



2025:DHC:10718-DB



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

% *Judgement reserved on: 29.10.2025*
Judgement delivered on: 02.12.2025

+ **MAT.APP.(F.C.) 6/2017**

RADHIKA NANDRAJOGAppellant

Through: Mrs. Sima Gulati, Mr. Timothy
Koshy Varghese and Ms.
Diksha Narula, Advocates.

versus

VIJIT NANDRAJOGRespondent

Through: Mr. Vikas Nagpal, Advocate.

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

JUDGMENT

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Appeal has been preferred under Section 19 of the **Family Courts Act, 1984**¹ read with Section 28 of the **Hindu Marriage Act, 1955**², assailing the **Judgment and Decree dated 15.10.2016**³ passed by the learned **Additional Principal Judge, Family Courts, West District, Tis Hazari, Delhi**⁴, in HMA No. 23/2007 (*later renumbered as HMA No. 363/10 and then HMA No.*

¹ FC Act

² HMA

³ Impugned Judgement

⁴ Family Court



358/2014), titled as *Shri Vijit Nandrajog v. Ms. Radhika Nandrajog*, whereby the marriage between the **Appellant-Wife**⁵ and the **Respondent-Husband**⁶ was dissolved on the ground of cruelty under Section 13(1)(ia) of the HMA.

BRIEF FACTS:

2. The marriage between the Appellant-Wife and the Respondent-Husband was solemnized on 04.02.2005 in New Delhi according to Hindu rites and customs. No child was born out of the said wedlock.
3. Before the learned Family Court, the case set up by the Respondent-Husband and the defence put forth by the Appellant-Wife were primarily based on allegations and counter-allegations pertaining to their early marital life, in respect of which no documentary evidence could possibly exist to establish the facts conclusively.
4. As per the Respondent-Husband, during the honeymoon, while staying at Hotel (Uppal Orchid), the Appellant-Wife appeared depressed and withdrawn. On being asked, she stated that she was feeling low due to separation from her family. It has been alleged that she showed reluctance towards the Respondent-Husband's advances for consummation of the marriage, rebuked him for his insistence, and remarked that he was being insensitive to her state of mind.
5. The Respondent-Husband has further averred that even after returning from the honeymoon, the Appellant-Wife remained distant and disinterested. On being questioned, she attributed her conduct to distress arising from her father's short-tempered nature and her mother's psychological illness. It has been further stated that on the day of the marriage, an altercation occurred when some tea

⁵ Respondent before Family Court

⁶ Petitioner before Family Court



accidentally spilled on the clothes of the Appellant-Wife's mother by one of the Respondent-Husband's relatives, resulting in abusive language and directions from the Appellant-Wife's mother that the Appellant-Wife should not associate with that relative, which caused embarrassment to the Respondent-Husband's family.

6. It has been the case of the Respondent-Husband that within a few days of the marriage, the Appellant-Wife left for her parental home at Panipat with her mother without giving any reason and, while leaving, remarked that she had been "*married and not sold*". Thereafter, her conduct allegedly became erratic, as she often left the matrimonial home without intimation, returned late at night, and reacted angrily when questioned, threatening to implicate the Respondent-Husband and his family in false criminal complaints.

7. The Respondent-Husband has alleged that the Appellant-Wife's attitude towards his parents was disrespectful and that she refused to perform even minor domestic courtesies. On being affectionately requested by his parents to prepare tea, she allegedly shouted that she was not a cook and expressed her unwillingness to live in a joint family. It has been further alleged that the Appellant-Wife's sister, Geetika, frequently visited the matrimonial home without prior intimation, and on one occasion, both sisters left the house without informing anyone. When contacted, the Appellant-Wife's parents expressed ignorance of their whereabouts.

8. The Respondent-Husband has further alleged that the Appellant-Wife demanded a monthly allowance of Rs. 50,000/- for her personal expenses, insulted him by calling him a "useless lawyer" with low income, and threatened to implicate him and his family in



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false dowry complaints if her demands were not met. It has been stated that on 07.03.2005, the Appellant-Wife left the matrimonial home along with her father and did not return thereafter. The Respondent-Husband alleges that he thereafter made attempts at reconciliation and arranged separate accommodation in April 2005 at B-5/136, Safdarjung Enclave, New Delhi, but the Appellant-Wife refused to resume cohabitation.

9. It has been further alleged that during her stay, the Appellant-Wife frequently deleted call logs and e-mails, took telephone calls in isolation, and avoided sharing details with the Respondent-Husband, which, according to him, created suspicion about her conduct. The Respondent-Husband states that her continued refusal to consummate the marriage, coupled with repeated quarrels and threats, caused him extreme mental agony and humiliation.

10. The Respondent-Husband has further alleged that the Appellant-Wife had filed false cases against him and his family members, causing him immense mental agony and social distress.

11. The Respondent-Husband has contended that the cumulative conduct of the Appellant-Wife caused him grave mental and physical cruelty. He, therefore, in 2007, filed a petition under Section 13(1)(ia) of the HMA, seeking dissolution of the marriage.

12. The Appellant-Wife, on the other hand, has alleged that she was not permitted to go out freely, use electronic devices, or interact with her parents, and that she was humiliated and taunted by her in-laws. It has been further alleged that the Respondent-Husband and his family engaged persons to follow her movements, and one such incident was reported to the police on 28.08.2005 during Janmashtami, when she



and her aunt were followed by two men on motorcycles.

13. The Appellant-Wife has stated that the acts of cruelty, intimidation, and harassment compelled her to leave her matrimonial home. On 05.10.2005, she lodged a complaint before the **Crime Against Women Cell**⁷, Rajouri Garden, Delhi, where the Respondent-Husband and his family were summoned. After six to eight sessions of mediation, they assured that she would be taken back to the matrimonial home and treated with affection. Relying upon those assurances, the Appellant-Wife withdrew her complaint on 28.11.2005. The Appellant-Wife asserts that the reconciliation did not materialise and was employed by the Respondent-Husband as a device to pre-empt further proceedings.

14. Thereafter, on 28.05.2007, the Appellant-Wife filed a fresh complaint before the CAW Cell, Nanak Pura, Delhi, against the Respondent-Husband and his family members, which resulted in the registration of an FIR bearing No. 8/2008 dated 05.01.2008 under Sections 498-A and 406 of the **Indian Penal Code, 1860**⁸, at Police Station Vasant Kunj, New Delhi.

15. The Appellant-Wife also filed a petition under Section 12 of the **Protection of Women from Domestic Violence Act, 2005**⁹, on 26.05.2007, against the Respondent-Husband and his parents before the learned Metropolitan Magistrate, Saket Courts, District-South, Delhi.

16. The Appellant-Wife has maintained that she was treated with cruelty, both mental and physical, by the Respondent-Husband and his

⁷ CAW Cell

⁸ IPC

⁹ DV Act



family members, and that the allegations made by the Respondent-Husband were false, frivolous, and calumnious, and by themselves amount to cruelty. It has been her case that the Respondent-Husband's petition was filed with *mala fide* intent to take advantage of his own wrongs and to escape criminal liability arising from her complaints.

