

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 3RD DAY OF SEPTEMBER, 2026

R

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

MISCELLANEOUS FIRST APPEAL NO.6129/2024(FC)

BETWEEN:

SHRI B R VIJAY KUMAR

...APPELLANT

(BY SRI. SREEVATSA, SENIOR COUNSEL A/W
SMT.YUKTHA ANIL, ADVOCATE)

AND:

SMT. NAGARATHNA

...RESPONDENT

(BY SRI.ANAND R.B.,ADVOCATE(ABSENT))

THIS MFA FILED U/S 19(1) OF FAMILY COURTS ACT, AGAINST THE JUDGMENT AND DECREE DATED 13.06.2024 PASSED IN MC NO.5779/2018 ON THE FILE OF THE II ADDITIONAL PRL.JUDGE, FAMILY COURT, BENGALURU, DISMISSING THE PETITION FILED UNDER SECTION 13(1)(I-A) (I-B) OF THE HINDU MARRIAGE ACT.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 11.08.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, **HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN** MADE THE FOLLOWING:

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



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CAV JUDGMENT

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

Fame does not create an exception to a person's conduct but it magnifies its standard. When a man of public influence strays from the sanctity of marriage, his fall from grace does not become a cause for adulation. This Judgement is rendered, not in celebration of the husband's conduct but inspite of it, considering the peculiar facts herein. We hope that it serves as a reminder that respect earned on screen cannot compensate for dereliction of matrimonial obligations at home.

2. The Appellant has approached this Court, calling in question the Order dated 13.06.2024 passed by the Additional Principal Judge, Family Court, Bengaluru, in M.C. No. 5779/2018, wherein the Family Court has dismissed the Petition filed by the Appellant under Section 13(1)(i-a) and Section 13(1)(i-b) of the Hindu Marriage Act, 1955 (**Hindu Marriage Act**).

3. For convenience, the parties are referred as per their respective ranks in the Family Court.

I. BRIEF FACTS OF THE PETITIONER:

4. It is the case of the Petitioner that the Petitioner-husband and the Respondent-wife tied the knot on 29.08.1999, as per Hindu rites and customs, at S.S. Kalyana Mantapa, Haro Gade, Anekal Taluk, Bengaluru Rural District. Out of the present marriage, the couple have two daughters and a son, all of whom have attained majority. After the marriage, the couple are stated to have lived together, along with their children, in their matrimonial home, at Bengaluru.

5. The genesis of the litigious path which the couple have tread began on 17.01.2013, when the Petitioner filed a divorce petition against the Respondent under Section 13(1)(i-a) and Section 13(1)(i-b) of the Hindu Marriage Act, in M.C. No. 299/2013. On the contrary, the Respondent had sought for restitution of conjugal rights by filing M.C. No. 2966/2014.

6. Shorn of the details, the allegations levelled by the Petitioner in the earlier divorce petition were similar to

the grounds urged by the Petitioner in the instant appeal, in so far as they relate to, *inter alia*, the Respondent suspecting the Petitioner to have extra-marital affairs, the Respondent threatening to commit suicide and the Respondent mistreating the Petitioner's parents and demanding that they stay separately from the couple, which forced the Petitioner to send his parents to stay in their hometown, at Harohalli.

7. The Petitioner also states that, during the pendency of the earlier divorce petition, the Respondent had made several false allegations before the media, impugning the character and doubting the fidelity of the Petitioner. The Petitioner states that he had obtained an interim order restraining the Respondent to not make any statement against him during the pendency of the earlier divorce petition.

8. The dispute in M.C.No.299/2013 was referred to mediation, wherein the couple had arrived at a Memorandum of Settlement dated 19.11.2014, as per which, the couple are stated to have amicably resolved

their differences and expressed their desire to reunite. Among other terms, the petitioner had agreed to pay an amount of Rs. 30,000 per month to the Respondent. However, the Petitioner has alleged that the Respondent had used the threat of damaging the Petitioner's reputation in the media and had pressurised him to enter into this Memorandum of Settlement.

9. After entering into the Memorandum of Settlement, the Petitioner and the Respondent withdrew M.C. No. 299/2013 and M.C. No. 2966/2014, respectively, and started residing together at their matrimonial home. It is the case of the Petitioner that inspite of the Respondent and himself resuming cohabitation, they could reside with each other only for about one and a half years and that even during this period, the couple were not on cordial terms.

10. The differences between the Petitioner and the Respondent, which were previously thought to have been nipped, have started to sprout up again. In this regard, the Petitioner states that the Respondent interfered in the

Petitioner's career, that the Respondent threatened to file false criminal cases, that the Respondent threatened to commit suicide in order to frame the Petitioner.

11. Our attention has been drawn to the Mutual Consent Agreement dated 02.05.2016. The averments in this Mutual Consent Agreement have been heavily relied upon by the Petitioner to buttress his claim for divorce and it will be set out *in extenso* at the appropriate part of our analysis. For the present, it is sufficient for us to note that the Petitioner has emphasised that the parties had mutually agreed herein that owing to the marital life of the couple not being happy, the Respondent does not have any objection to the Petitioner getting into another marriage.

12. The Mutual Consent Agreement also places certain financial obligations on the Petitioner, including for the Petitioner to clear off any outstanding loan on the matrimonial home, that the Respondent be the absolute owner of the matrimonial home and that the Petitioner shall transfer certain properties to the couple's three

children. The Petitioner relies upon these terms to contend that after the Petitioner had performed his financial obligations under the Mutual Consent Agreement, he was driven out of the matrimonial home by the Respondent on May, 2016, after which, he has started living separately with his parents in another house.

13. Despite the Petitioner having made several attempts to enter the matrimonial home, he contends that there were no reciprocating attempts by the Respondent. Even on his attempts, that the Respondent conditioned to take the Petitioner back only after he transfers all his immovable properties to the Respondent and that the Petitioner's parents live separately.

14. The Petitioner highlights the fact that after the Petitioner was driven out of the matrimonial home, the Respondent had yet again made several false allegations to the media linking the Petitioner with different movie actresses, that had prompted the Petitioner to file for a suit for injunction under O.S. No. 3585/2016 on 03.05.2016, which happens to be just one day after the

couple had entered into the Mutual Consent Agreement on 02.05.2016. The Petitioner had also succeeded in getting an *ad interim ex parte* order of temporary injunction against the media outlets, vide order dated 05.05.2016, in the said civil suit.

15. That apart the Petitioner has also levelled other allegations against the Respondent, including that the Respondent has abused the Petitioner's parents and children in filthy language, that the Respondent has physically assaulted the Petitioner's mother and the children, that the Respondent has not permitted the Petitioner to take care of his ailing parents, that the Respondent always forced the Petitioner's parents to live apart from the couple and that the Respondent has forced the children to file false complaints against the Petitioner.

16. To demonstrate the graveness of the Respondent's animosity with the Petitioner's parents, the Petitioner has relied on the Will dated 30.04.2016 executed by the Petitioner's parents, to state that the Respondent should not attend their funeral in the event of

their untimely demise. The Petitioner also goes on to attribute the death of the Petitioner's mother on 08.07.2021 and the Petitioner's father on 18.11.2021, being on account of the Respondent's cruel behaviour.

17. The Petitioner also alleges that on 23.09.2018, the Respondent had entered the Petitioner's home and assaulted the people in the home, including the Petitioner's parents and another woman by the name of Keerthi Gowda.

18. On account of the strained marital relationship between the parties and their failure to reconcile, the Petitioner files another divorce petition against the Respondent under Section 13(1)(i-a) and Section 13(1)(i-b) of the Hindu Marriage Act, in M.C. No. 5779/2018, on 29.10.2018. It is out of this divorce petition, that the present proceedings have germinated.

19. It may also be added that even after the filing of the present divorce petition, much bitterness has transpired between the parties, involving other family

members. The Respondent has filed a complaint dated 03.12.2018 against the Petitioner filed before the Karnataka State Commission for Women; the Respondent has registered P.C.R. No. 9989/2018 alleging that the Petitioner was involved in a bigamous relationship, which came to be dismissed for non-prosecution by the Respondent, vide order dated 09.12.2021; and, the Petitioner's allegation that the Respondent had entered his home on 23.09.2018 assaulted his parents.

