



2026:DHC:8870-DB



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

Reserved on: 19.08.2026

Pronounced on: 08.10.2026

CNR No. DLHC011086752025

+ **MAT.APP.(F.C.) 14/2026 & CM APPL. 2691/2026**

DR SITANSHI SHARMA

.....Appellant

Through: **Ms. Geeta Luthra, Sr. Adv. with
Mr. Rajiv Bakshi & Ms. Spriha
Jha, Adv.**

Versus

DR ACHINTYA SHARMA

.....Respondent

Through: **Mr. Siddharth Arora with Mr.
Gaurav Kumar, Adv.**

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

1. The present appeal, under Section 19 of the Family Courts Act, 1984, assails the order dated 27.09.2025 passed by the learned Family Court-02, South District, Saket Courts, New Delhi in HMA No. 303/2021, whereby the application preferred by the appellant under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC) came to be dismissed.

2. The said application was preferred by the appellant-wife seeking rejection of the petition for dissolution of marriage instituted by the respondent-husband, principally on the ground that the



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averments contained therein did not satisfy the requirements of Rule 7 of the Hindu Marriage Rules, 1979. The appellant contends that the petition did not set out the alleged acts of cruelty and desertion with the particulars required under the said Rule.

3. Aggrieved by the dismissal of the application under Order VII Rule 11 CPC, the appellant has preferred the present appeal.

4. Learned counsel appearing for the appellant submits that the learned Family Court erred in dismissing the application under Order VII Rule 11 CPC without adjudicating the specific objection that the petition for dissolution of marriage instituted by the respondent does not satisfy the mandatory requirements of Rule 7 of the Hindu Marriage Rules, 1979. It is submitted that Rule 7 requires a petition under Sections 9 to 13 of the Hindu Marriage Act, 1955 to set out, with sufficient particularity, the matrimonial offence or other ground on which relief is sought, including the relevant time, place and circumstances of the acts alleged. According to learned counsel, the pleadings in the respondent's petition, particularly those relating to cruelty and desertion, are vague and bereft of the material particulars contemplated under the aforesaid Rule and, therefore, fail to disclose a cause of action warranting the rejection of the plaint at the threshold.

5. Learned counsel places reliance upon the judgment of this Court in **OVS v. RS @ RK**, 2019 SCC OnLine Del 7477, to contend that the requirement of furnishing material particulars under Rule 7 of the Hindu Marriage Rules, 1979 is mandatory and that allegations of cruelty must be pleaded with sufficient specificity, including the dates



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and places of the incidents relied upon. It is submitted that this Court, in the aforesaid case, took note of the absence of dates of the incidents constituting the alleged cruelty and upheld the rejection of the divorce petition for want of material particulars. Learned counsel contends that the pleadings in the present case suffer from a similar infirmity, which specific objection was raised before the learned Family Court but has not been dealt with in the impugned order.

6. Learned counsel further submits that even if the averments contained in the respondent's petition are taken at their face value, and without reference to the defence of the appellant, the same do not disclose a legally sustainable cause of action either on the ground of cruelty or desertion. It is contended that the allegations are general and omnibus in nature and do not constitute the requisite factual foundation for the relief of dissolution of marriage. Learned counsel submits that the Court, while considering an application under Order VII Rule 11 CPC, is required to examine the averments contained in the plaint or petition and, if the same do not disclose a cause of action, the proceedings cannot be permitted to continue merely on the premise that evidence may subsequently be led.

7. Learned counsel accordingly submits that the impugned order suffers from non-application of judicial mind and cannot be sustained inasmuch as the learned Family Court has not determined whether the respondent's petition, on a meaningful reading of its averments and without importing facts dehors the pleadings, discloses a cause of action satisfying the requirements of Rule 7 of the Hindu Marriage



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Rules, 1979. It is, therefore, urged that the application under Order VII Rule 11 CPC ought to have been allowed and the petition for dissolution of marriage be rejected at the threshold.