17. After considering the pleadings and evidence led by both parties, the learned Family Court, by the Impugned Judgment dated 15.10.2016, allowed the petition filed by the Respondent-Husband under Section 13(1)(ia) of the HMA, and granted a decree of divorce on the ground of cruelty.

18. Aggrieved by the Impugned Judgment, the Appellant-Wife has preferred the present Appeal before this Court.

CONTENTIONS BY THE APPELLANT-WIFE:

19. Learned Counsel for the Appellant-Wife would submit that the Impugned Judgment suffers from grave legal infirmities as the learned Family Court erred in holding that the marriage between the parties was not consummated and in shifting the burden of proof upon the Appellant-Wife to establish that she had not treated the Respondent-Husband with cruelty. It would be contended that the findings are contrary to settled principles of matrimonial law, wherein the onus to prove cruelty rests upon the party who alleges it.

20. It would be urged by the learned Counsel for the Appellant-Wife that the issue of non-consummation of marriage was never raised by the Respondent-Husband before any family member during the period of cohabitation or even during the mediation proceedings before the CAW Cell and on the contrary, it stood admitted by the Respondent-Husband in his cross-examination that the parties stayed



together at different hotels within Delhi immediately after their marriage and even undertook a trip to Shimla within a few weeks thereof, hence, the finding of non-consummation is wholly untenable and unsupported by the evidence on record.

21. The learned Counsel for the Appellant-Wife would submit that the learned Family Court has further erred in accepting the Respondent-Husband's allegation that the Appellant-Wife deserted the matrimonial home on 07.03.2005, within a month of marriage. It would be further submitted that the Respondent-Husband has failed to produce any credible evidence, oral or documentary, or to examine any independent witness to substantiate his claim of the Appellant-Wife's alleged aggressive behaviour, and the finding that the Appellant-Wife was suffering from depression or was disinterested in cohabitation is equally baseless, as no medical record or corroborative material was ever placed on record by the Respondent-Husband.

22. It would further be contended by the learned Counsel for the Appellant-Wife that the learned Family Court has ignored the material testimony of RW-5, the father of the Appellant, who categorically denied the statement attributed to him in the amended written statement filed, in the defamation suit being CS(OS) No.1313/2008 titled *Vijay Gulati v. Radhika & Ors.*, before the learned Single Bench of this Court, wherein the date of last cohabitation was incorrectly mentioned as 07.03.2005. It is further submitted that he clarified in his deposition dated 15.07.2015 that the said amendment was procured under coercion and false assurances from the Respondent-Husband and his associates, while his original statement supported the Appellant-Wife's case that cohabitation continued till September



2005. It is also submitted that the learned Family Court has failed to appreciate that statements recorded under Section 161 of the **Code of Criminal Procedure, 1973**¹⁰, are not substantive evidence and cannot form the basis for adverse findings.

23. It is also submitted by the learned Counsel for the Appellant-Wife that the learned Family Court wrongly drew an adverse inference against the Appellant-Wife for the filing of her complaint before the CAW Cell and the petition under the DV Act, after the Respondent-Husband had instituted the divorce petition. It would further be submitted that the record clearly establishes that the Appellant-Wife's first complaint before the CAW Cell was made on 05.10.2005, i.e., prior to the filing of the divorce petition, and was subsequently withdrawn upon false assurances by the Respondent-Husband to resume cohabitation; therefore, the filing of such a *bona fide* complaint cannot, in law, constitute cruelty.

24. It would be contended by the learned Counsel for the Appellant-Wife that the learned Family Court has further misdirected itself in accepting the Respondent-Husband's version that he was always willing to reside with the Appellant. It would further be submitted that, on the contrary, the testimonies of RW-6, Sub-Inspector Babu Lal of CAW Cell, Kirti Nagar, and RW-2, Atul Sharma (JJA, Patiala House Courts), clearly reveal that during reconciliation proceedings, it was the Appellant-Wife who expressed willingness to cohabit, whereas the Respondent-Husband was reluctant to do so.

25. Learned Counsel for the Appellant-Wife would submit that the Appellant-Wife was subjected to continuous physical and mental

¹⁰ Cr.P.C.



cruelty by the Respondent-Husband, who repeatedly harassed her for not bringing dowry of Rs. 70 lakhs as demanded, and that this aspect, though duly substantiated through her evidence and contemporaneous complaints made before the concerned authorities, has been completely disregarded by the learned Trial Court.

CONTENTIONS BY THE RESPONDENT-HUSBAND:

26. *Per contra*, learned Counsel for the Respondent-Husband would submit that the Impugned Judgment is well-reasoned and passed after due appreciation of the pleadings, evidence, and arguments of both sides. It would be submitted that the learned Family Court has correctly applied the settled principles of matrimonial law while granting a decree of divorce in favour of the Respondent-Husband.

27. Learned Counsel for the Respondent-Husband would further submit that the marriage between the parties was solemnized on 04.02.2005 in accordance with Hindu rites and customs and the Appellant-Wife left the matrimonial home on 07.03.2005, and since then, there has been no cohabitation between the parties, and therefore, the marriage effectively lasted for about one month. It would further be submitted that the finding of the Learned Family Court that the Appellant-Wife deserted the Respondent-Husband without reasonable cause stands fully supported by the material on record.

28. It would be contended by the learned Counsel for the Respondent-Husband that during her cross-examination dated 09.01.2014, the Appellant-wife admitted that the parties had been living separately since March 2005, thereby supporting the



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Respondent-husband's version that separation occurred on 07.03.2005. It would further be submitted that the learned Family Court, relying on this admission and the testimony of the Appellant-Wife's father in C.S.(OS) No. 1313/2008, titled *Vijay Gulati v. Radhika & Ors.*, before this Court, wherein too, it was stated that the Appellant-Wife left her matrimonial home on 07.03.2005, rightly held that the subsequent denial of this position was an afterthought unsupported by any contemporaneous complaint or application seeking withdrawal of the said statement.

29. It would further be submitted that the learned Family Court rightly observed that the Appellant-Wife failed to produce any documentary or medical evidence in support of her allegations of physical assault, cruelty, or the Respondent-Husband's alleged anger issues; and her claims regarding non-return of jewellery and valuables were also unsupported by any contemporaneous documents.

30. It would be urged by the learned Counsel for the Respondent-Husband that the learned Family Court also took note of the Appellant-Wife's unsubstantiated allegation of a dowry demand of Rs. 70 lakhs. It would further be submitted that the father of the Appellant, in his affidavit before this Court, admitted that neither the Respondent-Husband nor his family members ever made any such demand.

31. Learned Counsel for the Respondent-Husband would further submit that the conduct of the Appellant-Wife after separation, including filing of false criminal cases, opposing the Respondent-Husband's bail, sending emails to his professional associates, and circulating copies of the FIR and bail orders, clearly demonstrated her



intention to malign and harass the Respondent-Husband.

