as a witness. The Respondent produced her affidavit in evidence (Ex.RW-1/A) and relied upon various documents (Ex.RW-1/1 to RW-1/7 and Marks R1–R2/B/C), and was the lone witness called by the Respondent.

7. Both parties were cross-examined. Materially, the Respondent's allegations in her affidavit remained largely uncontroverted for want of detailed cross-examination; whereas the Appellant's affidavit contained date-wise allegations of abusive conduct, threats and withdrawal from cohabitation.



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8. The Family Court, after considering evidence, observed that certain averments of the Respondent remained uncontroverted, the Appellant's allegations were viewed as isolated incidents or inconsistent with other parts of the record (particularly the admitted cohabitation and the Respondent's miscarriage in early 2019). The Family Court thus concluded that the Appellant had failed to prove cruelty, and further held that he was disentitled to relief on account of approaching the Court with "unclean hands" having not satisfactorily rebutted the Respondent's allegations of dowry-related ill-treatment. The petition was therefore dismissed by Impugned Judgment dated 20.03.2025.

CONTENTIONS OF THE PARTIES

9. Learned counsel for the Appellant submitted that the Family Court failed to appreciate the uncontroverted and consistent evidence of the Appellant, which demonstrated a sustained pattern of mental cruelty. It was contended that the Respondent's conduct, including her disclosure that the marriage had been against her will, repeated verbal abuses towards the Appellant and his mother, threats of suicide, refusal to cohabit, and eventual desertion without reasonable cause, cumulatively established cruelty within the meaning of Section 13(1)(ia) of the HMA.

10. It was argued that the Family Court erred in isolating each incident rather than considering their cumulative effect on the Appellant's mental peace and dignity.

11. It was further urged that the Family Court wrongly invoked the



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principle of “*clean hands*” to deny relief. The Appellant contended that mere allegations of dowry demand in the written statement, unsubstantiated by any independent evidence, could not taint his claim, particularly when no criminal case or complaint was pending at the time of filing the petition. It was submitted that the Family Court failed to appreciate that while the burden of proving cruelty lay on the Appellant, the onus of establishing counter-allegations rested equally on the Respondent. It was also argued that the finding regarding miscarriage in 2019 was speculative and irrelevant to the events of cruelty, which continued thereafter.

12. *Per contra*, learned counsel for the Respondent supported the Impugned Judgment and submitted that the Appellant was seeking divorce to evade his own misconduct. It was argued that the Respondent was subjected to continuous harassment and dowry-related demands from the Appellant’s family; that she had produced bills, a list of dowry articles and her NGO identity card to substantiate her conduct and credibility; and that the Appellant’s father had even attempted to outrage her modesty, leading her to leave the matrimonial home. It was submitted that the Respondent’s departure on 17.01.2020 was not voluntary desertion but a consequence of unbearable cruelty and insecurity.

13. Learned counsel for the Respondent further contended that the Family Court had rightly held that the Appellant approached the Court with unclean hands. It was urged that the absence of cross-examination on material aspects of her testimony, coupled with the withdrawal of the Appellant’s father as a witness, justified the



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inference that the Appellant's case lacked *bona fides*. It was also argued that the Appellant's narrative was inconsistent with the admitted period of cohabitation and pregnancy, and therefore the dismissal of the petition required no interference.

ANALYSIS & FINDINGS

14. This Court has considered the submissions advanced by learned counsel for the parties and perused the record. The scope of interference in an Appeal under Section 19 of the Family Courts Act, 1984, though limited, extends to cases where the trial Court's findings are perverse, based on misreading of evidence, or where material circumstances have been ignored. Applying this standard, this Court proceeds to examine whether the Appellant succeeded in proving cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act, 1955, and whether the Family Court erred in invoking the principle of "clean hands", as embodied in Section 23(1)(a) of the HMA, to deny relief to the Appellant.

15. For ease of reference, the relevant provisions are reproduced below:

Section 13(1)(ia), Hindu Marriage Act, 1955 –

"Any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party has, after the solemnization of the marriage, treated the petitioner with cruelty."

xxx

xxx

xxx

xxx

Section 23(1)(a), Hindu Marriage Act, 1955 –

"In any proceeding under this Act, whether defended or not, if the Court is satisfied that—

(a) any of the grounds for granting relief exists and the petitioner



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except in cases where the relief is sought by him on the ground specified in sub-clause (a), sub-clause (b) or sub-clause (c) of clause (ii) of section 5 is not in any way taking advantage of his or her own wrong or disability for the purpose of such relief, and
.....”

16. The expression “*treated the petitioner with cruelty*” under Section 13(1)(ia) has not been defined in the statute. However, in *V. Bhagat v. D. Bhagat*¹, the Supreme Court explained that mental cruelty includes conduct that causes such mental pain and suffering as would make it impossible for the aggrieved spouse to live with the other. Similarly, in *Samar Ghosh v. Jaya Ghosh*², the Supreme Court held that cruelty must be determined in the light of the parties’ social background and that a sustained course of abusive, humiliating, or indifferent behaviour may amount to mental cruelty.

17. Applying these principles, the Appellant’s testimony regarding the Respondent’s repeated verbal abuses, threats of suicide, withdrawal from cohabitation, and ultimate desertion remained consistent and largely unshaken in cross-examination. The evidence establishes that the Respondent’s conduct caused continuous mental stress and humiliation to the Appellant and his family. The Family Court’s approach of assessing each incident in isolation rather than cumulatively was contrary to the settled legal position in *Samar Ghosh* (supra).

