



2025:DHC:5066-DB



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

Reserved on: 30.04.2025
Pronounced on: 01.07.2025

+ MAT.APP.(F.C.) 160/2025

ANITA SHARMA

.....Appellant

Through: Mr. Prashant Machanda, Ms.
Nancy Shah & Ms. Isha Baloni,
Advs.

Versus

NARESH KUMAR SHARMA

....Respondent

Through: *Nemo.*

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

RENU BHATNAGAR, J.

CM APPL. 25536/2025

1. For the reasons stated in the application, the same is allowed and the delay of 26 days in filing the appeal is condoned.
2. The application stands disposed of.

CM APPL. 25535/2025

3. For the reasons stated in the application, the same is allowed and the delay of 200 days in re-filing the appeal is condoned.



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4. The application stands disposed of.

MAT.APP.(F.C.) 160/2025

5. 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 Order dated 19.04.2025 passed by the learned Principal Judge, Family Courts, West District, Tis Hazari Courts, Delhi (hereinafter referred to as the, 'Family Court') in HMA No. 768/2018/2012, titled *Naresh Kumar Sharma v. Smt. Anita Sharma*, whereby a decree of divorce was passed in favour of the respondent herein, and the marriage of the parties was dissolved under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (hereinafter referred to as 'HMA').

6. The brief facts leading to the filing of the present appeal are that the marriage between the parties was solemnized on 07.05.1989 in accordance with the Hindu rites and ceremonies. Subsequently, the parties were blessed with a son and a daughter, born on 07.05.1992 and 22.04.1995, respectively.

7. It is stated that the respondent-husband abandoned the appellant-wife and even sold their matrimonial house in the month of June 2011, without informing the appellant-wife. He also failed to provide alternate accommodation or financial support to the appellant and their children, thereby abandoning them to fend for themselves. It is further alleged that the respondent neither shared the proceeds from the sale of the matrimonial house nor paid any maintenance to the



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appellant or their children.

8. It is further stated that when the appellant attempted to assert her rights by challenging the eviction from the matrimonial house by filing a complaint under the provisions of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as, 'DV Act'), the respondent allegedly resorted to various illegal measures to forcibly evict the appellant and the children from the matrimonial house and in order to oust them from obtaining their rightful possession of the matrimonial house. This led to severe financial hardships for the appellant and her children.

9. It is also stated that the appellant raised both the children by incurring substantial debts, without any support from the respondent husband. The respondent is alleged to have initiated multiple litigations to render the appellant destitute and to dispossess her and the children from the house and the school.

10. Furthermore, it is stated that the respondent filed the aforementioned divorce petition by levelling false allegations of adultery against the appellant involving one person, namely, Mr. A.K. Tangri. Additionally, the respondent alleged physical and mental cruelty on the part of the appellant, contending that she had filed numerous frivolous complaints and litigations against the respondent before various local authorities and to the higher officials at Bharat Petroleum Corporation Limited (hereinafter referred to as 'BPCL'), that is, the employer of the respondent.

11. Based on the submissions made and the evidence adduced



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before the learned Family Court, the said divorce petition was allowed *vide* the Impugned Order.

12. Being aggrieved thereof, the appellant-wife has approached this Court by way of the present appeal.

13. It is the plea of the appellant before us that the learned Family Court erroneously relied upon the vague and frivolous allegations made by the respondent, contending that defamatory complaints have been filed by the appellant, citing physical acts of cruelty, solely on the ground that the same were not rebutted during the cross-examination and were, therefore, deemed to be admitted. It is further contended that the learned Family Court failed to appreciate the fact that the respondent could not substantiate the allegations of an illicit relationship between the appellant and Mr. A. K. Tangri, and that, by levelling false allegations of adultery, the respondent himself committed cruelty against the appellant.