32. It would further be contended by the learned Counsel that the correctness of the learned Family Court's findings is fortified by subsequent developments as the Respondent-Husband and his parents were acquitted in *State v. Vijit Nandrajog & Ors.*, FIR No. 08/2008, P.S.-Vasant Kunj, New Delhi, under Sections 498A/406/34 IPC, by judgment dated 28.02.2019, and further, the complaint under Section 12 of the DV Act, filed by the Appellant, was also dismissed by the learned MM-03, Mahila Court, Saket, on 27.08.2019, and the said decision was upheld in Appeal on 03.02.2023. It would thus be submitted that these subsequent judgments vindicate the findings of the learned Family Court that the allegations levelled by the Appellant-Wife were false and malicious.

ANALYSIS:

33. We have heard the learned Counsel for the parties at length and have also undertaken a comprehensive examination of the pleadings, the evidence adduced before the learned Family Court, and the material available on record.

34. A perusal of the Impugned Judgment reflects that the learned Family Court framed two principal issues for determination, *namely*:

- (a) Whether the Appellant-Wife has treated the Respondent-Husband with cruelty?
- (b) Whether the Respondent-Husband is entitled to a decree of divorce on the grounds of cruelty?

35. In the Impugned Judgment, the learned Family Court has exhaustively examined the pleadings and evidence of both parties on



the issue and has rendered its findings upon a cumulative consideration of all material facts and evidence brought on record.

36. At the outset, we deem it appropriate to refer to the reasoning and conclusions recorded by the learned Family Court in the Impugned Judgment concerning the allegations of cruelty levelled by the Respondent-Husband against the Appellant-Wife. Some relevant portions of the said Judgment are extracted herein below:

“40. In this case, the claim of the respondent is that consummation was pre and post marriage which has been denied by the petitioner. The pre-marriage consummation is immaterial, even if it can be taken as a conduct of either / both spouse to weigh the probability factor of such happening post marriage. It is the respondent who claimed pre-nuptial consummation. Thus, onus shifted upon her to establish this fact on the face of denial by the petitioner. The respondent could have subjected the petitioner to grilling cross-examination as to their meeting venue, availability of opportunity to have sex, frequency thereof as to the contraception mode used, whether it was the respondent who used the same, if so, on whose advise, in that eventuality, the adviser could have been led in evidence. Whether it was the petitioner who used contraceptive, if so, where the used contraceptives were disposed etc. But the respondent did not raise any such question and simply testified a self serving statement. So she lost the opportunity to make a dent on the conduct of the petitioner in this regard. Be that as it may, the main question for determination is whether there was non-consummation post marriage.

53. The respondent has denied any such incidence of misbehaviour by her. In his cross-examination dated 8-07-2014, the petitioner was suggested that on 15-02-2015, sister of the respondent namely Geetika alongwith Ms Neha Chaudhary, friend of the respondent visited the matrimonial home and no such incident took place but the petitioner remained firm and stated that Geetika had visited the matrimonial home alone. The respondent could have impeached the petitioner by producing Geetika and Neha in defence but she did not produce them. The petitioner has also testified that on 18-02-2005 on the asking and persistence of the respondent to get his laptop so that respondent could check her email, he gave her the laptop on next day after getting the same from office. As per the petitioner, the respondent refused to share her password with him. There appears to be no rebuttal to



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such a claim. But non-sharing of a password by a spouse with the life partner does not tantamount to cruelty in strict sense though it may give rise to a cause of doubting the intention of such nongiver in case the counter part is traditional in approach and mind set.

65. In his cross-examination dated 9-01-2014 the respondent has herself suggested to the petitioner that the couple is living in separation since March, 2006 whereas her claim is that it is from September end 2005.

66. On the inclusion in the affidavit in evidence of issues relating to filing of subsequent CAW Cell complaint by the respondent resulting in FIR and filing of DV Act complaint by the respondent both as counter blast to his divorce petition, the petitioner has clarified that he filed the petition on 10-01-2007 whereas the aforesaid are post filing happenings. In my considered view the judicial proceedings post filing can be taken note of judicially as well as reliance of the same by the petitioner is not illegal and can be looked into.

67. The cross-examination dated 1-05-2014 of the petitioner reflects that he remained firm that he made constant efforts after 7-03-2005 for rapprochement with the respondent; that he remained in disturbed state of mind for 6 to 8 months after leaving by the respondent. To boost his morale at the instance of his well wishers, he attended music concert JOE SATRIANI in Mumbai in April/May 2005. In his cross-examination dated 7-07-2014, on being questioned about the omissions in mentioning the incident dated 4-02-2005, 6-02-2005, 10-02-2005, 13-02-2005, 14-02-2005, 15-02-2005, 18-02-2005, 19-02-2005 by the petitioner in his complaint dated 23-02-2006 to Member Secy. DLSA, Patiala House, the petitioner clarified that he mentioned that Radhika (respondent) is responsible for creating hell like situation in his family and friends and insults and humiliation by her were a regular phenomenon.

68. The petitioner admits that he did not lodge any contemporaneous complaint with any one with regard to alleged threats extended by the respondent. In my considered view omission on the part of the petitioner in this regard cannot be viewed adversely against him in view of the long pre-nuptial and short post nuptial relationship between the couple as it is not expected in marital relationships that for every verbal threatening by a spouse, the other spouse would rush for legal remedy as marital relations take time to settle even if pre-nuptial relation is admitted as the social matrix post marriage for a bride changes who needs time to adjust to new routine.

69. in her cross-examination dated 8-07-2014 in the context of claim of the petitioner that a initial demand of Rs. 25 Lac was



raised by the respondent for divorce which was lowered to Rs 10 lacs as conveyed to him by uncle of the respondent and the petitioner expressed his inability to pay the amount, the petitioner was grilled over his few bank transactions running over lacs for the period from 2003 to 2010. The petitioner stated that it is to be computed on the basis of available, documents on record and he cannot off hand reply which is quite true.

70. The petitioner was also cross-examined with regard to his residential address mentioned in his passport form, in his voter I card Showing his address as at Punjabi Bagh and not of Safdarjung Enclave. The emphasis was that the petitioner had not been residing at rental Safdarjung address. The petitioner has not disputed the voter I Card or the passport form. In my considered view, filing of passport form at Punjabi Bagh address and showing the present address of Punjabi Bagh (address of his parents) in the Voter I Card Is of no consequence for the purposes of disposal of matrimonial issues as it has been observed in my judicial career that people prefer to have such documents in their permanent address as it cannot be said that by living at rented accommodation one totally abdicates visiting the permanent address if the same is accessible from rental address. Moreover the summons of the cases filed by the respondent were served at the Safdarjung address of the petitioner.

71. As regards the allegations of the petitioner that the respondent used to converse on telephone in hiding or used to delete the messages / emails, he remained firm in his stand although he admitted that he did not mention any specific date of such occurrence, in my considered view the claim of the petitioner in this regard appears to be probable in the backdrop of non-sharing of email password by the respondent which has been earlier discussed. It was within the knowledge of the respondent as to whom she was calling or from whom she was receiving the call. In order to impeach the petitioner in this regard she could have proved her call details for the relevant period to show that calls made and received were innocuous.

