



NC: 2026:KHC:42461-DB
MFA No. 8362 of 2025

CNR: KAHC010730552025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

MISCELLANEOUS FIRST APPEAL NO. 8362/2025(FC)

BETWEEN:

(BY SRI. S.G.MUNISWAMY GOWDA, ADVOCATE) ...APPELLANT

AND:



(BY SRI. SWAROOP.S, ADVOCATE) ...RESPONDENT



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THIS MFA FILED U/S. 19(1) OF FAMILY COURT ACT, AGAINST THE JUDGMENT AND DECREE DT. 11.08.2025 PASSED IN MC NO.3429/2021 ON THE FILE OF THE PRINCIPAL JUDGE, FAMILY COURT, BENGALURU, ALLOWING THE PETITION FILED U/S.13(1)(ia) OF THE HINDU MARRIAGE ACT, 1955.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H. SHANTHI BHUSHAN)

This appeal under Section 19(1) of the Family Courts Act, 1984, is directed against the judgment and decree dated 11.08.2025 passed by the learned Principal Judge, Family Court, Bengaluru ('the Trial Court' for short) in M.C. No.3429/2021, whereby the petition filed by the respondent-wife under Section 13(1)(ia) of the Hindu Marriage Act, 1955 ('the Act' for short) came to be allowed and the marriage between the parties was dissolved by a decree of divorce on the ground of cruelty. The appellant was also directed to pay permanent alimony of ₹25,000/- per month to the respondent from the date of the petition.



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2. Briefly stated the facts are, the marriage between the appellant and the respondent was solemnized on 11.11.2001 at Chitrapur Math, Chamarajpet, Bengaluru. The parties have two children. The factum of marriage and the paternity of the children are not in dispute. The respondent-wife approached the Trial Court contending that, after the marriage, the relationship between the parties gradually deteriorated. According to her, the appellant subjected her to physical, verbal and emotional cruelty, neglected her and the children, frequently abused her, and displayed an over-possessive and suspicious attitude. She further alleged that, over a period of time, the appellant had distanced her from her family members and relatives.

3. The respondent also alleged that the appellant was addicted to vices and that, despite her efforts to persuade him to give up these habits, there was no improvement in his conduct. According to the respondent, though the parties continued to reside in the same



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building for some time, they occupied separate rooms and, in substance, were living separate lives. She stated that she was ultimately constrained to leave the matrimonial home along with the children and thereafter lived separately.

4. It was further pleaded that, on an earlier occasion, criminal proceedings had been initiated under Section 498-A of the Indian Penal Code against the appellant and his family members. According to the respondent, the proceedings were subsequently withdrawn or not pursued following the intervention of family members and well-wishers and an assurance given by the appellant that he would mend his ways and take care of her and the children. She alleged that, thereafter, the appellant resumed his earlier conduct.

5. The respondent also relied upon an earlier matrimonial proceeding instituted by the appellant under Sections 13(1)(ia) and 13(1)(ib) of the Hindu Marriage



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Act. According to her, the said proceeding was not pursued to its logical conclusion and thereafter, the parties made an attempt to resume their matrimonial life. The attempt, however did not succeed and the parties once again started living separately.

6. The appellant resisted the petition and denied the allegations of cruelty. According to him, the allegations were false, exaggerated and unsupported by cogent evidence. He contended that material facts had been suppressed and that the respondent herself was responsible for the deterioration of the matrimonial relationship. The appellant alleged that the respondent was influenced and instigated by her parents, sister and other relatives and that she frequently quarrelled with him and his family members. It was further alleged that she had threatened to initiate criminal proceedings against the appellant and his family and had, in fact, lodged a complaint under Section 498-A of the IPC.



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7. The appellant contended that the respondent had voluntarily left the matrimonial home and thereafter taken shelter in her brother's house. As regards the allegation concerning his habits, the appellant admitted that he occasionally consumed alcohol, chewed gutka/tobacco and smoked, but denied that he was addicted to such habits or that they had resulted in matrimonial discord. He also denied having undergone counselling or treatment on account of such habits.

8. The appellant maintained that he had discharged his responsibilities towards the family and the children. He stated that the earlier matrimonial proceeding instituted by him was subsequently not pursued having regard to the welfare of the children and that the present proceedings had been instituted only with a view to harass him. It was also contended that the respondent was gainfully employed and had not disclosed her actual income before the Trial Court.



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9. The parties adduced oral and documentary evidence in support of their respective cases. The respondent relied upon Exhibits P-1 to P-7 and the appellant relied upon Exhibits R-1 to R-7.

10. The learned Trial Court framed the following points for consideration:

"1. Whether the petitioner proves that the marriage between the parties was solemnized as pleaded and that she was subjected to cruelty by the respondent?"

2. Whether the petitioner is entitled to a decree of dissolution of marriage?"

3. Whether the petitioner is entitled to maintenance/permanent alimony as claimed?"

11. Upon appreciation of the evidence, the Trial Court answered the material issues in favour of the respondent and held that the conduct of the appellant, viewed in its entirety, amounted to cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act. Aggrieved by the said judgment and decree, the present appeal has been filed.