8. Heard learned counsel for the appellant and perused the record.

9. The brief facts necessary for adjudication of the present matter are that the appellant and the respondent were married on 27.01.2012 in accordance with Hindu rites and ceremonies. A daughter was born from the wedlock on 20.07.2013. Due to matrimonial discord between the parties, the parties are residing separately since March 2015 whereafter the respondent-husband filed HMA No. 303/2021 seeking dissolution of marriage on the grounds of cruelty and desertion in which the impugned order was passed. In brief, the respondent-husband alleged that the wife subjected him to mental cruelty through her conduct during the marriage, including refusal to perform household and matrimonial duties, refusal to wear customary matrimonial symbols such as bangles, toe rings, sindoor and mangalsutra, frequent quarrels and mood swings, threats to implicate him and his family in criminal cases and to commit suicide, insistence on living separately from his parents, and other conduct causing mental distress. He further alleged that the wife deserted him and failed to resume cohabitation despite opportunities for reconciliation, thereby giving him grounds to seek dissolution of marriage on the grounds of cruelty and desertion under Section 13(1)(ia) and (ib) of the HMA.

10. Having considered the submissions advanced on behalf of the



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appellant and perused the material on record, it would be apposite, at the outset, to examine the scope and ambit of the jurisdiction exercised by a Court while considering an application under Order VII Rule 11 CPC. The principles governing the exercise of such jurisdiction are well settled by a catena of decisions of the Supreme Court.

11. Order VII Rule 11 CPC provides for rejection of a plaint, inter alia, where it does not disclose a cause of action. The jurisdiction under the said provision is exercised on the basis of the averments contained in the plaint itself. The defence of the defendant or the disputed questions sought to be raised by the defendant cannot ordinarily be taken into consideration while examining whether the plaint discloses a cause of action.

12. The Supreme Court, in **Mayar (H.K.) Ltd. v. Owners & Parties, Vessel M.V. Fortune**, (2006) 3 SCC 100, has reiterated that the plaint has to be read as a whole in order to ascertain whether it discloses a cause of action. The Court is not required to consider the defence raised by the defendant at this stage. At the same time, the plaint cannot be rejected merely because, in the opinion of the Court, the plaintiff may ultimately fail in establishing the case pleaded. So long as the plaint discloses a cause of action requiring determination by the Court, the proceedings cannot be terminated at the threshold under Order VII Rule 11 CPC.

13. The aforesaid principles make it equally clear that the jurisdiction under Order VII Rule 11 CPC is confined to an



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examination of the pleadings for determining whether the statutory conditions for rejection are satisfied. The Court, at this stage, does not conduct a mini-trial, weigh the evidence, determine the truthfulness of the allegations or adjudicate disputed questions of fact. The correctness, credibility or ultimate evidentiary worth of the allegations is a matter for determination at the appropriate stage of the proceedings.

14. The distinction between absence of a cause of action and inadequacy of proof is of particular significance in the present case. If the averments contained in the petition, taken at their face value, disclose the essential facts constituting the ground on which relief is sought, the petition cannot be rejected merely because the allegations may ultimately be found to be insufficiently proved. Whether a particular allegation constitutes cruelty, whether an alleged incident actually occurred, whether it was sufficiently serious to constitute matrimonial cruelty, and what inference is to be drawn from the conduct of the parties are ordinarily matters which fall for adjudication upon appreciation of pleadings, evidence and the surrounding circumstances.

15. The same principle applies with appropriate regard to matrimonial proceedings. A petition under Section 13 of the Hindu Marriage Act, 1955 is required to contain the material facts constituting the matrimonial offence or ground on which dissolution of marriage is sought. Rule 7 of the Hindu Marriage Rules, 1979 requires the matrimonial offence or other ground relied upon to be set



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out with sufficient particulars. The requirement is intended to ensure that the opposite party is apprised of the case required to be met and that the controversy before the Court is appropriately delineated.

16. However, the requirement of particulars under Rule 7 cannot be equated with a requirement that every allegation must, at the threshold, be established to the satisfaction of the Court. The cruelty is not proved on the basis of a single isolated incident but is to be viewed taking into consideration all the bundle of facts pleaded and proved cumulatively as a whole. The question at the stage of Order VII Rule 11 CPC remains whether the pleadings, read as a whole, disclose the material facts constituting the matrimonial ground pleaded. Where the petition contains allegations and instances which, if proved, may constitute cruelty or desertion, the question whether those allegations are true, whether they are sufficiently grave, whether they constitute cruelty in law, or whether they stand established on evidence cannot ordinarily be determined in an application under Order VII Rule 11 CPC.