72. As regards the demand raised of Rs. 25 Lacs tapered to 10 Lacs, the petitioner- could not substantiate such claim as he could not give details about Identity of such uncle of the respondent who communicated such demand of the respondent.

73. On the reconciliation efforts, the petitioner is believable as he claimed that post separation telephonic talks with the respondent and multiple meetings including with parents of the respondent were held in next five months at different public places like restaurants in Vasant Vihar during which interactions the respondent was made verbally aware of the petitioner living in rented accommodation at Safdarjung. The petitioner has denied that the respondent on 8-11-2005 made her statement before Si Babu Lai 10 in her complaint filed before CAW Cell after the



petitioner assured to keep the respondent and to settle all the personal grievances amicably. On 28-n:2005 the respondent withdrew the complaint. As per the respondent the petitioner did not honour his assurances.

79. On merits, the respondent is on denial mode with regard to allegations of cruelty including non-consummation attributed to her. The respondent has inter alia submitted as regards visit of her father to the matrimonial home as mentioned in para 27 of the petition that while her father was sitting and waiting in the drawing room, the petitioner was thrashing her in the bed room and that she could not call her father to help her and that the petitioner asked her to leave with the threatening not to return. In her cross-examination dated 17-12-2014 the respondent has submitted that in this case she gave power of attorney in favour of Dr Tarun Jain who is also currently her landlord and that he had even visited USA to help her elder sister with her ongoing problems and help her settle down. She also stated that at the time of her marriage the earning of the petitioner from joint family business including rental income was in crores. She on being questioned as to what business the petitioner wanted to start in March 2005 replied as under:

"Ans. My husband wanted to start an independent business apart from enjoying the perks, returns that he was enjoying as a directors and a shareholder of the joint family business namely Bonton Cables India Pvt Ltd. He wanted to start another business, the nature of which he did not tell me, so that he could pursue golf as a professional, enjoy his music, travels, alcohols and drugs and the same he could do from the family business resources as they came with control and condition."

but the allegations of alcohol and drugs was not there in her pleadings. The respondent admitted that she had no documents to show that she offered any kind of financial companionships to the petitioner after marriage and that alongwith her affidavit she did not file any documents in support including any medical evidence to substantiate that the petitioner is suffering from anger management.

80. The respondent admitted that she did not have any documentary evidence to show that she was physically assaulted by the petitioner. The respondent voluntarily stated that she was not allowed to move out by the petitioner and his family and that she was in hostile environment at the matrimonial home.

81. The respondent also stated that she may or may not file a divorce petition and that she did not file any counter claim for divorce or separate divorce petition and her affidavit in evidence is reproduction of her amended WS.



82. The claim of the respondent that the petitioner suffered from anger management before and after marriage, and she was subjected to physical beatings could not be proved by her. The couple had long romantic relationship before marriage. If the respondent was aware of such problem, as a matter of love and concern, she should have persuaded the petitioner to seek remedy for the same by visiting the doctor so that their relationship pre & post marriage sails smoothly. The omission on this count inspires lack of confidence in her stand. The respondent has alleged brutal beatings at the hands of the petitioner but she could not get herself medically examined contemporaneously as she claims herself to be in hostile environment. However, in her own evidence the respondent has stated that on 6/7 occasions, she was turned out of the matrimonial home. In her cross-examination before DV Act court, the respondent has on 1-03-2008 stated that she used to visit her parents on regular basis. If that was so, she could have utilized the opportunity to seek legal remedy or visit any psychologist to seek opinion about the anger management problem suffered by the petitioner which was stated to be one of the cause of his misbehaviour towards the respondent. It is not believable that the father of the respondent would wait for the respondent in the drawing room and she would silently bear thrashing at the hands of the petitioner in her bedroom. Her claim that on 27-09-2005 she resisted going to her parental home when asked by the petitioner, also does not inspire confidence as on one hand the respondent alleges taunting, ill-treatment at the hands of her in laws and she felt suffocated and had hostile environment in the matrimonial home, on the other hand given the opportunity to join her parents, she would not avail the same as the reasons for such intended stay in matrimonial home at the back of the petitioner while being in UK was not revealed.

83. The respondent admitted that she was respondent in CS (OS) 1313/2008 titled Vijay Gulati Vs Radhika & Ors in Delhi High Court wherein her father Sh Satish Kumar Pruthi filed an amended WS dated 1-12-2008 mentioning that the respondent left her matrimonial home on 7-03-2005 and the documents filed by her father included a police complaint Ex. RW-1/D-3 from Sh Satish Kumar Pruthi wherein also it was stated that the respondent left the matrimonial home on 7-03-2005. The claim of the respondent and her father is that the amended WS was filed under the pressure of Nandrajog family and their business partner Mr Vijay Gulati. However, the same appears to be an after thought only as there is no complaint against such pressure imposer nor admittedly any applications was moved before Hon'ble High Court to withdraw the amended WS or the documents annexed. As per the respondent her father subsequently withdrew the police complaint. Even such withdrawal, if considered for arguments sake, does not erase the date of leaving the



matrimonial home by the respondent as 7-03-2005. It in spirit only withdraws the allegations against the alleged person.

84. The respondent claims that she was forcibly dropped by the petitioner at her parental home in September, 2005 but during her cross-examination on 21-01-2015, she stated that under pressure of her parents who were in turn being pressurized by the Nandrajog family, she left her parental home around 17th & 18th June, 2008.

85. In the obtaining facts and circumstances, it is held that the versions of the petitioner is believable that the respondent left the matrimonial home on 7-03-2005 and the version of the respondent that she lived at the matrimonial home till September, 2005 is not believable and as such all the allegations of the respondent attributing cruelties to the petitioner at matrimonial home are not believable. Moreover, the respondent has admitted that she has no contemporaneous documentary evidence with regard to greed and being abusive attributable to the petitioner and his family.

86. The respondent admitted that she filed a complaint against the petitioner with Bar Council of Delhi but stated that she did not know if the same was dismissed. She could not remember, if during the pendency of the present proceedings she filed a complaint against the petitioner with M/s. Albanese & Lutzke. The respondent admitted in her cross-examination dated 5-09-2013 the documents vide Ex. RW-1/D-4 and dated 1-03-2008 vide Ex. RW-1/D-5 in her DV Act Case.

87. The respondent admitted that she had no documents to show that the petitioner had promised in CAW Cell to take her back to the matrimonial home, it is noted that in her affidavit in evidence, the respondent has categorically stated that the petitioner was not forthcoming for any settlement before the CAW Cell, so to say that the respondent withdrew her complaint on the basis of assurance /promise of the petitioner is not brought out or proved. The claim of the respondent is that she had before the IO Babu Lai of CAW Cell and before the Counselor Mr RS Arya and PL Ranga had expressed her wish to join the petitioner and that on account of death of her grandfather she could not appear before Ld counselor of Lok Adalat. Be that as it may, the fact remains that the respondent did not file any restitution petition to show her bonafide for such joining the society of the petitioner.

