



2025:DHC:5063-DB



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
***Reserved on: 02.05.2025***  
***Pronounced on: 01.07.2025***

+ MAT.APP.(F.C.) 100/2024 AND CM APPLs. 18668/2024,  
73010/2024 & 11405/2025

HIMANI @ MONIKA GOYAL .....Appellant  
Through: Mr. Rajiv K. Virmani, Sr. Adv.  
with Ms. Vishakha Saluja and  
Mr. Raman Sharma, Advs.

versus

ASHISH GOYAL .....Respondent  
Through: Mr. Pankaj Bhagat and  
Ms. Anoushka Lohar, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE RENU BHATNAGAR**

### **J U D G M E N T**

#### **RENU BHATNAGAR, J.**

1. This appeal has been filed by the appellant under Section 19 of the Family Courts Act, 1984 (hereinafter referred to as 'FC Act'), challenging the Judgment and Decree dated 24.02.2024 (hereinafter referred to as 'Impugned Judgment') passed by the learned Judge, Family Court, (North-District), Rohini District Courts, (hereinafter referred to as 'Family Court') in HMA No. 58690/2016 (62/2013), titled *Mr. Ashish Goyal v. Ms. Himani @ Monika Goyal*, whereby the learned Family Court has allowed the divorce petition filed by the respondent/husband on the grounds of cruelty under Section 13(1)(ia) of the Hindu Marriage Act, 1955.



2. In brief, the facts necessary for the disposal of this appeal are that the marriage between the appellant/wife and the respondent/husband was solemnized on 15.05.2010 according to Hindu rites and ceremonies. No child was born out of wedlock. The parties have been living separately since 10/11.09.2012.

3. On 18.02.2013, the respondent filed the divorce petition in which he alleged, *inter alia*, that since the very inception of the marriage, the appellant/wife had a quarrelsome nature, would pick up fights over trivial issues, and make derogatory and defamatory remarks against the respondent/husband. She allegedly refrained from doing household chores, refused to prepare meals, was extravagant, and demanded expensive jewellery and sarees. When informed about the respondent's poor financial condition, she reportedly behaved harshly and unkindly. The respondent also narrated an incident dated 21.04.2012, when the parents of the appellant/wife came to his house, and abused and mishandled him without any provocation, following which he had to call the Police and undergo a medical examination.

4. The respondent in his divorce petition further alleged that the appellant/wife had asked him to separate from his parents and created a bizarre situation that necessitated police intervention, whereafter she left the police station along with her brother.

5. It was also alleged that, in order to exert pressure upon the respondent/husband and his family members, the appellant/wife lodged a false FIR under section 498A of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') at Police Station Palam Vihar. In



2013, she also filed an application under Section 12 of The Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the, 'DV Act'), which was dismissed on 11.03.2015. Later, she filed a petition for maintenance under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the, 'CrPC'). Based on these allegations, the respondent/husband filed the divorce petition on the ground of cruelty.

6. *Per Contra*, the appellant/wife has alleged that the respondent/husband and his family members were demanding dowry from her and at their instigation, the respondent/husband used to beat her. It was further stated that the respondent/husband and his family members demanded Rs.75,00,000/- after learning that a house in Sirsa, owned by the appellant's mother, had been sold. She narrated an incident of the year 2010, on the occasion of Diwali, when her mother-in-law allegedly demanded a gold set, and upon her expressing unwillingness, the respondent/husband and his parents allegedly poured boiling oil on her with the intention to kill her.

7. She has alleged that she was thrown out of the house after being beaten, and thereafter, pursuant to the holding of a panchayat, she joined back the matrimonial home. However, again, on account of the demand of Rs.75,00,000/-, she was allegedly beaten, following which her mother, brother, and a middleman intervened. During this incident, the respondent/husband allegedly assaulted her brother, resulting in a police call.

8. After framing of issues, the learned Family Court recorded



evidence from both sides and, after considering the evidence, *vide* the Impugned Judgment, granted a decree of divorce to the respondent/husband on the ground of cruelty.