20. Further, it also appears that at several instances in the month of September and October of 2018, the Respondent has yet again made several statements in the media alleging the Petitioner's involvement with multiple women, including the said Keerthi Gowda. The persistent statements made by the Respondent against the Petitioner in the media and the relation between the Petitioner and Keerthi Gowda have a crucial bearing in our analysis and will be discussed in extenso.

21. The Petitioner had also sent a notice dated 01.04.2019 to the Respondent, calling upon the

Respondent to pay an amount of Rs. 65,00,000 towards mental agony, financial loss and injuries inflicted to the Petitioner's reputation as a result of false statements made by the Respondent in the media outlets. These circumstances looked at together, give a comprehensive view of the matrimonial history between the parties.

II. BRIEF FACTS OF THE RESPONDENT:

22. We may now appreciate the brief facts as urged by the Respondent, who has denied all claims of the Petitioner and has also averred that the Petitioner and she have lived a happy marital life. At the outset, the Respondent admits to the marriage with the Petitioner on 29.08.1999 and states that at the time of the marriage, her father had given an amount of Rs. 25,000 to the Petitioner along with several gold ornaments and clothing.

23. Contrary to the Petitioner's claims of discord between the Respondent and the Petitioner's parents, the Respondent states that after the present marriage, the couple were happily residing in their matrimonial home along with the Petitioner's parents. The Respondent also

avers that she had good relations with the Petitioner's parents and his sisters throughout the duration of the present marriage and that their marriage was occasioned with frequent visits from the Petitioner's sisters.

24. The Respondent has also stated in good terms about the conduct of the Petitioner in taking the Respondent to multiple temples and taking good care of her during her three pregnancies. It is also stated that it is on account of the financial situation of the family not being sound, that the Petitioner had consented to his parents staying separate from the couple, while the couple stayed in Bengaluru.

25. In the initial duration of the present marriage, the Petitioner is said to have taken a job as a gym trainer, during which time the Respondent has given him all her support. The financial situation of their family is stated to have improved after Petitioner acted in the role of the male-lead in the 2007 Kannada movie called "Duniya".

26. At this juncture, it would also not be out of place for us to take note of the public stature of the Petitioner. Admittedly, the Petitioner is an actor in the Kannada Film Industry (also referred to as Sandalwood). It is after the Petitioner acted in "Duniya", that the Petitioner started to gather considerable amounts of fanfare. Consequent to the Petitioner's rise to fame after the movie "Duniya", he is popularly known as "Duniya Vijay".

27. The Respondent also states that after the movie "Duniya", the Petitioner started receiving offers for other movies and on account of the movie filming, the Petitioner would have to be away from the matrimonial home, during which time, the Respondent used to take care of their children and everyone at their matrimonial home. Further, she also avers that even in the Petitioner's time away from home, the Petitioner used to take good care of the Respondent and their children.

28. Until then, the matrimonial life of the couple being happy, it is stated that the Petitioner had himself confessed to the Respondent that the Petitioner was

influenced by other people to file the earlier divorce petition. Respondent also admits to the couple resuming cohabitation after the withdrawal of the earlier divorce petition. On this note, the Respondent also places reliance on certain public statements made by the Petitioner in a certain television programme.

29. Respondent and the Petitioner are stated to have lived together until the filing of the present divorce petition, i.e., 2018; which is also contrary to the Petitioner's claim that the Respondent had driven him out of the matrimonial home in May, 2016. It is the case of the Respondent that she and the Petitioner are living a happy life and that the Petitioner has filed the present divorce petition without real reason; and as such, the Respondent has opposed the present divorce petition and has sought for restitution of conjugal rights under Section 9 of the Hindu Marriage Act.

30. Interestingly, during the Respondent's cross-examination, some facts have come to light, which we find relevant to note here. It is stated that before the present

marriage, the Petitioner was married to another woman by the name of Padmavati, with whom he has obtained a decree for dissolution of marriage. Thereafter, the Petitioner has contracted the present marriage with the Respondent, as stated above.

31. It may also be noted that at the time of the house warming ceremony of the couple's matrimonial home, the Petitioner is alleged to have told the Respondent that if the Petitioner and the Respondent have to be together, then the Respondent should accept another woman by the name of Shubha Poonja, in their lives. To this request of the Petitioner, the Respondent says she acceded.

32. Undisputed photographs of the house warming ceremony of the matrimonial home have been produced at Ex.R-2 and Ex.R-3, wherein the Petitioner is seen together with the Respondent and the said Shubha Poonja. However, the Petitioner has stated that these photographs were taken in the context of a film shoot.

33. Since, the pleadings in the earlier divorce petition have been placed on record, it may be relevant for us to note a few aspects therein. In these proceedings, the Respondent had alleged that during the subsistence of the present marriage, the Petitioner had contracted a marriage with Shubha Poonja.

34. However, it would be sufficient for us to say that neither has the Respondent nor has the Petitioner produced any document to corroborate their respective versions of the story with respect to Shubha Poonja.

35. That apart, the Respondent has also not denied the fact of her making statements regarding the Petitioner to the media; but she seeks to defend herself by stating that she had not called the media outlets herself, rather it was the media outlets that had forced her to appear in the interviews. We will revert to the nature of the statements made by the Respondent, particularly in relation to Keerthi Gowda and other women, in our analysis.

III. ISSUES FRAMED BY THE FAMILY COURT

36. In the Family Court in M.C. No. 5779/2018, after considering the pleadings of the parties, the following issues were framed:

"(i) Whether the petitioner is entitled for divorce under Sec.13 (1) (ia) (ib) of Hindu Marriage Act ?

(ii) What order or decree?"

IV. PETITIONER'S EVIDENCE BEFORE THE FAMILY COURT:

37. Before the Family Court, the Petitioner had gotten himself examined as PW-1 and has marked documents from Ex.P-1 to Ex.P-49. Praying for a decree of divorce, the Petitioner had deposed the following:

- (i) That after the Memorandum of Settlement dated 19.11.2014, the couple lived together in the matrimonial home for only about one and a half years;
- (ii) That the Respondent began issuing threats of instituting baseless criminal cases against the Petitioner, that the Respondent threatened to commit suicide in order to frame the Petitioner, that the Respondent hurled abuses at the

Petitioner, and that the Respondent has not allowed the Petitioner's sisters and his other relatives inside their matrimonial home;

- (iii) That the Respondent had a dearth of trust on the Petitioner, in so far as the Respondent always kept a strict vigilance upon the activities of the Petitioner, in ways such as checking mobile phone, tracking email passwords, bank account passwords and whereabouts of the Petitioner;
- (iv) That the Respondent has made use of the Petitioner for his hard-earned money and his assets and that the Respondent was against the Petitioner's parents living together with the couple in the matrimonial home, which ultimately forced the Petitioner to send his parents to live in a separate house;
- (v) That the Respondent has forced the Petitioner to go out of the matrimonial home from May, 2016, and that the Respondent has never allowed the Petitioner to come inside the matrimonial home despite several attempts;

- (vi) That the Respondent has approached the media to impute false allegations of the Petitioner having extramarital affairs with other women, particularly the women who have acted alongside him in movies, pursuant to which the Petitioner had filed a suit for injunction in O.S. No. 3585/2016 against the media outlets;
- (vii) That the Respondent's interviews with the media has brought about disrepute and mental agony to the Petitioner, in addition to causing a decline in the demand for the Petitioner in the film industry;
- (viii) That the Respondent would resume cohabitation with the Petitioner on the condition that the Petitioner put all of his immovable properties in the name of the Respondent and that the Petitioner's parents live separately;
- (ix) That in the absence of the Petitioner, the Respondent has visited the Petitioner's house and assaulted the people in the house including the Petitioner's parents with slippers;

- (x) That the Respondent has instigated their children against the Petitioner, including instigating their eldest daughter to file a criminal complaint against the Petitioner;
- (xi) That owing to the Respondent's acts of cruelty, the Petitioner's mother and father have executed Wills dated 30.04.2016 to state that the Respondent should not attend their funeral in the event of their demise. Despite which, the Respondent has entered the Petitioner's home on the demise of the Petitioner's mother on 08.07.2021 and that due to the Respondent's acts of cruelty, the father demised on 18.11.2021; and,
- (xii) Therefore, for the reasons stated above, the marriage is irretrievably broken down beyond repair and that the couple have been staying separately since the filing of the present divorce petition and that they have no interaction, emotions or sentiments for each other.