88. Although the respondent has shown her interest in divorce and stated that she reserves her right to file a counter claim and divorce petition but she did not file the same. Meaning thereby, that if the petitioner fails in this case, the marriage will subsist but the respondent having no intention to join the petitioner on account of his alleged misconduct or cruel behaviour (which respondent could not prove in this case), would continue to deprive the petitioner of her marital sojourn. The sexual relationship is considered as bedrock for a healthy marital life. This marriage



has turned dead bereft of any positive emotions for each other. Since inception of the marriage the respondent has alleged cruelty against the petitioner, then why she wants to stay in this marriage. Reasons remain unexplained.

91. The petitioner has also alleged fabrications and morphing of documents by the respondent to showcase the petitioner attending various shows of musical programmes but she admittedly could not prove the same as per law.

92. On the allegations of dowry demand as mentioned in her Pleadings the petitioner was not put any suggestions and no evidence was led by the respondent to substantiate such dowry demands, as such, levelling of such allegations in the WS tantamounts to cruelty as has also been judicially held in catena of decided cases. Moreover, father of the respondent in his affidavit before Hon'ble High Court inter alia affirmed that neither Vijit Nandrajog, Vijay Gulati nor his family members have made any demand for dowry nor any other material demand was made.

93. The act of the respondent in opposing the bail initially and then moving for cancellation of the bail order depicts that the respondent claim that she wanted to join the matrimonial home is not congruous with her intentions.

94. The alleged demand of Rs 70 Lac by the petitioner seems to be not holding ground in view of own version of the respondent that at the time of the marriage as a part of the joint family set up the petitioner earned in crores. In the written submissions, it has been pointed out that in the amended WS the respondent justified the ground of such demand of Rs. 70 Lacs as the petitioner wanted to start a separate business and was getting only Rs 1Lac from his parents from joint business but in her DV Act case, the respondent alleged that the petitioner was earning Rs. 10 Lacs per month but in her cross-examination dated 2-03-2015 there admitted that she has no evidence to substantiate such claim.

95. In the written submissions, the episode of alleged molestation of domestic help female aged 14 years by the father of the respondent regarding which the respondent had made admission in DV Act Court has bearing only to the extent that It was on account of such episode, the respondent left her parental home in June 2008 but her claim before this court that she left the parental borne because of the excessive pressure exerted on her parents by her in laws and Mr Gulati appears to be not probable.

96. On the basis of preponderance of probabilities in the light of foregoing discussion both the issues are decided in favour of the petitioner and against the respondent.

RELIEF



97. In View of my decision on issue no. 1 and 2 above, the marriage of the petitioner Vijit Nandrajog with the respondent Radhika is hereby dissolved w.e.f. today i.e. 15th October, 2016 on the ground of cruelty u/s 13 (1) (ia) of Hindu Marriage Act, 1955.”

37. It is no longer *res integra* that the expression “*cruelty*” envisaged under Section 13(1)(ia) of the HMA has a fluid nature and lacks an exhaustive definition. The concept is inherently flexible and must be construed in the context of the facts and circumstances of each individual case. What may constitute cruelty in one matrimonial relationship may not, in another. The determination necessarily depends on the social milieu, temperament, and background of the parties. The Court, while exercising its judicial discretion, is required to examine whether the conduct complained of, when viewed cumulatively and in its overall setting, is of such nature and gravity as to cause mental or physical suffering sufficient to destroy the legitimate expectations of marital life.

38. Over the years, the contours of cruelty under Section 13(1)(ia) have been elaborated and refined through a consistent line of decisions of the Hon’ble Supreme Court. These decisions recognise that cruelty is not confined to acts of physical violence alone but extends equally to conduct that inflicts mental pain, emotional distress, or humiliation upon the aggrieved spouse. The emphasis is not merely on the act itself but on its cumulative impact on the other spouse and the extent to which such conduct renders continued cohabitation intolerable.

39. In this regard, reference may be made to the decision of this Court in *Ms. Anupama Sharma v. Shri Sanjay Sharma*¹¹, wherein the principles governing the determination of cruelty under matrimonial law were revisited in detail. The Court observed that cruelty cannot be

¹¹ 2025:DHC:8826-DB



tested on a uniform standard or by any mechanical formula; rather, it must be assessed in the context of human behaviour, the evolving nature of marital obligations, and the prevailing social environment. The observations made therein are instructive and provide useful guidance for the adjudication of the present case. The relevant excerpts are reproduced herein below:

“**40.** At the outset, it is imperative to note the seminal decision of the Hon’ble Supreme Court in *Samar Ghosh v. Jaya Ghosh*, where the Court undertook an exhaustive analysis of mental cruelty in matrimonial relationships. The Apex Court emphasized that human behaviour is complex and what amounts to cruelty varies with individual temperament, upbringing, education, cultural background, social status, financial position, and value systems. Mental cruelty is not static; each case must be adjudicated on its facts, considering the cumulative conduct of the parties, rather than isolated incidents. Illustrative examples include persistent mental pain, abusive or humiliating conduct, neglect of conjugal duties, refusal to engage in marital obligations without justification, and sustained conduct rendering cohabitation intolerable. However, trivial irritations, ordinary quarrels, or isolated acts do not constitute cruelty. The pertinent observations of the said judgment merit reproduction hereinbelow:

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

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



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 added)

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

“16. Mental cruelty in Section 13(1)(ia) can broadly be defined as that conduct which inflicts upon the other party such mental pain and suffering as would make it not possible for that party to live with the other. In other words, mental cruelty must be of such a nature that the parties cannot reasonably be expected to live together. The situation must be such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with the other party. It is not necessary to prove that the mental cruelty is such as to cause injury to the health of the petitioner. While arriving at such conclusion, regard must be had to the social status,



educational level of the parties, the society they move in, the possibility or otherwise of the parties ever living together in case they are already living apart and all other relevant facts and circumstances which it is neither possible nor desirable to set out exhaustively. What is cruelty in one case may not amount to cruelty in another case. It is a matter to be determined in each case having regard to the facts and circumstances of that case. If it is a case of accusations and allegations, regard must also be had to the context in which they were made.”

(emphasis supplied)

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

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

...A feeling of anguish, disappointment and frustration in one spouse caused by the conduct of the other can only be appreciated on assessing the attending facts and circumstances in which the two partners of matrimonial life have been living. The inference has to be drawn from the attending facts and circumstances taken cumulatively. In case of mental cruelty it will not be a correct approach to take an instance of misbehaviour in isolation and then pose the question whether such behaviour is sufficient by itself to cause mental cruelty. The approach should be to take the cumulative effect of the facts and circumstances emerging from the evidence on record and then draw a fair inference whether the petitioner in the divorce petition has been subjected to mental cruelty due to conduct of the other”.

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

“10. ...The question of mental cruelty has to be considered in the light of the norms of marital ties of the particular



society to which the parties belong, their social values, status, environment in which they live. Cruelty, as noted above, includes mental cruelty, which falls within the purview of a matrimonial wrong. Cruelty need not be physical. If from the conduct of the spouse same is established and/or an inference can be legitimately drawn that the treatment of the spouse is such that it causes an apprehension in the mind of the other spouse, about his or her mental welfare then this conduct amounts to cruelty

xxxxx

12. To constitute cruelty, the conduct complained of should be “grave and weighty” so as to come to the conclusion that the petitioner spouse cannot be reasonably expected to live with the other spouse. It must be something more serious than “ordinary wear and tear of married life”. The conduct taking into consideration the circumstances and background has to be examined to reach the conclusion whether the conduct complained of amounts to cruelty in the matrimonial law. ...”