9. The fulcrum of the arguments of the learned senior counsel for the appellant/wife is that the learned Family Court erred in considering only the aspect of mental cruelty allegedly suffered by the respondent/husband, while completely disregarding the ordeal and experiences of the appellant/wife. It is submitted that although oral evidence was led by both parties, the learned Family Court has selectively relied upon the testimony of the respondent/husband, while unjustifiably discarding the version of the appellant/wife, thereby applying unequal standards in the appreciation of evidence.

10. It is further contended by the learned senior counsel for the appellant/wife that the learned Family Court has not taken into consideration that the allegations of cruelty made by the respondent/husband are without any specific particulars as to the date and time of their occurrence. Further, the learned Family Court simply rejected the testimony of her brother, without assigning specific reasons, while ignoring crucial material such as bank withdrawals, photographs of jewellery, and marriage arrangements.

11. The learned senior counsel for the appellant/wife further submits that the reasoning assigned by the learned Family Court for discarding the evidence relating to the burn injuries sustained by the appellant/wife on her hand, is neither cogent nor convincing, and reflects a non-appreciation of material evidence on record. It is further



contended that the learned Family Court failed to consider the Medical Report, *vide* MLC No. 1728/2012, pertaining to the appellant/wife's brother.

12. It is contended that the appeal against the dismissal of the petition under Section 498A of the IPC is still pending before the Gurgaon Court, which has been overlooked by the learned Family Court. An appeal is also pending before the High Court of Punjab and Haryana at Chandigarh against the Order dated 11.03.2015, whereby the application under Section 12 of the DV Act was dismissed.

13. On the other hand, the learned counsel for the respondent/husband has contended that the impugned judgment is well-reasoned and does not suffer from any legal infirmity. It is submitted that the respondent/husband and his parents, *vide* Judgment dated 26.09.2023, which was subsequently upheld by the learned Sessions Court, were acquitted in the case filed under Section 498A of the IPC by the appellant/wife. This, according to the respondent, clearly establishes the falsity of the allegations levelled by the appellant/wife with respect to dowry demands.

14. We have heard the contentions of both parties and have perused the records.

15. It is an admitted fact that the marriage between the parties was solemnized on 15.05.2010 and that no child was born out of the said wedlock. The parties have been living separately since 10/11.09.2012. Both sides have led oral testimony to support their respective claims and allegations.



16. The respondent/husband has alleged that the appellant/wife was quarrelsome in nature, spent money extravagantly, neglected household responsibilities, and, along with members of her family, subjected him to physical assault. On the other hand, the appellant/wife has alleged persistent dowry demands by the respondent/husband and his family members, and has further accused them of attempting to kill her by pouring boiling hot oil on her.

17. Based on these allegations, the appellant/wife lodged FIR No. 197/2012 at Police Station Palam Vihar, Gurugram, against the respondent/husband and his family members under Sections 498A/406/323/506/34 of the IPC, pursuant to which a chargesheet was filed on 15.12.2012 and the matter proceeded to trial. However, the learned Chief Judicial Magistrate, Gurugram Courts, acquitted the respondent/husband and his family members, *vide* Judgment dated 26.09.2023, which was subsequently upheld in appeal. Additionally, the Domestic Violence petition filed by the appellant/wife was also dismissed by the learned Judicial Magistrate 1<sup>st</sup> Class, Gurgaon Courts, *vide* Judgment dated 11.03.2015. Though challenge to these orders are pending, these orders would have a vital bearing on the present appeal.

18. As far as the allegations of beating and pouring hot oil upon the appellant is concerned, according to the appellant/wife the incident occurred on the occasion of Diwali in the year 2010, when she allegedly refused to comply with a demand made by her mother-in-law for a gold set. Despite claiming that she sustained burn injuries on



her hand due to an attempt by the respondent/husband and his family members to pour burning hot oil on her with the intention to kill her, no police complaint was lodged at the relevant time. Both, the appellant's brother and the respondent, claim to have taken the appellant to the hospital after the burning incident, however, no medical records have been filed. Notwithstanding the seriousness of the allegation of an attempt to cause grievous harm, the appellant/wife continued to reside with the respondent/husband and his family members until the year 2012. As per her own version, the matter was reconciled between the parties on each such occasion, which, according to the respondent/husband, raises serious doubt about the credibility of the allegations now being made.