38. The Petitioner has also examined his personal driver as PW-2, who has supported the Petitioner's allegations against the Respondent and has deposed the following:

- (i) That the Respondent used to quarrel with the Petitioner, his sisters and his parents and that the Respondent used to hurl abuses at all of them, including PW-2;
- (ii) That inspite of the old age and deteriorating health of the Petitioner's parents, the Respondent did not permit them to stay with the couple; and,
- (iii) That the Respondent was behind the wealth of the Petitioner and that the Respondent used to threaten the Petitioner the spread rumours against the character of the Petitioner in the media.

V. RESPONDENT'S EVIDENCE BEFORE THE FAMILY COURT:

39. The Respondent has examined herself as RW-1 and has marked documents from Ex.R-1 to Ex.R-55. In

addition thereto, the Respondent has also filed a petition for restitution of conjugal rights. The Respondent has opposed the divorce petition and has sought for dismissal of the same by deposing the following:

- (i) That at the time of marriage, the Respondent's father had given a few gold ornaments and an amount of Rs. 25,000 to the Petitioner;
- (ii) That in the initial years of the marriage, the couple resided together in the matrimonial home along with the Petitioner's parents and that the Petitioner's sisters would also occasionally come to the matrimonial home;
- (iii) That the Petitioner's parents took great care of the Respondent, especially during the Respondent's pregnancies and that the Respondent was very happy in the family;
- (iv) That the Petitioner, who was initially working as a gym trainer got an opportunity to star in the movie 'Duniya', after which the Petitioner used to be offered regular roles in other film projects, during which time the Respondent used to take

care the couple's three children. Further, inspite of the Petitioner's time away from home, he gave importance to the Respondent and his three children;

- (v) That after the Petitioner's withdrawal of the earlier divorce petition, the couple have resided cordially with each other. Further, that the Petitioner has also made a public statement in a television show, that he will be with the Respondent as her husband for the rest of his life; and,
- (vi) That the couple were living together until 2018 and that the couple were living a happy married life. Further, the Petitioner has instituted the present divorce petition without any real reason and that Respondent is in contact with the Petitioner.

VI. REASONING OF THE FAMILY COURT:

40. On consideration of the rival contentions, the Family Court has answered issues no. (i) in the negative. Briefly stated, the reasoning of the Family Court is that the

Petitioner has failed to prove that the Respondent had ill-treated the Petitioner's parents, since the Petitioner has not initiated appropriate proceedings against the Respondent in that regard. Further, from the photographs of the house warming ceremony of the matrimonial home in Ex.R-2 and Ex.R-3, it can be seen that the Respondent had cordial relations with the Petitioner's parents. Also, that the Will dated 30.04.2016 being a disputed document, it is for the beneficiary to prove the same, and until it is proved, no evidentiary value can be attached to it.

41. Further, the Family Court reasoned that the Petitioner has failed to establish that the Respondent has imputed false allegations of the Petitioner having extra-marital affairs, since the Respondent filed O.S. No. 3585/2016 seeking an injunction order only against the media houses and not against the Respondent and that the Petitioner himself has stated before media outlets that Keerthi Gowda is the Petitioner's wife and that the

Respondent, in a state of distress made certain statements before the media, which cannot be found fault with.

42. The Family Court also reasoned that the Petitioner, in order to legalise his relationship with Keerthi Gowda, has filed in the instant divorce petition; and thus, it is the Respondent, who has suffered due to acts of cruelty perpetrated by the Petitioner. Further, that the Petitioner has failed to prove that the Respondent has instigated one of their daughters to file a criminal complaint against the Petitioner, to make statements against the Petitioner in the media, and to institute several complaints against the Petitioner before various forums.

43. Among other reasons, the Family Court has held that the Petitioner has failed to prove all other allegations of desertion and cruelty against the Respondent. As such, the Family Judge, vide order dated 13.06.2024, has dismissed M.C. No. 5779/2018; thereby, not granting the decree for divorce as prayed for by the Petitioner. Aggrieved by this order of the Family Court, the Petitioner has approached the portals of this Court.

VII. SUBMISSIONS ON BEHALF OF THE PETITIONER:

44. During the pendency of the proceedings before us, the couple were referred to mediation to make an attempt in arriving at an amicable settlement. Accordingly, this Court had directed the couple to appear before the Karnataka Mediation Centre on 22.07.2025. However, the Karnataka Mediation Centre has addressed a letter dated 16.08.2025 that the couple were not able to come to an agreement in the course of the mediation. It is in this background that this Court has proceeded to hear the parties.

45. We have perused the records of the instant case and heard Sri. S. Sreevatsa, Learned Senior Counsel for the Petitioner, who has been assisted by Sri. Yukta Anil, Learned Counsel for the Petitioner. The Learned Senior Counsel has assailed the judgement of the Family Court and has vehemently submitted:

- (i) That there was no love and affection from the Respondent to the Petitioner, which is clear from

averments of the Mutual Consent Agreement dated 02.05.2016, which records in categorical terms that the Respondent demanded certain financial settlements from the Petitioner and that the Respondent had also no objection for the Petitioner to re-marry;

- (ii) That after the Petitioner carried out his part of the terms in the Mutual Consent Agreement dated 02.05.2016, the Petitioner was forced to leave the matrimonial home. Further, that in view of this Agreement, the events that took place prior to the Agreement cannot be relied at to determine whether the Respondent had cordial relationship with the Petitioner's parents;
- (iii) That the animosity between the couple can be seen from the fact that the Petitioner's parents had executed the Will dated 30.04.2016, stating that they did not wish the presence of the Respondent at their funeral, in the event of their death;

- (iv) That PW-2 has corroborated the evidence led by PW-1 (i.e., Petitioner) that the Respondent slapped the Petitioner's mother, which can be seen in Ex.P-40, and that the Respondent had also prevented the Petitioner's sisters from entering the house;
- (v) That the Respondent has not denied the fact that she appeared in various media interviews imputing allegations of extra-marital affairs upon the Petitioner; and,
- (vi) That neither was there any reference to Keerthi Gowda in the evidence of the Respondent nor was Keerthi Gowda made a party to the proceedings, without which the Family Court ought not to have considered the allegations levelled by the Respondent against the Petitioner having an extramarital affair.

VIII. SUBMISSIONS ON BEHALF OF THE RESPONDENT:

46. Although, the case was adjourned to provide sufficient opportunity for the Learned Counsel for the

Respondent to mark his appearance, there was no representation on behalf of the Respondent, even in the revised call. That being the case, we are constrained to pass appropriate orders in consideration of the records before us.

IX. POINTS FOR CONSIDERATION:

47. Having heard the Learned Senior Counsel for the Petitioner and on a careful perusal of the records, we are called upon to determine whether the Petitioner has made out any grounds to interfere with the Order dated 13.06.2024 passed by the Family Court in M.C. No. 5779/2018?

48. Pursuant thereto, the following points arise for our consideration:

- (i) *"Whether the Petitioner has proved that the Respondent had deserted him within the meaning of Section 13(1)(i-b) of the Hindu Marriage Act?*
- (ii) *Whether the Petitioner has proved that the Respondent had treated him with cruelty within the meaning of Section 13(1)(i-a) of the Hindu Marriage Act?"*

X. REASONING AND CONCLUSION:

49. At this juncture, it is pertinent to note the contours of Section 13(1)(i-a) and Section 13(1)(i-b) of the Hindu Marriage Act, as is relevant for the instant case:

"13. Divorce.— (1) Any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party—

[(i) *****; or

(ia) has, after the solemnization of the marriage, treated the petitioner with cruelty; or

(ib) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or]

[(iii) *****; or

(v) *****; or

(vi) *****; or

(vii) *****; or

[Explanation.— In this sub-section, the expression "desertion" means the desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party, and includes the wilful neglect of the petitioner by the other party to the marriage, and its grammatical variations and cognate expressions shall be construed accordingly.]...."