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

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

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



That possibly explains why Lord Denning in *Sheldon v. Sheldon* [*Sheldon v. Sheldon*, 1966 P 62: (1966) 2 WLR 993 (CA)] held that categories of cruelty in matrimonial cases are never closed.”

(emphasis supplied)

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

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

(emphasis supplied)

40. Having regard to the settled legal position and the principles enunciated in the aforesaid precedents, we now proceed to examine the findings recorded in the Impugned Judgment, which is presently under challenge.

41. A perusal of the Impugned Judgment reflects that, while examining the issue of cruelty under Section 13(1)(ia) of HMA, the learned Family Court recorded several material findings on primary issues raised by the parties. Key findings in this regard are as follows:

- (a) The Respondent-Husband alleged that Appellant-Wife was in a depressed mood after the wedding and denied physical intimacy. While the Respondent-Husband on multiple occasions tried to consummate the marriage, the Appellant-Wife remained indifferent to his efforts and refused consummation. The learned Family Court found his claim to be probable based on the preponderance of probabilities.



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- (b) The Respondent-Husband further alleged that Appellant-Wife left the matrimonial home after a month, on 07.03.2005, whereas the Appellant-Wife claimed it to be the end of September. However, the Family Court, based on her own evidence and her Father's statement, found the Respondent-Husband's version to be believable.
- (c) The Respondent-husband alleged that the Appellant-wife had levelled false and unsubstantiated allegations of dowry demand in her pleadings. He contended that no suggestion on this aspect was put to him during cross-examination and no evidence was led to substantiate such claims. The learned Family Court noted that the Appellant-Wife had failed to prove any instance of dowry demand and that her allegations were unsupported by any material or witness.
- (d) The Appellant-wife denied all allegations of cruelty and, in turn, alleged that the Respondent-husband suffered from anger issues, had physically assaulted her, consumed alcohol and drugs, and had demanded a sum of Rs. 70 lakhs to start his own business. However, no medical record was produced to substantiate the alleged behavioural issues, nor was any document placed on record to demonstrate that the Appellant-Wife had extended any financial assistance or that such monetary demand was ever made.
- (e) The Appellant-Wife had claimed that she made efforts to cohabit; however, the Respondent-Husband pointed out that the Appellant-Wife had initially opposed his bail and later moved an application for its cancellation. The learned Family Court has



observed that such conduct appeared to be incongruous with the alleged desire to maintain matrimonial relations.

- (f) Taking into account the material on record, the learned Family Court observed that the conduct of the Appellant-wife in opposing and seeking cancellation of the Respondent-husband's bail, sending emails to his professional associates enclosing copies of the FIR and bail order, and making unsubstantiated allegations of dowry demand and financial impropriety, collectively amounted to mental cruelty. It was also noted that the Appellant-Wife's father had affirmed before this Court that no dowry or material demand had ever been made by the Respondent-Husband or his family members, thereby falsifying the Appellant-Wife's allegations. The learned Family Court further recorded that the alleged demand of Rs. 70 lakhs was inherently improbable in light of the Respondent-Husband's own financial position and that no evidence was produced to substantiate the same.
- (g) On an overall appreciation of the evidence, the learned Family Court concluded that the allegations levelled by the Appellant-Wife were not probable and remain unsubstantiated. Further, her conduct in circulating calumnious material, opposing bail, and making reckless accusations caused mental cruelty to the Respondent-Husband. Accordingly, vide the Impugned Judgement and Decree, both issues were decreed in favour of the Respondent-Husband and their marriage was dissolved on the ground of cruelty.



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42. The learned Family Court has based its conclusion on three main aspects:

- A. Refusal to consummate the marriage and subsequent desertion of the matrimonial home, leading to the crumbling of the marriage after a month of its solemnisation.
- B. False allegations and criminal complaints against the Respondent-Husband as well as his family, causing mental harassment and distress.
- C. Consistent aggravated acts, which were not just ordinary wear and tear, carried out by the Appellant-Wife during the brief period, resulting in projecting the Respondent-Husband in a bad light, not only in front of his relatives but also in the professional setting.

A1. With respect to the first aspect, the Appellant-Wife disputed the finding of the learned Family Court by asserting that she had left the matrimonial home in September 2005, and not in March 2005 as claimed by the Respondent-Husband. The learned Family Court, however, considered several relevant factors, including the consistent stand of the Respondent-Husband and the statement of the Appellant-Wife's father. It specifically noted the statement of the Appellant-Wife's father in C.S.(OS) No. 1313/2008 titled *Vijay Gulati v. Radhika & Ors.*, before this Court, wherein he categorically stated that the Appellant-Wife had left her matrimonial home on 07.03.2005. The subsequent contention that such a statement was made under pressure was found to be



unsubstantiated, and we concur with the said finding, as no complaint alleging coercion was ever filed against anybody, nor was any attempt made to withdraw or correct the statement at any stage.

- A2. The Learned Family Court observed that the Appellant-Wife failed to produce any medical record, correspondence, or other evidence to support her assertion that the marriage had not been consummated due to any fault of the Respondent. No material was placed on record to show that she had ever raised such a grievance before her family members or any authority during the brief period of cohabitation. In the absence of any contemporaneous complaint or corroborative evidence, the learned Family Court concluded that the plea of non-consummation and the allegations associated therewith were an afterthought.
- A3. The record reflects that the learned Family Court meticulously examined every incident that transpired from the date of marriage until the Appellant-Wife left the matrimonial home, a period of approximately one month. Since the learned Family Court has undertaken a thorough and reasoned examination of the evidence, which is found to be consistent with the material on record, we do not find it necessary to revisit the same.
- A4. The fact that the Appellant-Wife resided in her matrimonial home for barely a month, coupled with the exchange of allegations and counter-allegations between



the parties during that brief period, was duly examined by the Learned Family Court. Upon evaluating the pleadings, evidence, and testimonies, the Learned Family Court found the Respondent-husband's version consistent with the material on record. It was, therefore, inferred that there was, at best, minimal cohabitation between the parties and no credible evidence was forthcoming to establish otherwise.

- B1. The second aspect considered by the learned Family Court pertains to the filing of false criminal cases and reckless allegations by the Appellant-wife against the Respondent-husband and his family members. It was observed that the Appellant-Wife lodged FIR under Sections 498A/406/34 IPC and subsequently opposed and sought cancellation of the Respondent-Husband's bail. The Appellant-Wife also initiated proceedings under the DV Act, all of which culminated in acquittal or dismissal. The learned Family Court held that such conduct, when viewed cumulatively, caused severe mental agony and humiliation to the Respondent.
- B2. The learned Family Court further recorded that the Appellant-Wife had levelled serious and unsubstantiated allegations of dowry demand to the tune of Rs. 70 lakhs, yet failed to adduce any evidence in support thereof. No contemporaneous complaint or witness was produced, and even her father's statement was found to be contrary to the same. On that basis, the learned Family Court held



that levelling false and uncorroborated allegations of dowry demand in pleadings and testimony amounted to mental cruelty.