14. It is further contended on behalf of the appellant that the observations made by the learned Family Court are erroneous both in fact and in law. Solely relying upon the complaints filed by the appellant against the respondent, it was erroneously held that these complaints prove the ground of cruelty, whereas, the complaints filed by the appellant to the officials of the BPCL were a desperate cry for help due to the constant inaction on part of the police authorities. It is also submitted that the learned Family Court erred in treating these allegations as the gospel truth on the premise of the non-rebuttal by the appellant during her cross-examination before the learned Family



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Court.

15. It is further the plea of the appellant that the learned Family Court, by wrongly relying upon the Judgment of the Supreme Court in *Joydeep Majumdar v. Bharti Jaiswal Majumdar*, (2021) 3 SCC 742, has held that the complaints made by the appellant to the officials of the respondent would amount to cruelty.

16. It is contended that the learned Family Court has failed to consider the mandate under Section 23 (1) (a) of the HMA, which prohibits a party from taking advantage of his own wrong, and thus, the learned Family Court erred in holding that the appellant was responsible for ‘causing the smoke which has arisen from the fire ignited by the respondent himself’.

17. Placing reliance on the decision of the Supreme Court in *Raj Talreja v. Kavita Talreja*, (2017) 14 SCC 194, it is contended on behalf of the appellant that it is a well-settled principle of law that mere filing of complaints does not amount to cruelty, if there are justifiable reasons for such action. In view of the same, it is stated that the complaints filed by the appellant to the higher officials of the BPCL must be viewed in the context of the diabolical and neglectful conduct of the respondent, which, according to the appellant, affirms her consistent position and underscores, in material particulars, that the respondent abandoned the appellant and her children, leaving them high and dry. This neglectful conduct is further reflected in the alleged fact that the appellant and her children were dispossessed from the matrimonial home by illegal means. In view of the above, it is



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contended that it is but natural for a scorned wife, deserted by her callous husband, to seek redress from the concerned authorities in order to avail herself of her basic rights to life, liberty, and dignity.

18. It is further contended on behalf of the appellant, that the learned Family Court, by ignoring the legal principle laid down in *N. G. Dastane v. S.Dastane*, (1975)2 SCC 326, which mandates that the petitioner must prove his case and stand on his own legs, improperly reversed the burden of proof onto the appellant, which is contrary to settled legal principles.

19. It is further submitted by the learned counsel for the appellant that the learned Family Court failed to do substantial justice, as it has not taken note of the fact that the appellant is fighting for her arrears as she is under huge debts, on account of the loans availed by her for construction and purchase of the school run by her, while also incurring heavy medical expenses for herself and her children, whereas on the other hand, the learned Family Court failed to acknowledge that the respondent has received a huge amount of money under the Voluntary Retirement Scheme (VRS).

20. It is also contended by the learned counsel for the appellant that the reliance placed by the learned Family Court on nine allegedly fabricated and manufactured CDs, without complying with Section 65-B(4) of the Indian Evidence Act, 1872 (now under Section 63 of the Bhartiya Sakshya Adhiniyam, 2023), and without proving their authenticity in accordance with law, is palpably wrong, even applying Section 14 of the FC Act. It is, therefore, submitted that the



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respondent has failed to prove the genuineness of the audio recordings which have been adduced as evidence before the learned Family Court. He referred to the Judgment of the Kerala High Court passed in ***Pramod E.K. v. Louna V.C.***2019 SCC OnLine Ker 165, and prayed that the Impugned Order is liable to be set aside.

21. We have considered the contentions raised by the learned counsel for the appellant and have perused the material placed on record, as well as the written submissions filed by the appellant and the Judgments cited apart from the Judgments herein before referred, that is, ***Mini Appa Kanda Swami v. M. Indra***,2016 SCC Online Del 5312; ***Smt. Swapna Chakrawarti v. Dr. Viplay Chakrawarti***, 1998 SCC OnLine MP 90; ***Shilpa Sailesh v. Varun Sreenivasan***,(2023) 14 SCC 231;***Amutha v. A.R. Subramaniam***,2024 SCC OnLine SC 3822; ***Rakesh Raman v. Kavita***,(2023) 17 SCC 433.