50. We will begin our analysis with the ground for desertion. Since, the Petition in M.C. No. 5779/2018 was filed on 29.10.2018; therefore, the statutory period would

be for a duration not less than the time from 29.10.2016 to 29.10.2018 (**Statutory Period**).

51. The law on what constitutes as desertion came up for consideration before the Hon'ble Supreme Court in ***Bipinchandra Jaisinghbai Shah v. Prabhavati***,¹ wherein, after substantially considering the English Law on the subject, the following principles were expounded:

"20. Thus the quality of permanence is one of the essential elements which differentiates desertion from wilful separation. If a spouse abandons the other spouse in a state of temporary passion, for example, anger or disgust, without intending permanently to cease cohabitation, it will not amount to desertion. For the offence of desertion, so far as the deserting spouse is concerned, two essential conditions must be there, namely, (1) the factum of separation, and (2) the intention to bring cohabitation permanently to an end (animus deserendi). Similarly two elements are essential so far as the deserted spouse is concerned: (1) the absence of consent, and (2) absence of conduct giving reasonable cause to the spouse leaving the matrimonial home to form the necessary intention aforesaid. The petitioner for divorce bears the burden of proving those elements in the two spouses respectively...."

21. Desertion is a matter of inference to be drawn from the facts and circumstances of each case. The inference may be drawn from

¹1956 SCC OnLine SC 15.

certain facts which may not in another case be capable of leading to the same inference; that is to say, the facts have to be viewed as to the purpose which is revealed by those acts or by conduct and expression of intention, both anterior and subsequent to the actual acts of separation. If, in fact, there has been a separation, the essential question always is whether that act could be attributable to an animus deserendi. The offence of desertion commences when the fact of separation and the animus deserendi co-exist. But it is not necessary that they should commence at the same time. The de facto separation may have commenced without the necessary animus or it may be that the separation and the animus deserendi coincide in point of time; for example, when the separating spouse abandons the marital home with the intention, express or implied, of bringing cohabitation permanently to a close. The law in England has prescribed a three years' period and the Bombay Act prescribes a period of four years as a continuous period during which the two elements must subsist. Hence, if a deserting spouse takes advantage of the locus poenitentiae thus, provided by law and decides to come back to the deserted spouse by a bona fide offer of resuming the matrimonial home with all the implications of marital life, before the statutory period is out or even after the lapse of that period, unless proceedings for divorce have been commenced, desertion comes to an end and if the deserted spouse unreasonably refuses the offer, the latter may be in desertion and not the former. Hence it is necessary that during all the period that there has been a desertion, the deserted spouse must affirm the marriage and be ready and willing to resume married life on such conditions as may be reasonable."

52. Following the law in ***Bipinchandra Jaisinghbai Shah (supra)***, a constitution bench of the Hon'ble Supreme Court in ***Lachman Utamchand Kirpalani v. Meena***,² speaking through Rajagopala Ayyangar J., observed with regard to the burden of proof as follows:

"18....It is settled law that the burden of proving desertion — the "factum" as well as the "animus desrendi" — is on the petitioner, and he or she has to establish beyond reasonable doubt, to the satisfaction of the court, the desertion throughout the entire period of two years before the petition as well as that such desertion was without just cause. In other words, even if the wife, where she is the deserting spouse, does not prove just cause for her living apart, the petitioner husband has still to satisfy the Court that the desertion was without just cause..."

53. The above position of law has been followed by several subsequent decisions and has governed the field on desertion; thus, we do not wish to burden this judgement by referring to all the judgements extensively. Suffice it to say that the Hon'ble Supreme Court, in its recent judgement in ***Nirmal Singh Panesar v. Paramjit***

²1963 SCC OnLine SC 32.

Kaur Panesar,³ in a distinctive set of facts, has reiterated and applied these principles with authority.

54. It is the case of the Petitioner that after the Memorandum of Settlement dated 19.11.2014, the Petitioner and the Respondent resumed cohabitation in their matrimonial home. The Petitioner states that the couple had resided together in the matrimonial home for about a year and a half, after which the discord between the parties, which were thought to have been subdued, had started to re-emerge.

55. Thereafter, the couple have entered into the Mutual Consent Agreement dated 02.05.2016. The Respondent has also not disputed the contents of this Mutual Consent Agreement. Considering the importance the Petitioner places on this Mutual Consent Agreement, it would be relevant to note its terms, which are germane for our consideration:

- (i) The Petitioner shall clear the bank loan standing on the house matrimonial home;

³(2025) 3 SCC 790.

- (ii) The Respondent shall be the absolute owner of matrimonial home;
- (iii) The Petitioner shall pay an amount of Rs. 50,000 per month to the Respondent;
- (iv) The Petitioner shall pay a sum of Rs. 1,00,00,000 to the Respondent out of the monies generated in the Petitioners' movies; and,
- (v) That any marital disputes arising between them would be amicably resolved through mutual discussions between them or through their lawyers and that the parties would not, for any reason, discuss the issues of their marriage in the media.

56. We may also note reproduce some portions of the Mutual Consent Agreement, which notes the circumstances that gave cause for the couple to enter into the same:

"ಈ ಪರಸ್ಪರ ಒಪ್ಪಿಗೆ ಕರಾರು ಪತ್ರ ಮಾಡಲು ಕಾರಣವೇನೆಂದರೆ ಇಬ್ಬರೂ ಪಕ್ಷದಾರರ ವೈವಾಹಿಕ ಜೀವನ ಸುಖ ಸಂತೋಷವಾಗಿರದ ಕಾರಣ ಈ ದಿನ ಈ ಇಬ್ಬರೂ ಪಕ್ಷದಾರರ ಪರಸ್ಪರ ಒಪ್ಪಂದದ ಮೇರೆಗೆ ಮೊದಲನೇ ಪಕ್ಷದಾರರಿಗೆ ಎರಡನೇ ಪಕ್ಷದಾರರು ಇನ್ನೊಂದು

ಮದುವೆಯಾಗಲು ತನ್ನ ಅಭ್ಯಂತರವೇನೂ ಇರುವುದಿಲ್ಲ ಎಂದು ಒಪ್ಪಿರುತ್ತಾರೆ.

ಮೊದಲನೇ ಪಕ್ಷದಾರರು ಈ ಪರಸ್ಪರ ಒಪ್ಪಿಗೆ ಕರಾರು ಪತ್ರ ಮಾಡಲು ಮುಖ್ಯ ಕಾರಣವೇನೆಂದರೆ ಈಗಾಗಲೇ ಸುಮಾರು ಎರಡು ವರ್ಷಗಳ ಹಿಂದೆ ಮೊದಲನೇ ಪಕ್ಷದಾರರಿಗೆ ಎರಡನೇ ಪಕ್ಷದಾರರು ಮಾನಸಿಕ ಕಿರುಕುಳ ಮತ್ತು ಮೊದಲನೇ ಪಕ್ಷದಾರರ ತಂದೆ-ತಾಯಿಯವರಿಗೆ ಮಾನಸಿಕ ಕಿರುಕುಳ ಕೊಟ್ಟು ಸರಿಯಾಗಿ ನೋಡಿಕೊಳ್ಳದ ಕಾರಣದಿಂದ ಕೋರ್ಟಿನಲ್ಲಿ ಮೊದಲನೇ ಪಕ್ಷದಾರರು ಕೇಸ್ ಹಾಕಿ ಎರಡನೇ ಪಕ್ಷದಾರರು ಮುಂದೆ ಸರಿಹೋಗುವ ಕಾರಣದಿಂದ ಮೊದಲನೇ ಪಕ್ಷದಾರರು ಕೇಸನ್ನು ವಾಪಸ್ಸು ತೆಗೆದುಕೊಂಡಿರುತ್ತಾರೆ. ಆದರೆ ನಂತರವೂ ಸಹ ಎರಡನೇ ಪಕ್ಷದಾರರು ಅವರ ನಡವಳಿಕೆಯಲ್ಲಿ ಬದಲಾವಣೆ ಕಂಡಿಲ್ಲದ ಕಾರಣದಿಂದ ಮೊದಲನೇ ಪಕ್ಷದಾರರು ತಮ್ಮ ಮಕ್ಕಳಿಗೆ ಸೇರಬೇಕಾದಂತಹ ಸ್ವತ್ತುಗಳನ್ನು ಅವರವರ ಹೆಸರಿಗೆ ಬರೆದಿರುತ್ತಾರೆ.”