19. As per the submissions made by the respondent/husband before the learned Family Court, he was kept in police custody for two days and judicial custody for three days on account of the FIR lodged by the appellant/wife. He submitted that despite having made allegations that the respondent/husband and his family attempted to kill her, the appellant/wife is still contesting the divorce petition, which, according to him, further undermines the genuineness of her claim.

20. It is settled law that the oral testimony from both sides is to be weighed by the learned Family Court on the principle of the preponderance of probability, in order to ascertain the veracity of the respective claims of the parties, one asserting and the other denying based on their respective position.

21. In *Chetan Dass v. Kamla Devi*, (2001) 4 SCC 250, it has been



observed by the Supreme Court that matrimonial relationships are sensitive and rest upon a delicate balance of human emotions. Such a relationship necessitates mutual trust, respect, affection, and regard, along with a reasonable degree of adjustment and understanding between the spouses for the marriage to sustain. The relevant observation is extracted below:

*“14. Matrimonial matters are matters of delicate human and emotional relationship. It demands mutual trust, regard, respect, love and affection with sufficient play for reasonable adjustments with the spouse. The relationship has to conform to the social norms as well. The matrimonial conduct has now come to be governed by statute framed, keeping in view such norms and changed social order...”*

22. The foundation of marriage lies in tolerance, adjustment and mutual respect between the spouses. Both parties have raised allegations of cruelty, however, the statement made by the respondent/husband was found to be more convincing and cogent by the learned Family Court as compared to the testimony of the appellant/wife.

23. In ***Ritesh Babbar v. Kiran Babbar***, 2022 SCC OnLine Del 726, the Coordinate Bench of this Court, set aside the order of the learned Family Court and granted a decree of divorce to the appellant. The Court observed as under:

*“ 32. We are unable to agree with this view of the Family Court. The approach of the Family Court that it was for the appellant to prove in*





*negative — that he and his family had not subjected the respondent to harassment or cruelty the dowry, is palpably wrong and against all canons of justice and fairplay. Unless there is a statutory presumption created in respect of a state of affairs, the initial onus to prove ones case cannot be shifted by requiring the other party to prove the reverse. We may also rely upon the decision of this Court in KB v. SS [KB v. SS, 2016 SCC OnLine Del 3288] which reads:*

*“46. It is not only when such allegations are made in judicial proceedings that the person against whom they are made may have valid grievance. The damage to the matrimonial bond had been done by the appellant when she made such serious and scandalous allegations against the respondent in her complaint to the CAW cell vide Ext. RW 1/5.*

*47. It is a settled position that leveling of unsubstantiated allegations in the pleadings or otherwise amount to mental cruelty under Section 13(1)(ia) of the Act (See AS v. SNS [AS v. SNS, 2016 SCC OnLine Del 78 : (2016) 226 DLT 565] ; Manisha Sandeep Gade v. Sandeep Vinayak Gade [Manisha Sandeep Gade v. Sandeep Vinayak Gade, 2004 SCC OnLine Bom 868 : AIR 2005 Bom 180] ; VimlaBalani v. Jai Krishan Balani [VimlaBalani v. Jai Krishan Balani, 2008 SCC OnLine Del 1352] ; Mahendra Kumar Sharma v. Sunita Sharma [Mahendra Kumar Sharma v. Sunita Sharma, 2014 SCC OnLine Del 7730 : (2015) 217 DLT 54] and Jayanta Nandi v. Shipra Karmakar [Jayanta Nandi v. Shipra Karmakar, 2014 SCC OnLine Tri 741] .*

*48. Thus the writing of the complaint to the*



*CAW cell (Ext. RW 1/5) tantamounted to causing grave mental agony and cruelty to the respondent as it contained serious and baseless allegations against the respondent and his family members of demanding dowry from the appellant and her parents and also of the respondent maintaining illicit relations with other women. The said allegations were nothing short of character assassination of the respondent. The making of such serious allegations must have caused grave mental agony to the respondent and his claim that the matrimonial bond has been destroyed on that account cannot be negated. The respondent has a reasonable ground to believe that living with the appellant may again lead to serious injury to his name and reputation and to that of his family. The finding of the learned ADJ on this aspect is therefore affirmed.*