18. The Respondent’s allegations of dowry demand and of an attempted molestation by the Appellant’s father are devoid of contemporaneous support. Notably, no complaint, FIR, or protective

¹ (1994) 1 SCC 337

² (2007) 4 SCC 511



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action was initiated at any point prior to the filing of the Appellant's divorce petition on 24.03.2021. It is an admitted position on record that the FIR and other proceedings were instituted only subsequently, which materially undermines the Respondent's version. The post-litigation initiation of criminal proceedings strongly indicates that the allegations were reactive, embellished, or incomplete, rather than a reflection of genuine or immediate grievance. The Supreme Court has repeatedly held, including in *A. Jayachandra v. Aneel Kaur*³, that unsubstantiated, belated, or exaggerated accusations, particularly when raised only after matrimonial litigation commences, may themselves constitute mental cruelty. Applying this principle, this Court finds that the Respondent's belated criminal allegations cannot detract from or outweigh the Appellant's consistent evidence of sustained cruelty.

19. The Family Court also placed reliance on the Respondent's miscarriage in early 2019 to infer harmonious relations between the parties. Such an inference is legally untenable. The occurrence of pregnancy or temporary reconciliation cannot erase antecedent acts of cruelty, particularly when the record demonstrates that the Respondent's abusive conduct, threats, and denial of cohabitation persisted thereafter. Cruelty must be judged from the entirety of the circumstances and not from isolated episodes of reconciliation.

20. Taken cumulatively, the Respondent's conduct, repeated verbal insults directed at the Appellant and his mother, who is disabled, persistent threats of self-harm, refusal to cohabit, and desertion

³ (2005) 2 SCC 22



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without reasonable cause, satisfies the test of mental cruelty as judicially recognized in *K. Srinivas Rao v. D.A. Deepa*⁴, and reaffirmed in *Naveen Kohli v. Neelu Kohli*⁵. In these decisions, the Supreme Court held that sustained abusive behaviour, denial of conjugal companionship, or threats to implicate the spouse in false criminal cases constitute cruelty warranting dissolution of marriage under Section 13(1)(ia) of the HMA.

21. Coming now to the finding regarding “clean hands,” the Family Court relied on Section 23(1)(a) of the HMA to deny relief. However, that provision is intended to prevent a party from deriving advantage from his or her own wrong. It does not empower the Court to reject relief where the petitioner has otherwise established the statutory ground for divorce. In *Savitri Pandey v. Prem Chandra Pandey*⁶, the Supreme Court clarified that Section 23(1)(a) of the HMA applies only when the petitioner’s conduct constitutes a matrimonial offence or contributes directly to the breakdown. In the present case, no such finding is supported by evidence.

22. The Respondent’s allegations of dowry harassment and misconduct remained unsubstantiated. The withdrawal of the Appellant’s father as a witness does not, by itself, amount to suppression of material facts or constitute “wrong” within the meaning of Section 23(1)(a) of the HMA. The Family Court’s conclusion that the Appellant approached the Court with unclean hands, therefore, rests on conjecture rather than proof.

⁴ (2013) 5 SCC 226

⁵ (2006) 4 SCC 558

⁶ (2002) 2 SCC 73



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23. In view of the foregoing analysis, this Court is satisfied that the Appellant has established cruelty within the meaning of Section 13(1)(ia) of the HMA, and that there exists no bar under Section 23(1)(a) to the grant of relief. It is also significant that the Respondent herself has alleged attempted molestation by her father-in-law. Even assuming such an allegation to be true for the sake of argument, cohabitation thereafter becomes virtually impossible, for such a foundational claim strikes at the very root of mutual trust between the families. As judicially recognized, once a spouse levels allegations of sexual impropriety against close relatives of the other party, the possibility of restoration of matrimonial harmony is effectively extinguished. The parties have admittedly been living separately since January 2020, and there is no child from the wedlock, a factor that further eliminates any practical avenue for reconciliation. The marital bond has thus eroded beyond repair, and the marriage has reached the stage of complete and irretrievable breakdown, as described in *Naveen Kohli* (supra). Compelling the parties to remain tied to such a union would serve no purpose but to perpetuate mutual bitterness and mental agony. The Appellant is, therefore, entitled to a decree of divorce.

OPERATIVE DIRECTIONS

24. In view of the findings recorded hereinabove, this Court is satisfied that the marriage between the parties has irretrievably broken down, and that the Appellant has successfully established the ground of cruelty under Section 13(1)(ia) of the HMA. Consequently, the present Appeal is allowed. The Impugned Judgment and Decree dated



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20.03.2025 passed by the learned Family Court is hereby set aside.

25. It is accordingly ordered and decreed that the marriage solemnized between the Appellant and the Respondent on 01.03.2016, under the provisions of the Hindu Marriage Act, 1955, stands dissolved by a decree of divorce under Section 13(1)(ia) of the HMA. The Registry shall draw up the Decree Sheet accordingly.

26. Before parting, this Court deems it appropriate to observe that matrimonial litigation often leaves behind deep emotional scars. The dissolution of marriage is not a triumph of one over the other, but a legal recognition that the relationship has reached a point of no return. Both parties are urged to maintain civility in all future interactions, particularly in the event of any pending or future proceedings concerning maintenance or other ancillary reliefs.

27. The present Appeal stands disposed of.

ANIL KSHETARPAL, J.

RENU BHATNAGAR, J.

NOVEMBER 20, 2025

jai/pal