English Translation

"The reason for making this mutual consent agreement is that since the married life of the two parties is not happy, on this day, on the mutual consent of the two parties, the second party has agreed to not have any objection to the first party to have another marriage.

The main reason for the first party to make this mutual consent agreement is that already about two years ago, the first party filed a case in court for the mental harassment of the first party by the second party and the mental harassment to the first party's parents and for not taking proper care of them, the first party withdrew this case on the reason that the second party would improve going ahead. But even thereafter since there was no change in the behaviour of the second party the first party has written the assets which

should have belonged to his children in their names.”

57. The Petitioner places strong reliance upon the Mutual Consent Agreement to contend that once the Petitioner had performed the financial obligations towards the Respondent, as stated therein, the Respondent had driven the Petitioner out of the matrimonial home from May, 2016. Pursuant thereto, the Petitioner states that he started residing separately in a rented accommodation along with his parents.

58. The averments of the Mutual Consent Agreement do not evince this fact about the Petitioner being driven out by the Respondent. What the Mutual Consent Agreement does evince, with regard to the matrimonial home, is that the Petitioner should clear any outstanding loan on the matrimonial home and that the matrimonial home was to vest absolutely with the Respondent. It can also be discerned that the Mutual Consent Agreement was entered into in the same month as when the Petitioner alleges that he was driven out of the matrimonial home by the Respondent (i.e., May,

2016). The Petitioner's driver, PW-2 herein, has also corroborated that pursuant to the Petitioner being driven out of the matrimonial home in May, 2016, the Petitioner has been residing separately.

59. On the other hand, the Respondent has deposed that the couple were residing together throughout the statutory period and until 2018, i.e., when the Petitioner has filed the present divorce petition. The Respondent has also deposed that even after the filing of the present divorce petition, the Petitioner and the Respondent were in contact with each other. However, the Respondent has nowhere disputed the contents of the Mutual Consent Agreement. Apart from denying all contentions of the Petitioner, the Respondent has failed to produce any convincing material on record to corroborate her stand that the parties have cohabited together with their matrimonial obligations intact during the entire statutory period. Whereas, the Petitioner has placed corroboratory material in the form of the Mutual Consent Agreement and the examination of PW-2. Therefore, the

material produced by the Petitioner cannot be brushed aside.

60. That being said, we now turn our attention back to the Mutual Consent Agreement. It can be seen that despite the couple having attempted to cohabit with each other after the Petitioner's withdrawal of the earlier divorce petition in M.C. No. 299/2013, the marital life of the couple could not be rekindled to the state of happiness. Interestingly, it notes that the behaviour of the Respondent has not changed. Be that as it may, what is pertinent is that both the Petitioner and the Respondent have mutually acknowledged that on account of their marital life not being happy, the Respondent has no objection to the Petitioner contracting another marriage.

61. On a reading of the reasons for entering into the Mutual Consent Agreement in conjunction with the course of events, what can be discerned is that the contention of the Petitioner that he was compelled by the Respondent's conduct to withdraw from her cohabitation

from May, 2016, appears to be substantiated by the Petitioner.

62. After the Petitioner was compelled to leave the matrimonial home, it is presumed that the desertion by the Respondent continues for the entire duration of the statutory period. One way in which this presumption can be rebutted is for the Respondent to show that before the statutory period has expired, she had made a request to the Petitioner to resume cohabitation and that the Petitioner has unreasonably rejected that request. However, no contention in this regard has been forthcoming from the Respondent. By looking into the conduct of the parties after May, 2016, it can also be discerned that this factum of separation was accompanied by *animus deserendi*.

63. We may also note here that apart from the factum of separation and *animus deserendi*, for a spouse (in this case, the husband) to seek for divorce on the ground for desertion against the other spouse (in this case, the wife), it may not be necessary for the husband

to show that he has made any attempts to induce his wife to resume cohabitation with him. However, what is essential is that the husband must have been willing to perform his marital obligations all the while his wife had deserted him and that the wife's desertion was without his consent or any reasonable cause.

64. In this regard, it is relevant for us to appreciate some facts regarding the Petitioner's relation with women other than the Respondent, particularly during the statutory period, with a woman by the name of Keerthi Gowda.

65. For providing some context, we may reiterate that the Petitioner is admittedly a film actor in Sandalwood. The Petitioner's relation with Keerthi Gowda, as stated by the Petitioner in his cross examination, is that Keerthi Gowda used to work as a costume designer in one of the Petitioner's movies. The Petitioner further states that Keerthi Gowda also used to visit the Petitioner's house, to discuss about costume design and to meet the Petitioner's parents. PW-2 has also deposed about Keerthi

Gowda being a costume designer in the Petitioner's movies and her visiting the Petitioner's house.

66. Considering the material on record, in Ex.R-20, it is seen that on the Petitioner being released from the Jail in connection with a criminal case against him, the Petitioner embraces and gives a kiss on the cheek of Keerthi Gowda. In his cross-examination, the Petitioner has admitted to the visuals seen in this video. Further, in Ex.R-19, the Petitioner is also seen giving a kiss on the cheek of Keerthi Gowda, during the birthday party of the Petitioner and a photograph taken of the said moment is also seen at Ex.R-1.

67. Additionally, the Petitioner and Keerthi Gowda have also appeared together in numerous interviews in the media outlets. On this regard, we have perused the transcript of the interviews at Ex.R-16, Ex.R-17 and Ex.R-18. Particularly, in Ex.R-18, the Petitioner is observed stating that Keerthi Gowda is his wife. In Ex.R-5, which is a complaint dated 23.09.2018 written by Keerthi Gowda against the Respondent, Keerthi Gowda has stated that

she is the wife of the Petitioner. In Ex.R-6, which is the statement given by Keerthi Gowda in C.C. No. 11395/2019 on 06.01.2023, wherein Keerthi Gowda has stated that CW-4 therein (the Petitioner herein) is her husband.

68. The only dispute that the Petitioner raises to these materials are that the media outlets have created baseless speculations about the Petitioner and Keerthi Gowda. The Petitioner further states that he had instituted O.S. No. 3585/2016 seeking an injunction against the media outlets. The Petitioner, in his cross examination, also states that he made an oral request to the police to rectify the error of the Petitioner being stated to be the husband of Keerthi Gowda in her complaint dated 23.09.2018 stated above; however, no document has been provided by the Petitioner for the request so made.

69. Be that as it may, the Petitioner has not stated anywhere in his deposition that his conduct in kissing Keerthi Gowda on the cheek and himself proclaiming that Keerthi Gowda is his wife, is false. All that the Petitioner has stated is that the media outlets have portrayed it

falsefully. However, on appreciating the documentary evidence placed before us, we are not inclined to accept this contention of the Petitioner.

70. On an appreciation of these facts, it becomes clear that inspite of the Petitioner's present marriage with the Respondent not being dissolved, the Petitioner has involved himself intimately with another woman. The Petitioner has also gone as far as proclaiming that Keerthi Gowda is his wife. Therefore, it cannot be said that the conduct of the Petitioner was of such an innocent nature that he was, during the entire duration of the statutory period, willing to resume cohabitation and the consequential marital obligations with the Respondent.

71. Needless to state that a marriage entered into during the subsistence of the present marriage is void by virtue of Section 5(1)(i) r/w Section 17 of the Hindu Marriage Act, apart from it being a made a criminal offence. In this connection, the Respondent had also registered P.C.R. No. 9989/2018 alleging that the Petitioner was involved in a bigamous relationship.

However, vide order dated 09.12.2021, the Magistrate has dismissed the case for non-prosecution by the Respondent. As we have already observed, the Respondent has not marked an appearance before us inspite of the sufficient accommodation being given.

72. Therefore, we refrain from expressing any view on whether the Petitioner has indeed contracted a marriage with Keerthi Gowda; which is also because the Respondent has failed to place any convincing material to prove the same, apart from the exhibits referred to above. That does not necessarily lead to the conclusion that the Petitioner's intimate relationship with Keerthi Gowda has escaped our vision. On the perusal of the material provided by the Respondent, there can be no manner of doubt in the mind of any reasonable person who viewed the contents thereof that the Petitioner did share a more intimate relationship with Keerthi Gowda.