*49. Turning to the aspect of desertion the appellant did not deny the fact that the parties remained separated from one another for a period of two years from March 2004 to March 2006. She sought to put the blame for the same at the door of the respondent by alleging that she had to leave the matrimonial home on account of cruelty caused by the respondent.*

*50. However other than her averments in the pleadings and her own examination-in-chief there is not a shred of evidence to suggest that the respondent had treated her with cruelty. In fact the respondent in his cross-examination had specifically denied the suggestions alleging harassment and cruelty by him upon the appellant.*

*52. The parties have lived apart for approximately 10 years. Various police*



*complaints/CAW cell complaints were filed by the appellant and the family members of the respondent. There appears to be no possibility of the revival of the matrimonial relationship between the parties and the relationship between the parties has irretrievably broken down. The marriage is as good as dead. The irretrievable breakdown is the result of the conduct of the appellant and the respondent/husband is entitled to a decree of divorce under Sections 13(1)(ia) and (ib) of the Act.”*

*(emphasis supplied)*

24. The Supreme Court in ***Mangayakarasi v. M. Yuvaraj***, (2020) 3 SCC 786, held that where unsubstantiated allegations of dowry demand or similar accusations are made, and the husband along with his family members is subjected to criminal prosecution, if it is ultimately found that such allegations are baseless and without foundation, the said conduct of the wife may constitute mental cruelty. It has been held that if, on the strength of such conduct, the husband files a petition seeking dissolution of marriage on the ground of mental cruelty and substantiates the same by leading cogent evidence before the trial court, such a plea may well be accepted for the purpose of granting a decree of divorce on that ground. The relevant finding of the Court is extracted 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...”*

25. The Supreme Court in the case of **K. Srinivas v. K. Suneetha** (2014) 16 SCC 34, has held as under:

*“ 5. The respondent wife has admitted in her cross-examination that she did not mention all the incidents on which her complaint is predicated in her statement under Section 161 CrPC. It is not her case that she had actually narrated all these facts to the investigating officer, but that he had neglected to mention them. This, it seems to us, is clearly indicative of the fact that the criminal complaint was a contrived afterthought. We affirm the view of the High Court that the criminal complaint was “ill advised”. Adding thereto is the factor that the High Court had been informed of the acquittal of the appellant husband and members of his family. In these circumstances, the High Court ought to have concluded that the respondent wife knowingly and intentionally filed a false complaint, calculated to embarrass and incarcerate the appellant and seven members of his family and that such conduct unquestionably constitutes cruelty as postulated in Section 13(1)(i-a) of the Hindu Marriage Act. ”*

26. It is evident that neither before the learned Family Court nor before this Court has the appellant/wife placed on record any material to substantiate her plea that she was subjected to harassment on



account of dowry demands. Her complaints based on these allegations, which formed the basis of the FIR as well as the complaint under the IPC and the Domestic Violence Act, have already been dismissed by the respective Courts.

27. On the contrary, the respondent/husband has been able to establish that the conduct of the appellant/wife caused him immense mental agony, disappointment, and frustration, rendering it unreasonable to expect him to continue residing with her. The allegations regarding the filing of criminal complaints against him and his family members, which resulted in the respondent/husband having to remain in jail for several days, have been specifically pleaded. The cumulative effect of such conduct reflects a clear departure from the normal standards of conjugal life and goes beyond the ordinary wear and tear of a matrimonial relationship.

28. Where there is oral testimony from both sides, the Court is required to assess the same in light of any corroborative material placed on record. In the present case, the respondent/husband has brought on record copies of complaints lodged by him with the police against the appellant/wife. The material placed on record further indicates incidents of quarrels and physical altercations between the parties, necessitating police intervention. The nature and gravity of the allegations, taken cumulatively, suggest that the matrimonial bond between the parties has irretrievably broken down.

29. In view of the above reasons, we do not find any infirmity in the order passed by the learned Family Court.



2025:DHC:5063-DB



30. The appeal is, accordingly, dismissed. The pending applications also stand disposed of as having been rendered infructuous.

**RENU BHATNAGAR, J.**

**NAVIN CHAWLA, J.**

**JULY 01, 2025/sc/ my**

*Click here to check corrigendum, if any*