17. The appellant's principal submission is that the allegations of cruelty pleaded by the respondent are vague and do not contain the specific particulars contemplated by Rule 7 of the Hindu Marriage Rules, 1979. Reliance has been placed upon the decisions of this Court in **OVS v. RS @ RK**, 2019 SCC OnLine Del 7477 and **Dharam Kaur v. Narender**, 2016 SCC OnLine Del 3239. There can be no quarrel with the proposition that material facts constituting a matrimonial ground must be pleaded specifically with details and that



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a party cannot be permitted to travel beyond its pleadings while leading evidence.

18. However, the question before us is not whether every allegation contained in the respondent's petition is, by itself, sufficient to establish cruelty or desertion. The limited question is whether, on a meaningful reading of the petition as a whole, the respondent has disclosed a cause of action which requires adjudication. The authorities relied upon by the appellant, therefore, have to be understood in the context of the pleadings and the stage at which the Court is called upon to examine them.

19. In the present case, the appellant has particularly sought to contend that the allegation that she refused to wear vermilion and mangal sutra is vague, non-specific and incapable of constituting cruelty. The submission, in our view, cannot be accepted as a ground for rejection of the matrimonial petition at the threshold. The respondent has pleaded other allegations and instances of alleged cruelty and has also sought divorce on the ground of desertion as well. The petition, therefore, cannot be examined by isolating one particular allegation and thereafter holding that the entire cause of action stands extinguished on account of the alleged vagueness of that particular averment.

20. More importantly, whether the conduct attributed to the appellant amounts to cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act, 1955, whether the allegations are established by evidence, and whether the cumulative effect of the



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various incidents pleaded constitutes a matrimonial offence are questions which necessarily require adjudication on the basis of the evidence led by the parties. At this preliminary stage, it would neither be appropriate nor permissible for the Court to undertake an assessment of the evidentiary value of individual allegations or to record a conclusive finding that the allegations are vague, immaterial or incapable of constituting cruelty.

21. The question whether the respondent ultimately succeeds in proving the allegations pleaded is a matter for the learned Family Court to determine after the parties have led their evidence. The Court cannot, merely because the appellant disputes the specificity or sufficiency of the allegations, convert the proceedings under Order VII Rule 11 CPC into a trial on the merits of the matrimonial dispute.

22. The learned Family Court has only found that the pleadings disclose sufficient allegations warranting adjudication and that the petition ought not to be rejected at the threshold. The essential question whether those allegations constitute cruelty or desertion and whether they stand established, remains open for determination at trial.

23. It is also relevant to note that the power under Order VII Rule 11 CPC is to be exercised where the statutory conditions for rejection are clearly made out from the pleadings themselves. The provision cannot be invoked merely because the defendant disputes the allegations or considers them insufficient to ultimately sustain the relief claimed. Where the pleadings disclose a factual foundation



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requiring adjudication, the Court must ordinarily permit the matter to proceed to trial rather than undertake a premature determination of the merits of the controversy.

24. In the present case, on a meaningful and holistic reading of the respondent's petition, we are unable to accept the submission that the petition is wholly bereft of the material facts constituting the grounds of cruelty and desertion. The petition contains allegations and instances which form the factual foundation of the relief sought by the respondent. Whether those allegations are true, whether they satisfy the legal test of cruelty or desertion when taken as a whole, whether any of the alleged acts stood condoned, and whether the respondent is ultimately entitled to a decree of dissolution are matters which must necessarily be examined by the learned Family Court upon completion of pleadings and trial.

25. The learned Family Court has, consequently, committed no error in dismissing the appellant's application under Order VII Rule 11. The grounds raised by the appellant essentially require the Court to examine the merits of the allegations and the evidence supporting them, which cannot be done at the stage of deciding an application under Order VII Rule 11 CPC.

26. For the aforesaid reasons, we find no infirmity in the impugned order dated 27.09.2025. The appeal is, accordingly, dismissed in limine.

27. Needless to say, the observations contained herein are confined to the adjudication of the application under Order VII Rule 11 CPC



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and shall not prejudice either party in the trial of the matrimonial petition on merits.

VIVEK CHAUDHARY, J.

RENU BHATNAGAR, J.

OCTOBER 08, 2026/*kz*