- C1. The third aspect under which the learned Family Court considered the conduct of the Appellant-Wife concerned the disparaging acts carried out by her against the Respondent. It was noted that the Appellant-Wife had sent an email to “*Albanese*”, a firm with which the Respondent-Husband was professionally associated, making references to her marital discord, alleging financial impropriety, and enclosing copies of the FIR and bail order. The learned Family Court observed that this act projected the Respondent-Husband in a negative light before his professional associates and was intended to damage his reputation. The Appellant-Wife’s further act of circulating copies of her criminal complaint among the Respondent-Husband’s relatives was also viewed as an aggravating circumstance.
- C2. The learned Family Court, while analysing the cumulative effect of the Appellant-Wife’s conduct, held that the repeated institution of unsubstantiated criminal cases, the dissemination of calumnious material, and the levelling of reckless accusations had caused deep mental anguish to the Respondent. It was observed that such conduct struck at the very root of the marital bond and constituted cruelty within the meaning of Section 13(1)(ia) of the HMA.



43. Upon a perusal of the record, this Court finds that the above findings of the learned Family Court are based on a reasoned appreciation of evidence. The admission of separation since March 2005, coupled with the absence of any credible proof of cruelty by the Respondent, supports the conclusion that the Appellant-Wife deserted the Respondent-Husband soon after marriage. Likewise, her subsequent conduct in instituting criminal proceedings, opposing bail, and sending communications to the Respondent-Husband's professional associates to project him in a bad light, establishes a consistent pattern of hostility that caused him mental trauma.

44. It is settled law that false allegations of dowry demand or immoral conduct, made recklessly and without evidence, amount to cruelty. The learned Family Court has rightly relied on this principle and found that the Appellant-Wife's unfounded allegations, made both in pleadings and deposition, inflicted mental agony upon the Respondent.

45. There is a catena of judgments which hold that false and frivolous allegations and complaints, as well as remarks to tarnish the image of the spouse, amount to mental cruelty in terms of Section 13(1)(ia) of HMA. We deem it apposite to reproduce the discussion on this subject from the judgment of this Court in *Anupama Sharma* (*supra*), which held as follows:

“64. We find it apposite to place reliance on *Raj Talreja v. Kavita Talreja*, wherein the Hon'ble Supreme Court categorically held that lodging false complaints against a spouse and his family members is cruelty within the meaning of Section 13(1)(ia) HMA. The Apex Court made clear that mere filing of complaints may not constitute cruelty, but when the allegations are patently false, there is no manner of doubt that cruelty stands established. The relevant portion of the judgment is reproduced herein below:



“11. Cruelty can never be defined with exactitude...it is apparent that the Wife made reckless, defamatory and false accusations against her husband, his family members and colleagues, which would definitely have the effect of lowering his reputation in the eyes of his peers. Mere filing of complaints is not cruelty, if there are justifiable reasons to file the complaints. Merely because no action is taken on the complaint or after trial the accused is acquitted may not be a ground to treat such accusations of the wife as cruelty within the meaning of the Hindu Marriage Act, 1955 (for short —the Act). However, if it is found that the allegations are patently false, then there can be no manner of doubt that the said conduct of a spouse levelling false accusations against the other spouse would be an act of cruelty.”

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

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

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

“35. At the same time, to augment, it is apposite to refer to the judgment by the Co-Ordinate Bench of this court in *Preeti v. Vikas* wherein it has been held that mere lodging of an FIR, in the absence of substantive proof, cannot by itself establish allegations of cruelty or dowry harassment. The court further emphasized that such allegations must be supported by cogent and reliable evidence. Where complaints are filed immediately after the



institution of divorce proceedings, such conduct has often been regarded as a counter-blast to the petition, reflecting their use as a weapon against the opposite party and his family. The relevant portions of the said judgment are reproduced hereinbelow:

“32. It is also pertinent to note that the complaint has been filed on 07.06.2019, i.e., one day after the respondent has filed the divorce petition. Thus, it appears that such complaints were merely a counter-blast to the said petition for divorce and is being used as a weapon against the respondent and his family.

33. To conclude, not only criminal case under Section 498-A has been filed against the respondent and his family members on the ground of dowry demand, but also allegations of molestation have been made against the brother-in-law Ashish, which have not been substantiated in the present case.

34. While the term - cruelty as used in Section 13(1)(ia) of the Act, 1955 cannot be defined in given parameters, there cannot be a comprehensive definition of - cruelty within which all kinds of cases of cruelty can be covered and each case has to be considered depending upon its own unique factual circumstances. In the case of **K. Srinivas Vs. K. Sunita X (2014) SLT 126**. The Hon’ble Supreme Court held that filing of the false complaint against the husband and his family members also constitutes mental cruelty for the purpose of Section 13 (1) (ia) of the Hindu Marriage Act.

35. Similarly, it has been held by the Supreme Court in **Mangayakarasi v. M. Yuvaraj (2020) 3 SCC 786**, that an unsubstantiated allegation of dowry demand or such other allegations made against the husband and his family members exposed them to criminal litigation. Ultimately, if it is found that such allegations were unwarranted and without basis, the husband can allege that mental cruelty has been inflicted on him and claim a divorce on such a ground.

36. This Court in the case of **Nishi Vs. Jagdish Ram 233 (2016) DLT 50** held that the filing of false complaint against the husband and his



family members constitutes mental cruelty. Similar observations were made by a coordinate bench of this court in the case of **Rita v. Jai Solanki 2017 SCC OnLine Del 9078**. Thus, such complaints which are not substantiated by evidence, and remain unproved are acts of cruelty against the respondent.”

(emphasis added)”

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

“**37.** The Supreme Court in the case of **Ravi Kumar Vs. Julmidevi (2010) 4 SCC 476** has categorically held that “reckless, false and defamatory allegations against the husband and family members would have an effect of lowering their reputation in the eyes of the society” and it amounts to cruelty.

38. This Court in its earlier decisions has already held that the sacrosanct bond of marriage is based upon faith and trust and so, raising false allegation of illicit relationship, is ultimate kind of cruelty, which drives the spouses apart and shakes the foundation of marriage.””

(emphasis added)

46. In the present case, the conduct of the Appellant-wife was neither isolated nor impulsive. It reflected a continuous pattern of hostility and vindictiveness that persisted over an extended period following her departure from the matrimonial home in March 2005. The record demonstrates that she repeatedly resorted to filing complaints and initiating criminal proceedings against the Respondent-husband and his family members, most of which were found to be baseless or ended in acquittal. Such conduct caused sustained mental distress and embarrassment to the Respondent, both personally and professionally.