22. At the outset, we may refer to the definition of cruelty. Cruelty under Section 13(1) (ia) of the HMA can be physical or mental. It is a settled position of law that the instances of cruelty are not to be taken in isolation, instead, a cumulative effect of the facts and circumstances, emerging from the evidence on record, is to be taken up and only then a fair inference as to whether the petitioner has been subjected to mental cruelty or not, due to conduct of the other spouse, is to be drawn. Reference can be drawn to the decisions passed by the Supreme Court in ***N. G. Dastane*** (supra); ***V. Bhagat v D. Bhagat***, (1994) 1 SCC 337; ***Parveen Mehta v Inderjit Mehta***, (2002) 5 SCC 706 and ***A. Jayachandra v Aneel Kaur***, (2005) 2 SCC 22.



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23. While elaborating on the concept of cruelty, in *N.G. Dastane* (supra), the Supreme Court observed as under:

"30..... The inquiry therefore has to be whether the conduct charged as cruelty is of such a character as to cause in the mind of the petitioner a reasonable apprehension that it will be harmful or injurious for him to live with the respondent....."

24. Furthermore, in the case of *V. Bhagat* (supra), the Supreme Court reiterated the same principle of law.

25. In *Vishwanath Agrawal v. Sarla Vishwanath Agrawal*, (2012) 7 SCC 288, while dealing with mental cruelty, it was opined as under:-

"22. The expression "cruelty" has an inseparable nexus with human conduct or human behavior. It is always dependent upon the social strata or the milieu to which the parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status."

26. Similarly, in the case of *Parveen Mehta* (supra), the attributes of mental cruelty were dealt with, and it was observed as under:-

*"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*



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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".

27. In the present case, the marriage between the parties, as well as the birth of two children from their wedlock, is an admitted fact. It is also undisputed that both parties have not been residing together since 2010-2011.

28. Furthermore, a perusal of the record reveals that both the parties have levelled allegations of adultery against each other. The appellant has alleged that the respondent is involved in an extramarital affair with a colleague, namely, Ms. Mitthu Das, whereas, the respondent has alleged that the appellant had an affair with one, Mr. A.K. Tangri.

29. Both parties have led their evidence but were unable to prove the allegations of adultery levelled against each other. As far as the alleged extramarital relations of the appellant with Sh. A.K. Tangri is concerned, it emerged from the evidence of the respondent that both the appellant and the respondent shared cordial family relations with Mr. A.K. Tangri, and the same is reflected from the photographs produced in the evidence. Mr. A.K. Tangri, being the General Manager of the Oriental Bank of Commerce, admittedly assisted the parties in availing loans, as a result of which they had been visiting each other and sharing moments together. It is difficult to



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comprehend, and it is inconsistent with natural human conduct, that a husband would maintain cordial family relations with a man with whom he believes his wife is involved in an extramarital relationship.

30. On the other hand, the appellant has failed to produce any evidence before the learned Family Court to establish the fact that the respondent was having any illicit relationship with Ms. Mitthu Das, as claimed by her, or that he had shifted to reside with her in their house at Noida. It was admitted before the learned Family Court by the appellant in her cross-examination that she has nowhere mentioned about the illicit relationship of the respondent with Ms. Mitthu Das in the case filed under the DV Act and the petition filed under Section 125 of the Code of Criminal Procedure, 1973, both of which were filed prior to the filing of the divorce petition by the respondent. Therefore, we do not find any infirmity in the findings of the learned Family Court with regard to the unfounded and unproved allegations of extramarital affairs levelled by the parties against each other.