73. We may also add that in a marriage, it is the bounden duty on each spouse to uphold the sanctity of marriage and not to engage in conduct that is contrary to

the very institution of marriage itself; more particularly, by engaging in acts that betray the trust, exclusivity and companionship that the other spouse is legitimately entitled to expect. If the husband, by his own conduct, projects a third person as occupying the place of a wife or is otherwise involved intimately with the third person, he cannot thereafter be heard to say that his legally wedded spouse had deserted him without his consent.

74. In this regard, we take note of the provisions of Section 23(1) of the Hindu Marriage Act, in so far as it relevant to the instant case:

"23. Decree in proceedings.—(1) In any proceeding under this Act, whether defended or not, if the court is satisfied that—

(a) any of the grounds for granting relief exists and the petitioner 3[except in cases where the relief is sought by him on the ground specified in sub-clause (a), sub-clause (b) or sub-clause (c) of clause (ii) of section 5] is not in any way taking advantage of his or her own wrong or disability for the purpose of such relief, and

*(b) ******

*(bb) ******

*(c) ******

(d) *****

(e) there is no other legal ground why relief should not be granted, then, and in such a case, but not otherwise, the court shall decree such relief accordingly."

75. Here, it may also be noted that the Respondent has not stated in her chief-examination that there was no cohabitation between the couple during the statutory period. It was stated that the couple have started residing separately only from the time of filing of the present divorce petition, i.e., in 2018; and thus, the Respondent has sought for restitution of conjugal rights. The Respondent has not imputed any allegations of dishonest behaviour on the Petitioner during the statutory period and has also gone on to say that they were on cordial terms. The only place where the Respondent has made a mention about the Petitioner's relation with Keerthi Gowda, is in her cross-examination. Even there, the Respondent has not stated that the Petitioner and herself were not cohabiting in the statutory period due to the Petitioner's relation with Keerthi Gowda.

76. That being said, it is not necessary for us to go extensively into the law on constructive desertion. Suffice it to say that in view of Section 23(1) of the Hindu Marriage Act, irrespective of whether the Respondent has defended the point of desertion or not, by virtue of Section 23(1) of the Hindu Marriage Act, this Court has the power to ensure that the Petitioner does not take advantage of his own wrong and succeed in his claim for divorce on the ground of desertion.

77. In light of the above, we hold that the Petitioner has failed to establish the ground of desertion against the Respondent beyond all reasonable doubt, within the meaning of Section 13(1)(i-b) of the Hindu Marriage Act.

78. Since, the Petitioner has also urged the ground of cruelty, it is trite that we appreciate the facts in this regard. Before we proceed in our analysis, it is important for us to set out the law on cruelty as a ground for divorce under Section 13(1)(i-a) of the Hindu Marriage Act. The Hon'ble Supreme Court in **V. Bhagat v. D. Bhagat**,⁴ while

⁴(1994) 1 SCC 337.

observing that cruelty includes both physical and mental cruelty, has held as follows:

"16. *Mental cruelty in Section 13(1)(i-a) 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."*

79. While referring to **V. Bhagat (supra)**, the Hon'ble Supreme Court in **Samar Ghosh v. Jaya Ghosh**,⁵ while holding that an exhaustive definition for cruelty

⁵(2007) 4 SCC 511.

cannot be given, has laid down an indicative list of instances that amounts to cruelty, which has to be considered in light of the entire matrimonial life of the couple.

80. Considering the material on record, the Petitioner, in his chief examination, has deposed that the Respondent has treated him with cruelty on account of the Respondent making unsubstantiated allegations of extra-marital affairs against him. Regarding this, the Petitioner contends to have instituted O.S. No. 3585/2016 seeking an injunction order against the media outlets; however, the Respondent was not made a party in this suit. Thereafter, the Respondent appears to have given interviews in the media outlets, which is available at Ex.P-39 and its transcript at Ex.P-44, wherein the Respondent has stated that the Petitioner has five wives, the fifth one being Keerthi Gowda.

81. The Respondent, in her cross examination, has deposed that she had not stated before the media that the

Petitioner has five wives, instead she had stated that there are five women in the life of the Petitioner.

82. We have viewed the interview and have perused the contents of its transcript. Therein, it is observed that on a suggestion being made to the Respondent as to why the Respondent has not protested against the Petitioner taking another wife during the subsistence of the present marriage, the Respondent answers that it is not one woman but it is multiple women. The Respondent goes on to say that there are as many as five women, with Keerthi Gowda being the fifth one. Understood in this context, we are unable to accept the contention of the Respondent that she has not alleged that the Petitioner has five wives.

83. Additionally, the Respondent had also registered P.C.R. No. 9989/2018 alleging that the Petitioner was involved in a bigamous relationship. However, vide order dated 09.12.2021, the Magistrate has dismissed the case for non-prosecution by the Respondent.

84. As far as the allegation with respect to Keerthi Gowda is concerned, while there is no convincing material on record to prove that the Petitioner has indeed married Keerthi Gowda, nevertheless, in view of the affectionate moments shared by the Petitioner with Keerthi Gowda, as noticed hereinabove, we are not persuaded by the contention of the Petitioner that the Respondent has made unsubstantiated allegations against the Petitioner, so far as the allegation against Keerthi Gowda is concerned.

85. However, as far as the Respondent's allegations with respect to the other wives are concerned, the Respondent has failed to place any material to show that the Petitioner has indeed entered into a marriage with four other women; as such, these allegations remain unsubstantiated.

86. Even if we were to observe that in respect to the Respondent's allegation that the Petitioner had five wives, out of the five of them, one was Padmavati, one was Shubha Poonja, one was the Respondent herself, and one was Keerthi Gowda, there is no corroboration to prove

that the Petitioner had contracted a marriage with Shubha Poonja, or that the Petitioner has contracted a marriage with Keerthi Gowda, or that the Petitioner has contracted another marriage with another woman apart from those names mentioned hereinabove.

87. We may also note here that the bounds of mental cruelty has to be considered in light of various factors, such as, the level of sensitivity, social status and educational background, among others. As noted in ***Samar Ghosh (supra)***, the concept of mental cruelty cannot be static and the impact of modern culture through print and electronic media also has to be borne in mind.

88. Relying upon ***Samar Ghosh (supra)***, the Hon'ble Supreme Court in ***K. Srinivas Rao v. D.A. Deepa***,⁶ has further held as follows:

"16. Thus, to the instances illustrative of mental cruelty noted in Samar Ghosh [(2007) 4 SCC 511] , we could add a few more. Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing notices or news items which may have adverse impact on the business prospect or the job of

⁶(2013) 5 SCC 226.

the spouse and filing repeated false complaints and cases in the court against the spouse would, in the facts of a case, amount to causing mental cruelty to the other spouse."

89. With regard to the aspect of making unsubstantiated allegations of extra-marital affairs, the Hon'ble Supreme Court in **Narendra v. K. Meena**,⁷ after referring to the law laid down in an earlier judgement of the Hon'ble Supreme Court in **Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate**,⁸ has observed that making such unsubstantiated allegations are torturous and constitute mental cruelty. It was further held:

"16. We have carefully gone through the evidence but we could not find any reliable evidence to show that the Petitioner had an extra-marital affair with someone. Except for the baseless and reckless allegations, there is not even the slightest evidence that would suggest that there was something like an affair of the Petitioner with the maid named by the respondent. We consider levelling of absolutely false allegations and that too, with regard to an extra-marital life to be quite serious and that can surely be a cause for mental cruelty."

90. While this would be sufficient for us to hold that the conduct of the Respondent amounted to mental cruelty on the Petitioner, one of the reasons given by the Family

⁷(2016) 9 SCC 455.

⁸(2003) 6 SCC 334.

Court in brushing aside the media interviews given by the Respondent is that the Respondent had not called for the media on her own accord and that the Respondent did not make the statements with an intention to defame the Petitioner. However, we are not inclined to accept the reasoning rendered by the Family Court.

91. In this regard, it may be noted that as elucidated by the Hon'ble Supreme Court in ***Shobha Rani v. Madhukar Reddi***,⁹ cruelty may be intentional or unintentional. What is relevant to be considered is the nature of the cruel conduct by one spouse and the impact it has on the mind of the complaining spouse on whether such a cruelty caused a reasonable apprehension in the mind of the complaining spouse that it would be harmful or injurious to live with the spouse guilty of cruelty.