47. The learned Family Court has also taken into account certain material facts that arose subsequent to the filing of the divorce petition by the Respondent-Husband. We find that such consideration is in consonance with the Judgment of this Court in *Dhan Vati @ Dhanno vs. Satish Kumar*¹², wherein it was held as under:

“34. At the same time, it is equally well settled that events occurring subsequent to the filing of a divorce petition are not irrelevant and may be taken into account to discern a continuing pattern of cruelty. The Hon’ble Supreme Court in *A. Jayachandra v. Aneel Kaur* authoritatively enunciated this principle, holding as follows:

“If acts subsequent to the filing of the divorce petition can be looked into to infer condonation of the aberrations, acts subsequent to the filing of the petition can be taken note of to show a pattern in the behaviour and conduct.”

(emphasis added)”

48. It is well-settled law that false, reckless, or denigrative allegations levelled by one spouse against the other amount to cruelty under Section 13(1)(ia) of the HMA. The Appellant-Wife’s repeated accusations of dowry demand and misappropriation of jewellery, unsupported by any contemporaneous evidence or corroboration, fall squarely within that category. Her further act of communicating such allegations to the Respondent-Husband’s professional associates and circulating copies of the FIR among relatives exacerbated the same and subjected the Respondent-Husband to considerable humiliation.

49. The record also reveals that the Appellant-Wife not only opposed but later sought cancellation of the Respondent-Husband’s bail, while simultaneously addressing disparaging communications to his colleagues abroad, enclosing judicial orders to tarnish his image. The learned Family Court rightly viewed these acts as calculated to

¹² 2025:DHC:8280-DB



cause mental agony and to undermine the Respondent-Husband's social and professional standing.

50. The record reflects that the Appellant-Wife had first approached the CAW Cell on 05.10.2005, prior to the filing of the divorce petition by the Respondent. Although that complaint was later withdrawn following alleged reconciliation efforts, the learned Family Court noted that subsequent proceedings initiated by the Appellant, including criminal complaints, continued the pattern of acrimony between the parties. For ease of reference, the complete litigation and complaint history between the parties, as reflected in the record, is set out herein below:

Date of Filing	Filed By & Forum	Particulars
05.10.2005	Filed by the Appellant-Wife before the CAW Cell, Rajouri Garden, Delhi.	Complaint alleging harassment and cruelty for dowry demand by the Respondent-husband and his parents. The complaint was later withdrawn by the Appellant-Wife on 28.11.2005.
23.02.2006	Application filed by Respondent-Husband before Member Secretary, District Legal Services Authority ¹³ , Patiala House Court, Delhi.	Alleging Appellant-Wife of humiliation and mudslinging before his family and friends on regular basis.
10.01.2007	Divorce Petition filed by Respondent-Husband before Tis Hazari Court, Delhi [<i>the present proceeding</i>].	Alleging cruelty by Appellant-Wife to seek divorce under Section 13(1)(ia) of HMA.

¹³ DLSA



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26.05.2007	The Appellant-Wife filed complaint under the DV Act before the learned Metropolitan Magistrate, Saket Courts, District South, Delhi. The said complaint was dismissed <i>vide</i> Judgment dated 27.08.2019, and the dismissal was subsequently upheld by the learned Sessions Court.	Against Respondent-Husband and his parents by the Appellant-Wife.
28.05.2007	Filed by the Appellant-Wife before the CAW Cell, Nanak Pura, Delhi.	Similar grounds as the 05.10.2005 complaint.
05.01.2008	FIR No. 08/2008, P.S. Vasant Kunj, New Delhi, under Sections 498-A and 406 of the IPC.	FIR was lodged by the Appellant-Wife alleging cruelty and misappropriation of dowry articles. After trial, the learned Metropolitan Magistrate, Saket Courts, Delhi, acquitted the Husband-Respondent and his parents.

51. The learned Family Court, therefore, rightly considered these proceedings as part of the overall conduct of the Appellant-Wife in assessing whether her actions amounted to cruelty. When viewed cumulatively, the sequence of events discloses a persistent course of conduct that caused mental distress and humiliation to the Respondent.



52. Marriage, as a social and legal institution, rests upon mutual trust, respect, and emotional support. The Respondent-Husband was instead met with a litany of accusations, litigation, and embarrassment by his own spouse. No person can reasonably be expected to continue cohabitation under such circumstances. The sustained nature of the Appellant-Wife's conduct and the absence of any credible justification for her actions lead this Court to affirm the finding of the learned Family Court that the Respondent-Husband was subjected to mental cruelty within the meaning of Section 13(1)(ia) of the HMA.

53. Besides the foregoing findings, the learned Family Court also noted, and we concur, that the parties had been living separately since March 2005, shortly after the marriage, and that there had been no genuine effort at reconciliation thereafter on the part of the Appellant-Wife. During this prolonged estrangement, the Appellant-Wife instituted several criminal and *quasi*-criminal proceedings against the Respondent-Husband and his family members, all of which ended in acquittal or dismissal. Considering the long separation, the hostile litigation, and the acrimonious conduct of the Appellant, the learned Family Court rightly concluded that the Respondent-Husband had proved cruelty and was entitled to a decree of divorce.

54. As regards the contention of the Appellant-Wife that the learned Family Court had shifted the burden of proof upon her to establish the case, even though the divorce petition was filed by the Respondent-Husband, we are of the considered view that there is no merit in the assertion.

55. The exhaustive judgment of the learned Family Court reflects that it examined several contentious facts in detail. In doing so, the



Court observed, in the context of particular issues, that the onus would lie on the Appellant-Wife to produce material evidence either to substantiate her own allegations or to rebut the case of the Respondent. For instance, in respect of her allegation of cruelty, it was incumbent upon the Appellant-Wife to lead evidence in support of such a claim. Likewise, where the Appellant-Wife contended that she had left the matrimonial home in September 2005 and not in March 2005, the learned Family Court rightly observed that the burden rested upon her to produce supporting material, especially since the evidence on record otherwise indicated that she had left the matrimonial home in March 2005.

56. The findings of the learned Family Court, therefore, cannot be viewed in isolation. On the contrary, the Impugned Judgment reflects that each assertion and counter-assertion of the parties was duly examined and assessed collectively. Upon such comprehensive evaluation, the learned Family Court rendered the Impugned Judgment, which we find to be well-reasoned and free from any infirmity. Accordingly, the contentions of the Appellant-Wife, to the contrary, are rejected.

CONCLUSION:

57. In view of the discussions aforesaid, we are of the considered view that the learned Family Court correctly appreciated the evidence and applied the settled legal principles governing cruelty under Section 13(1)(ia) of the HMA. When the Appellant-Wife's conduct is viewed in its entirety, from her premature withdrawal from the matrimonial home to the subsequent institution of multiple unsubstantiated proceedings and humiliating acts, it is evident that



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continued cohabitation had become unreasonable and intolerable. The conclusions reached by the learned Family Court are based on a sound appraisal of the record and are in consonance with the settled judicial principles defining mental cruelty between spouses.

58. For these reasons, the decree of divorce granted by the learned Family Court *vide* the Impugned Judgment and Decree is affirmed. The Appeal is, accordingly, dismissed as being devoid of merit.

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

60. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
DECEMBER 02, 2025/sm/rou