31. Insofar as the other grounds of cruelty are concerned, one such ground that has been raised, is the filing of numerous complaints by the appellant against the respondent with various authorities, including the police; the National Commission for Women; the Director of Human Resources, BPCL, Mumbai, that is, the employer of the respondent; the Central Vigilance Commission; the Prime Minister of India; the Vice President of India; the Chief Justice of India; and the Home Minister of India. It has been contended that such conduct by the appellant amounts to cruelty. In many of these complaints, the



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appellant has levelled allegations that the respondent was committing cruelty upon her and the children. In one such complaint made in the year 2012 to the employer of the respondent, that is, the Chief Manager, E&P Pipeline Project, BPCL, she has even levelled allegations of an illicit relationship between the respondent with Ms. Mitthu Das.

32. Upon perusal of the records of the learned Family Court, it can be seen that during her cross-examination, the appellant has not denied the filing of all these complaints by her. Even before this Court, the appellant has not denied the filing of the aforementioned complaints. Rather, she has stated that the complaints made to the employer of the respondent should be seen in the context of the respondent's diabolical and neglectful conduct, which she claims is but natural reaction of a scorned wife seeking redressal of her grievances and to avail her basic rights to life, liberty and to live with dignity.

33. We are not impressed with this argument of the appellant. The complaints made by her to the employer of the respondent, more specifically of the unfounded allegation of adultery, cannot be treated so as to address the issues of any wrong done to her, as the employer of the respondent has nothing to do with all such wrongs and lead to the irresistible conclusion that they were made to harass the respondent-husband and to humiliate him in his workplace before his colleagues.

34. Irrespective of the merits of these complaints, and regardless of whether the allegations made therein were false or true, we find that



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making such derogatory and defamatory remarks in the form of complaints to the employer of the spouse are nothing but cruelty.

35. There is no doubt that marriage entails mutual respect and adjustment. Some parties take less time to adjust with each other while the other takes longer time but it is expected of both the parties to show due respect to each other. The foundation of a sound and healthy marriage is tolerance, adjustment and mutual respect for each other. The Supreme Court, in **Chetan Dass v. Kamla Devi** (2001) 4 SCC 250, observed:

“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.”

36. In this regard, we may refer to the decision of a Coordinate Bench of this Court passed in **Avneshwar Singh v. Monika**, 2024 SCC OnLine Del 2335, wherein it has been observed as under:

“36. Further, it is not in dispute that the respondent-wife had sent various complaints to the Reserve Bank of India against the appellant, which fact she has admitted in her cross-examination by stating that these complaints were made after their separation. Whether the complaints were false or true, irrespective of this fact, making derogatory complaints to the Employer of spouse, with intent to harm professional reputation and financial well-being, is nothing but cruelty. Making such complaints demonstrate lack of mutual respect and goodwill, which is crucial for a healthy marriage and merely by stating



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that such complaints were made after the parties have separated, in no manner absolves a spouse from the guilt of committing cruelty on the receiving end.

37. In the case of Joydeep Majumdar v. Bharti Jaiswal Majumdar, 2021 SCC OnLine SC 146, similar defamatory complaints were lodged with the husband's superiors in the Army, leading to a Court of Inquiry and negatively impacting his career advancement. The Court noted that when such allegations come from an educated spouse, they have the potential to irreparably harm the appellant's character and reputation among colleagues, superiors, and society at large. The wife's explanation that the complaints were made to preserve the marital relationship cannot justify her persistent efforts to undermine her husband's dignity. In such circumstances, it's unreasonable to expect the wronged party to continue the marriage, and there is sufficient justification for separation.”

37. In ***Avneshwar Singh*** (supra), reference was made to the observations of the Supreme Court in ***Ravi Kumar v. Julmidevi***, (2010) 4 SCC 476, as under:

“38....“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. So far as the allegations of cruelty allegedly inflicted by the appellant upon the respondent which includes hitting him on his right thigh with a wooden stick, pouring water on him, and using abusive



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language, etc., are concerned, we do not find any perversity in the observations of the learned Family Court. The allegations were founded on the medical evidence and tape-recorded conversations produced by the respondent in his evidence, as opposed to only oral allegations made by the appellant regarding cruelty by the respondent. Even before this Court, the appellant has failed to show anything that would warrant interference with the findings of the learned Family Court on these aspects.