92. On the facts of the case, it is observed that the Petitioner is a film actor, having a certain amount of public standing. That being said, the Petitioner's life would be open to more public scrutiny, as compared to people who

⁹(1988) 1 SCC 105.

are perhaps not that well-known in the eyes of the public. In such a circumstance, the image which such a person holds becomes dear to him. A person stated to have a public following is expected to imbibe a conduct that sets an example to his followers; and consequentially, it is on that person on whom there rests a greater responsibility to ensure that his image is not soiled. However, considering the nature of a matrimonial bond, it cannot be said that the Respondent does not have any responsibility whatsoever to maintain the image of her husband.

93. We have already taken note of the Petitioner's deplorable conduct with Keerthi Gowda, during the subsistence of his marriage with the Respondent. Such conduct does not deserve any praise. While it is understandable that it may be that it is because of this conduct of the Petitioner, that the Respondent, in a fit of anger, has made the allegations against the Petitioner in the media; but it cannot be said that this conduct of the Petitioner gives a go-ahead to the Respondent to make baseless allegations against the Petitioner. Regardless of

whether the Respondent had herself called for the media interview, it is the Respondent who has herself chosen to provide her audience in the interview and has answered several questions put forth by the media, out of her own volition.

94. Therefore, the fallacy in the reasoning of the Family Court becomes apparent; as such, the Respondent's conduct in making unsubstantiated allegations against the Petitioner of having multiple wives would amount to cruelty.

95. The next ground urged by the Petitioner is that the statements made by the Respondent in the media has brought disrepute and mental agony to the Petitioner, in addition to causing a decline in the demand for the Petitioner in the film industry. It is true that the Respondent has made persistent remarks against her husband before the media outlets. It is also true that the Respondent has also set the law in motion against the Petitioner before the Karnataka State Commission for Women. The Respondent has also signed and lent her

active support to the complaint dated 15.12.2018, filed by the younger daughter against the Petitioner before the Karnataka State Commission for Protection of Child Rights. We may also note that the younger daughter was a minor on the date of her filing his complaint.

96. The tolerability which one spouse is expected to show to the statements made by the other spouse varies and no fixed yardstick can be laid down but what can be looked into is the mental impact which such remarks had on the spouse on the receiving end of such remarks, among other factors such as the social status and educational background.

97. On this note, we have also drawn our attention to the observations of the Hon'ble Supreme Court **Joydeep Majumdar v. Bharti Jaiswal Majumdar**,¹⁰ wherein it was held as follows:

"12. *When the appellant has suffered adverse consequences in his life and career on account of the allegations made by the respondent, the legal consequences must follow and those cannot be prevented only because, no court has determined that the allegations were false.*

¹⁰(2021) 3 SCC 742.

The High Court, however, felt that without any definite finding on the credibility of the wife's allegation, the wronged spouse would be disentitled to relief. This is not found to be the correct way to deal with the issue.

13. *Proceeding with the above understanding, the question which requires to be answered here is whether the conduct of the respondent would fall within the realm of mental cruelty. Here the allegations are levelled by a highly educated spouse and they do have the propensity to irreparably damage the character and reputation of the appellant. When the reputation of the spouse is sullied amongst his colleagues, his superiors and the society at large, it would be difficult to expect condonation of such conduct by the affected party."*

98. Considered in this context, it is without any doubt that the Respondent's conduct of persistently making disparaging remarks against the Petitioner before the media would not only bring about mental agony to the Petitioner but also lower the Petitioner's reputation and degrade the professional footing of the Petitioner, among his peers and the society at large. Through such repeated appearances/statements before the media, the Respondent has opened the doors for a media trial and has given the literal flavour to the 'in-camera' proceedings

in a matrimonial dispute; which, in the facts of the instant case, has resulted in cruelty upon the Petitioner.

99. The sustained media narrative against the Petitioner when read conjointly with the multiplicity of complaints instituted by the Respondent, form part of a continued conduct that had the propensity to expose the Petitioner to repeated public censure and consequent professional decline, which also amounts to cruelty against the Petitioner.

100. Another contention urged by the Petitioner is that the Respondent has ill-treated the Petitioner's parents and has assaulted the Petitioner's mother. To substantiate his contention, the Petitioner relies on Ex.P-40, which is a video, wherein on 23.09.2018, the Respondent is allegedly seen to enter the house of the Petitioner and assault the persons inside the house, including Keerthi Gowda.

101. In response to this incident, Keerthi Gowda files a complaint against the Respondent, which comes to be registered as C.C. No. 11395/2019. Interestingly, the

Respondent was acquitted of all charges in C.C. No. 11395/2019 on account of Keerthi Gowda herself turning hostile to the case of the prosecution.

102. The Petitioner further alleges that the Respondent has abused the Petitioner's parents in filthy language and that the Respondent was against the Petitioner's parents living together with the couple in the matrimonial home, which ultimately forced the Petitioner's parents to live in a separate house. This deposition has also been supported by PW-2. The Petitioner has also produced two Wills dated 30.04.2016, executed by each of the Petitioner's parents to state that they have been verbally abused by the Respondent and that they did not wish the presence of the Respondent at their funeral, in the event of their untimely death. It would be pertinent to note that the Petitioner's mother demised on 08.07.2021 and his father has demised on 18.11.2021.

103. Interestingly, the two Wills dated 30.04.2016 and Mutual Consent Agreement dated 02.05.2016, both occur within a very short duration of time in April-May,

2026. As such, these two documents cannot be viewed in isolation. Considering the contents of the two Wills and the reasoning of the Mutual Consent Agreement, it can be seen that there was discord not only between the Respondent and the Petitioner but also between the Respondent and the Petitioner's parents. What would also be seen is that it is the gradual degradation and subsequent collapse of the marital life that has culminated into these two documents.

104. No parent takes the drastic step of formally recording their wish to exclude their daughter-in-law from their own funeral. Under ordinary circumstances, there would have been no occasion for the parents to depart from natural affection towards their daughter-in-law. The very fact that the parents considered it necessary to formally record such a wish, therefore, is itself indicative of the extent of the animosity and distress that must have been occasioned to them by the conduct of the Respondent. The Petitioner's allegation of abusive conduct of the Respondent upon the Petitioner's parents, is

corroborated by both oral and documentary evidence, which cannot be brushed aside.

105. The Supreme Court in **Narendra (supra)**, has held that in a Hindu society, it is a pious obligation of the son to maintain his parents and that after marriage, the wife is expected to be an integral part of her husband's family. It was also observed that a wife attempting to separate her husband from his parents without any justifiable reason would amount to cruelty.

106. In consideration of the facts of the instant case, we may also add that when the wife is expected to be an integral part of the husband's family, the wife would also be expected to not create conditions wherein it becomes impossible for the husband's parents to live under the same roof in the matrimonial home. This duty owed by the wife to her husband, cannot be derogated from without justifiable cause; and we find no justifiable cause from the material on record. As such, we hold that the intolerable environment created by the Respondent upon the Petitioner's parents, as could be seen from the course of

events surrounding April-May, 2026, would cause mental agony and amount to cruelty upon the Petitioner.

107. It may also be that the Petitioner's conduct in sharing several intimate moments with Keerthi Gowda constitutes an act of cruelty by itself. It is also true that circumstances cannot be looked in isolation and the entire matrimonial life has to be appreciated as a whole. The nature of allegations levelled by both the parties against the other, including before the media; the earlier divorce proceedings; further deterioration in the relationship; repeated failure of all previous attempts at reconciliation, including through mediation; the bitter path tread by the parties subsequent to the filing of the present divorce petition, resulting in multiple rounds of litigation involving family members; the cruel treatment meted out by the Respondent to the Petitioner's parents; and, the parties themselves agreeing to the marital life not being happy under the Mutual Consent Agreement, all goes to show a broken marriage between the Petitioner and the Respondent, that is beyond the scope of any revival.

108. The Petitioner alleges that there has been no physical relation between the parties even after the couple had resumed cohabitation on the Petitioner's withdrawal of the earlier divorce petition. While the Respondent denies this allegation, in her cross-examination, the Respondent has also stated that she does not remember the last time the couple had physical relations with each other.