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12. Heard Sri.S.G.Muniswamy Gowda, learned counsel appearing for the appellant and Sri.Swaroop S., learned counsel appearing for the respondent and have carefully examined the judgment of the Trial Court, the pleadings, the oral and documentary evidence and the material placed on record.

13. The point that that arises for our consideration is,

"Whether the respondent has established that the conduct of the appellant constituted cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act, 1955?"

14. The respondent has deposed about repeated quarrels, verbal abuse, emotional neglect, the appellant's suspicious and possessive conduct, the parties living separately within the same premises, his alleged habits, his conduct towards the children and the failure of repeated attempts at reconciliation.

15. The said evidence has to be considered in the light of the admissions made by the appellant himself. One



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circumstance which assumes significance is that, for a considerable period, the parties, though residing in the same premises, occupied separate rooms and were leading substantially separate lives. The appellant himself has admitted that the parties were residing separately within the same premises, with the appellant occupying one room and the respondent occupying another room along with one of the children.

16. Standing by itself, such an arrangement cannot be treated as cruelty. The mere fact that spouses occupy separate rooms, without anything more, would not justify a finding of cruelty. What is relevant is the surrounding circumstances in which such separation took place and the manner in which the matrimonial relationship had otherwise progressed.

17. In the present case, this circumstance cannot be viewed in isolation. It forms part of a prolonged matrimonial history marked by repeated disputes,



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allegations of abuse, estrangement, an earlier matrimonial proceeding, an attempt at reconciliation and, ultimately, failure of the relationship.

18. Another circumstance which assumes relevance is the earlier matrimonial proceeding instituted by the appellant himself. The appellant admits that he had earlier approached the Court seeking dissolution of the marriage and that, thereafter, the parties resumed their matrimonial relationship. It is equally undisputed that the relationship subsequently deteriorated once again and the parties separated.

19. The institution of an earlier matrimonial proceeding cannot, by itself, be regarded as an act of cruelty. Its relevance in the present case lies in the fact that it forms part of the matrimonial history and indicates the extent to which the relationship had deteriorated even at an earlier stage. The subsequent attempt to restore the relationship did not result in a lasting reconciliation. The



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appellant has also admitted that he occasionally consumes alcohol, chewed gutka/tobacco and smoked. The respondent has deposed that these habits were a source of repeated disputes and that her efforts to persuade the appellant to give them up did not yield any result. Though the appellant disputes the extent of the allegation, his admission regarding the existence of such habits lends support to the foundational aspect of the respondent's case.

20. The respondent has further deposed regarding verbal abuse, neglect of herself and the children and the appellant's conduct in relation to their schooling and financial support. The appellant has denied these allegations.

21. It is true that allegations relating to conduct within the matrimonial home are ordinarily made in circumstances where independent witnesses may not be available. Therefore, the absence of an independent



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eyewitness, by itself, cannot be a ground to discard the testimony of a spouse. At the same time, such evidence has to be examined with due care, having regard to its consistency, inherent probability, the admissions made in cross-examination and the surrounding circumstances.

22. On such examination, we find no sufficient reason to discard the evidence of the respondent as inherently improbable. The appellant has placed considerable reliance on the criminal proceedings initiated by the respondent under Section 498-A of the IPC and has contended that, the proceedings having ended in his acquittal, the very initiation of such proceedings ought to be treated as cruelty. The submission cannot be accepted in such broad terms.

23. The mere filing of a criminal complaint by one spouse against the other does not, in every case, amount to matrimonial cruelty. Likewise, an acquittal in a criminal proceeding cannot, by itself, lead to the conclusion that



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the complaint was false or malicious. Criminal proceedings and matrimonial proceedings operate in different fields, and the standard of proof applicable to them is also different.

24. In the present case, the respondent's explanation is that the complaint was made against the backdrop of prolonged matrimonial discord and that, subsequently, upon the intervention of family members and an assurance from the appellant, the proceedings were withdrawn or not pursued and the parties made an attempt to resume their matrimonial life.

25. Viewed in that context, the criminal proceedings cannot be considered in isolation as an independent act of cruelty on the part of the respondent. The subsequent reconciliation and its eventual failure are also circumstances which throw light on the state of the matrimonial relationship.



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26. The appellant has alleged that the respondent was egoistic, was influenced by her family members, was abusive and controlling and had made false allegations against him and his family.

27. We have considered the said defence. The Court is conscious that matrimonial proceedings ordinarily involve competing versions of the same relationship and that the case of either spouse cannot be accepted merely because it appears more persuasive at an emotional level. The finding must necessarily rest upon the evidence available on record.

28. In the present case, however, the respondent's testimony, considered along with the admissions made by the appellant and the surrounding circumstances, establishes a continuing course of matrimonial discord which cannot reasonably be characterised as mere ordinary wear and tear of married life.