39. In view of Section 14 of the FC Act, a Family Court may receive as evidence, any report, statement, document, information, or other matter that, in its opinion, may assist it in effectually dealing with a dispute, regardless of whether the same would be admissible under the Indian Evidence Act, 1872 (now the Bharatiya Sakshya Adhiniyam, 2023). Further, under Section 10(3) of the FC Act, a Family Court may devise its own procedure to arrive at the truth of a fact alleged by one party and denied by the other. It is pertinent to note that the findings of the learned Family Court, accepting the allegations of cruelty raised by the respondent, are not only based on the CDs but also on medical evidence corroborating the oral testimony of the respondent.

40. Admittedly, as noted hereinabove, the parties have not cohabitated since 2010-11 and have been fighting this litigation for a very long time. We may refer to the decision of the Supreme Court in ***Rakesh Raman*** (supra), wherein the Court had observed that even though irretrievable breakdown of marriage is not a ground for



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dissolving a marriage, cruelty is. The Court further observed that prolonging a marital relationship which has become increasingly bitter and acrimonious over the years, does nothing but cause injustice to the parties involved and would ultimately result in cruelty. The relevant paragraphs of the said Judgment are extracted herein below:

“22. Irretrievable breakdown of a marriage may not be a ground for dissolution of marriage, under the Hindu Marriage Act, but cruelty is. A marriage can be dissolved by a decree of divorce, inter alia, on the ground when the other party “has, after the solemnisation of the marriage treated the petitioner with cruelty”

23. In our considered opinion, a marital relationship which has only become more bitter and acrimonious over the years, does nothing but inflict cruelty on both the sides. To keep the façade of this broken marriage alive would be doing injustice to both the parties. A marriage which has broken down irretrievably, in our opinion spells cruelty to both the parties, as in such a relationship each party is treating the other with cruelty. It is therefore a ground for dissolution of marriage under Section 13(1)(i-a) of the Act.”

41. In this regard, we may also refer to the decision in ***Shankar Routh v. Soma Dutta***, 2007 SCC OnLine Gau 254, wherein it was held that since the parties had been living separately, continuously for a long period of seven years, their marriage was beyond repair.

42. Furthermore, this Court in the case titled ***Ritesh Babbar v Kiran***



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Babbar, 2022 SCC OnLine Del 726, has held that as the parties had lived separately for 12 long years, there was no chance of reconciliation. It was further observed therein that no useful purpose would be served by maintaining the matrimonial bond and hence, divorce was granted.

43. Similarly, in **S. Rajendran v K. Geetha**, C.M.S.A. No. 34 of 2010, *vide* Judgment dated 28.06.2019, the High Court of Madras held that as both the parties therein had been living separately for the past 15 years, it would be difficult for them to bury the past and begin a new relationship as husband and wife. Accordingly, the marriage was dissolved.

44. In view of the facts and submissions in the present case, and the law laid down in the Judgments mentioned hereinabove, we find that the learned Family Court has rightly dissolved the marriage between the parties by finding the allegations of cruelty were proved based on the evidence adduced by the respondent before it. Furthermore, the fact that the parties have been living separately for a long time period of time, that is, around fifteen years now, without any resumption of marital cohabitation between the parties, can also be considered as an added ground while deciding the divorce petition.

45. In view of the foregoing discussion of facts and law, we find no infirmity in the Impugned Judgment passed by the learned Family Court.

46. The appeal is, accordingly, dismissed. All pending application(s), if any, also stand disposed of as being rendered



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RENU BHATNAGAR, J.

NAVIN CHAWLA, J.

JULY 01, 2025/p/sm

Click here to check corrigendum, if any