109. The litigation in the present dispute has been protracted for the past eight years and admittedly, the parties are residing separately for its entire duration, till date. The Petitioner has expressed his desire to move past this marriage. Even if it is the Respondent's case that she wants to save this marriage, neither has she taken enough care to mark a representation on her behalf before us nor is there any convincing material for us to accede to her plea, if that is indeed her plea. Neither party has placed any material to show that they have made any attempts at reconciliation. It is the cumulative effect of all these factors that demonstrates a disintegration of marital unity, which in itself is sufficient to constitute cruelty.

110. It may be useful to refer to the judgement of the Hon'ble Supreme Court in **Rakesh Raman v. Kavita**,¹¹ wherein it was held:

"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" [Section 13(1)(i-a) of the Hindu Marriage Act, 1955] .

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."

111. In the facts of the present case, the cumulative impact of all the circumstances when evaluated together indicates a sustained course of animosity between the parties, that is not on account of the normal wear and tear of the relationship; rather, it indicates that the parties are beyond any hopes of any reconciliation. In such

¹¹(2023) 17 SCC 433.

circumstances, marriage becomes merely a legal fiction, unsupported by any real love, affection and bond between the spouses. On account of the marriage being irretrievably broken down, compelling the parties to be unsevered by that fiction would amount to cruelty by itself and no meaningful purpose would bear by forcing an artificial reunion.

112. In light of the peculiar facts of the case as has been noticed above, we are of the considered opinion that the Petitioner has made out a case for dissolution of the present marriage under the ground of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act.

113. Apart from this aspect, we find no merit in all the other contentions urged by the Petitioner vis-à-vis the ground of cruelty. However, we wish to provide our reasons for holding the same, before proceeding to answer the question of permanent alimony.

114. To buttress his claim of cruelty against the Respondent, the Petitioner has also contended that the

Respondent has instigated their children against the Petitioner, including instigating their daughters to file complaints against the Petitioner before various forums. The details of these complaints are described as follows:

- (i) Complaint dated 30.10.2018 filed by the younger daughter before the Karnataka Commission for Women, against the Petitioner and Keerthi Gowda;
- (ii) Complaint dated 15.12.2018 filed by the younger daughter before the Karnataka State Commission for Protection of Child Rights, against the Petitioner and Keerthi Gowda; and,
- (iii) Criminal Complaint dated 22.10.2018 registered by the elder daughter before the Girinagara Police Station, against the Petitioner and Keerthi Gowda.

115. The Respondent, in her cross examination, has admitted that their elder daughter had filed false complaints against the Petitioner and that the Police has filed a B-Final Report in that regard. Concerning the complaint dated 30.10.2018, there is no convincing

evidence to show that the Respondent had forced the younger daughter to file this complaint.

116. On the other complaint dated 15.12.2018 filed by the younger daughter, the signature of the Respondent appears to be present. Also, that on the date of filing of such complaints, the younger daughter was aged about fifteen years old. While we are not expressing any opinion on whether the Respondent had indeed forced her minor younger daughter to file this complaint against the Petitioner, we do observe that the Respondent signing on this complaint would evince not only the animosity between the spouses but also institution of multiple complaints that would derail the reputation of the Petitioner, as we have noted hereinabove.

117. The Petitioner has also urged other facts to establish the acts of cruelty against the Respondent. These are that the Respondent has threatened to commit suicide in order to frame the Petitioner, the Respondent regularly checks the mobile phone, e-mail password, bank account password and whereabouts of the Petitioner, the

Respondent has made use of the Petitioner for his hard earned money and that the Respondent has not allowed the Petitioner's sisters and his other relatives inside their matrimonial home. However, the Petitioner has placed no convincing material on record to prove these allegations against the Respondent.

118. Regarding the Respondent's allegations that the Petitioner has received dowry from the Respondent's parents, no corroboratory material has been placed by the Respondent; and thus, we are in limited agreement with the Family Court that this aspect needs no further discussion.

119. Having held that the marriage between the Petitioner and the Respondent is to be dissolved on the ground of cruelty, it is now necessary for us to answer the question of permanent alimony payable to the Respondent.

120. The Hon'ble Supreme Court in **Rajnesh v. Neha**,¹² has extensively laid down certain guidelines to be followed with respect to the award of permanent alimony. While a list of factors is indicated, we may extract a portion of the judgement that effectively captures the position so expounded:

"81. A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort."

121. It may also be relevant to refer to a judgement of the Hon'ble Supreme Court in **Reema Salkan v. Sumer Singh Salkan**,¹³ wherein another relevant factor would be as to whether the husband is an able-bodied

¹²(2021) 2 SCC 324.

¹³(2019) 12 SCC 303.

person. In this regard it may be useful for us to note some observations of the Hon'ble Supreme Court in **Anju Garg v. Deepak Kumar Garg**,¹⁴ wherein by reiterated the duty of an able-bodied husband to provide financial support to his wife, it was held:

"10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In Chaturbhuj v. Sita Bai, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India."

¹⁴2022 SCC OnLine SC 1314.

122. Considering that the Respondent has remained absent in the proceedings before us and has not sought any monetary relief, we have taken into account the overarching demands of justice to protect the social standing and financial stability of the Respondent after the dissolution of the present marriage. In this regard, it would be apt to refer to the Hon'ble Supreme Court's observation in ***Amutha v. A.R. Subramanian***,¹⁵ wherein it was held:

"36. While granting the decree of divorce, we deem it appropriate to award permanent alimony to the appellant wife and the parties' daughter. Although the appellant wife has not specifically claimed any monetary relief or maintenance during these proceedings, it is trite and equitable to grant such relief, considering the financial status of the parties, their professional backgrounds, and the larger interest of justice. The financial independence of a party does not preclude the High Court from granting maintenance if it is necessary to secure dignity, social standing, and financial stability post-divorce, especially in cases where the marriage has subsisted for a long period."

123. While neither of the parties have filed their respective financial statements for fixing the permanent alimony payable, we have noticed that the Petitioner is a

¹⁵(2024) SCC OnLine SC 3822.

film actor, whose films are admittedly being well received. Although the three children of the parties have admittedly attained majority, we have considered the need to secure the general well-being and educational needs of the children, including their future marriage expenses. The children must not be allowed to suffer due to the protracted litigation between their parents.

124. We have also noticed the terms of the Mutual Consent Agreement dated 02.05.2016, wherein the Petitioner has also made certain financial commitments to the Respondent and his three children. Despite the same, granting a lumpsum amount as permanent alimony ensures finality in the matter and minimises any possibility of future litigation between the parties.

125. We have taken into account several factors peculiar to the instant case, including the duration of the present marriage between the parties, the nature of their respective roles as spouses during the entirety of their marriage and the age of the parties and the financial needs of their three children. That apart, since the

Petitioner is an able-bodied person, he is under an obligation to provide financial support to his wife and children, in order to ensure that the order for dissolution of marriage does not serve as a punishment to them.

126. Therefore, considering the need to secure financial stability of the Respondent and the three children and to put quietus to the long-standing litigation, we deem it appropriate, in the interest of equity, to direct the Petitioner to pay a sum of **Rs.2,00,00,000/- (Rupees Two Crores Only)** as permanent alimony to the Respondent as a one-time payment.

127. In light of the foregoing observations, we pass the following;

ORDER

(i) The appeal is allowed;

(ii) The marriage between the parties solemnized on 29.08.1999 at S.S. Kalyana Mantapa, Haro Gade, Anekal Taluk, Bangalore Rural District, stands dissolved on the ground of cruelty under Section 13(1)(i-a) of the Hindu

Marriage Act, by a decree of divorce with effect from the date of the decree; and,

(iii) Since the Petitioner has transferred the dwelling house to the Respondent, where she is presently residing, and considering the Petitioner's financial capabilities and the need to secure the financial stability of the Respondent and the three children, we deem it just and proper to grant permanent alimony of **Rs. 2,00,00,000 (Rupees Two Crore Only)** to be paid within three months from the date of receipt of copy of this order, failing which he is required to make payment of the said amount with interest @ 6% per annum from the date of decree till payment.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

KNM