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29. The circumstances that emerge from the evidence are:

(i) the parties had been involved in repeated and serious matrimonial disputes; (ii) the respondent has consistently spoken about verbal and emotional abuse and neglect; (iii) the parties had, for a considerable period, been living separately even while occupying the same premises; (iv) the appellant has admitted his habits of consuming alcohol, chewing gutka/tobacco and smoking; (v) an earlier matrimonial proceeding had been instituted by the appellant himself; (vi) despite an attempt at reconciliation, the matrimonial relationship again deteriorated; (vii) the parties thereafter lived separately for a prolonged period; and (viii) the matrimonial relationship was not restored despite opportunities for reconciliation.

30. These circumstances cannot be viewed as isolated incidents. Their significance lies in their continuity



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and their cumulative effect upon the matrimonial relationship.

31. "Cruelty" is essentially a question of fact and degree. There can be no fixed formula by which every matrimonial dispute can be characterised as cruelty. At the same time, a spouse cannot be expected to endure, for an indefinite period, conduct which causes sustained mental pain and destroys the basic elements of companionship, trust and matrimonial security.

32. In the facts of the present case, we are satisfied that the evidence goes beyond the ordinary wear and tear of matrimonial life. The material on record establishes a prolonged course of discord, separation and failed reconciliation, accompanied by the conduct complained of by the respondent.

33. The cumulative effect of these circumstances is sufficient to establish mental cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act.



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34. The appellant has next contended that the petition was filed only under Section 13(1)(ia) of the Hindu Marriage Act and not under Section 13(1)(ib), and therefore the learned Trial Court could not have relied upon desertion or irretrievable breakdown as grounds for granting divorce.

35. There is substance in the submission to the limited extent that desertion or irretrievable breakdown, where not pleaded and established in accordance with law, cannot independently constitute a statutory ground for dissolution of marriage. However, the decree in the present case is not founded upon desertion or irretrievable breakdown as an independent ground. The decree has been granted under Section 13(1)(ia) on the ground of cruelty.

36. The fact that the parties lived separately is relevant only as a circumstance bearing upon the nature, continuity and effect of the matrimonial conduct. Likewise,



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the fact that the matrimonial relationship had, in substance, ceased to function is not being treated as an independent ground for dissolution. It is one of the surrounding circumstances which has been taken into account while assessing the cumulative effect of the conduct established on record. The said contention, therefore, does not merit interference with the decree.

37. The appellant has also questioned the direction to pay permanent alimony of ₹25,000/- per month. The material before the Trial Court indicates that the appellant is professionally qualified and employed and that his income-tax returns and salary particulars were produced in evidence. The material placed on record discloses substantial annual income. The memo filed by the counsel for the appellant on 30/06/2025, along with the income-tax return acknowledgement and the pay slips for the month of March 2025, shows that his gross salary is Rs.4,13,922.01 and his net salary is Rs.2,77,207. This



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itself demonstrates that the appellant is employed and has sufficient means to pay alimony to the respondent.

38. The respondent has stated that she is educated up to the 10th standard and is employed in a nursery/pre-school, earning approximately ₹24,000/- per month. The mere fact that the respondent is earning an income cannot, by itself, disentitle her to permanent alimony. The question is whether such income, having regard to the duration of the marriage, the status and income of the parties, the standard of living during the subsistence of the marriage, her needs and the circumstances relating to the children, is sufficient to meet her reasonable requirements.

39. The learned Trial Court has taken into consideration the respective income of the parties, their circumstances and the educational and medical requirements of the children. On the material available on record, the award of ₹25,000/- per month cannot be said



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to be arbitrary or disproportionate so as to warrant interference in appeal.

40. We, therefore, find no ground to interfere with the direction relating to permanent alimony.

41. Upon re-appreciation of the evidence, we are satisfied that the findings recorded by the learned Trial Court are supported by the material on record. The respondent has established, on the preponderance of probabilities that the conduct of the appellant, viewed in its entirety, caused such mental pain and emotional distress that she could not reasonably be expected to continue the matrimonial relationship.

42. The finding that the appellant's conduct amounted to cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act is, therefore, sustainable. We find no perversity, illegality or infirmity in the evidence warranting interference with the judgment and decree of the learned Trial Court. The direction



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regarding permanent alimony is also supported by the material placed on record and calls for no interference. Accordingly, we pass the following;

ORDER

- (i) The appeal filed under Section 19(1) of the Family Courts Act, 1984, is **dismissed**.
- (ii) The judgment and decree dated 11.08.2025 passed by the learned Principal Judge, Family Court, Bengaluru, in M.C. No.3429/2021, is **affirmed**.
- (iii) The decree dissolving the marriage between the appellant and the respondent under Section 13(1)(ia) of the Hindu Marriage Act, 1955, is **confirmed**.
- (iv) The direction to the appellant to pay permanent alimony of ₹25,000/- per month to the respondent from the date of the petition is also **affirmed**, subject to adjustment, in accordance with law, of any amount already paid pursuant to orders of a competent Court.



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(v) It is made clear that the observations contained in this judgment are confined to the adjudication of the matrimonial dispute and shall not prejudice either party in any independent proceedings arising under law.

(vi) There shall be **no order as to costs**.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM
List No.: 1 Sl No.: 22