IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT: HYDERABAD

HON'BLE SRI JUSTICE K. LAKSHMAN

AND

HON'BLE SMT. JUSTICE K. SUJANA

FAMILY COURT APPEAL No.473 OF 2017
(CNR No.HBHC010771962017)

Reserved on: 29.09.2026 **Pronounced on: 06-11-2026**
Uploaded on : 06-11-2026

Between:

x x x x x …Appellant

Vs.

x x x x x .. Respondent

This Court delivered the following:

JUDGMENT: (Per Hon'ble Sri Justice K. Lakshman)

Heard Mrs. T. Bala Jayasree, learned counsel for appellant - husband. Despite service of notice, there is no representation on behalf of respondent.

2. Feeling aggrieved and dissatisfied with the order dated 16.09.2015 in O.P. No.91 of 2010 passed by learned Senior Civil Judge, Nizamabad, appellant herein preferred the present appeal.

3. The appellant herein is the husband and the respondent is the wife. The appellant - husband had filed the aforesaid OP under

Section - 13 (1) (ia) of the Hindu Marriage Act, 1955, against the respondent - wife, seeking dissolution of marriage on the ground of 'cruelty', contending:

i) His marriage with the respondent was performed in the year 1992. The said marriage was in the form of *Udiki*.

ii) After the marriage, he has gone to Saudi Arabia for livelihood. The respondent was pregnant then, and delivered a child baby boy, by name '[redacted]' after four (04) months of his departure to Saudi Arabia. Thereafter, two more sons i.e., [redacted] and [redacted] were also born out of their lawful wedlock.

iii) He used to send all his earnings from Saudi Arabia to the respondent.

iv) He came to India, stayed for two (02) years and, thereafter went to Dubai. He used to send an amount of Rs.25,000/- per month to the respondent for 2½ years. He came back to India and stayed for five (05) months and, thereafter left for Dubai again and stayed there for sixteen (16) months. Even during the said period also, he used to send all his earnings to the respondent. Thereafter, he

left for Iraq and stayed there for thirteen (13) months. During the said period also, he used to send an amount of Rs.30,000/- per month to the respondent.

v) The respondent used to go her mother's house frequently during his stay in India. She disliked the presence of the appellant.

vi) The respondent maintained illicit relation with one Mr. Ramesh. She was caught red-handedly by his first son. She poured kerosene upon her and attempted to commit suicide. Her son prevented her from doing so.

vii) She used to quarrel with her first son. She could not furnish the details of the amounts sent by the appellant from Abroad despite repeated requests.

viii) She used to go to her parents' house on the pretext of collecting interest on the amount sent by the appellant and she gave it on interest.

ix) *Panchayats* were held by the caste elders several times, but there was no use.

x) On 23.05.2010, the respondent left the company of the appellant with cash, 3½ tolas of gold *Pushelathadu*, 3

tolas of gold necklace, gold *butta kammalu*, *Matilu* and two rings.

xi) The respondent did not join the company of the appellant in spite of repeated requests.

xii) The respondent has lodged a report falsely against the appellant before the Police, Jakranpally, for the offence under Section - 498A of the IPC. He was arrested on 15.08.2010 and he was in judicial custody till 18.08.2010.

xiii) On 21.08.2010 at 2.00 P.M., when the appellant with his family members and relatives and two nephews were taking food in his house, the respondent along with her relatives trespassed into his house, assaulted one Palle Gangamani, a distant relative of the appellant, dragged her out of the house by holding her tuft of hair and beat her. The respondent also dragged the appellant and his elder son out of the house, beat them mercilessly with the help of her relatives and henchmen. The respondent and her henchmen also snatched away 3 tolas of gold *pushelathadu* and 2 tolas of gold *gundlu* from the person of said Palle Gangamani. They have also snatched away

2 tolas of gold chain, 1/2 tola of gold ring and wrist watch from the person of the appellant. The respondent and her relatives have snatched away the said gold from the person of [redacted]. They have also lodged a complaint with Dichpally Police Station, but did not take any action.

xiv) Thus, the respondent subjected the appellant to cruelty and started living in adultery. Therefore, there is no possibility of the appellant living with the respondent.

4. The respondent filed counter denying the said allegations, and according to her, the appellant filed the aforesaid OP in order to get rid of her.

5. To prove the cruelty, the appellant examined himself as PW.1, his friend as PW.2 and neighbour as PW.3. He has filed Ex.P1 - original bank passbook of the respondent in State Bank of Hyderabad, Dichpally Branch. To disprove the said cruelty, the respondent examined herself as RW.1, her first son as RW.2 and one Mr. M. Ramulu as RW.3.

6. PW.1 deposed with regard to what has been stated in the aforesaid OP. However, during cross-examination, he stated that he did not open any account in the name of the respondent with State Bank of Hyderabad, Dichpally Branch. He did not make any construction of house. He volunteered the house bearing No.1-93 and 1-93/1 are old houses. He is not prepared to take back the respondent. All other suggestions are in the nature of denial by the appellant.

7. PW.2 - Podduturi Janardhan Reddy deposed with regard to solemnization of marriage between the appellant and the respondent. He also deposed that during stay of the appellant in Saudi, the appellant used to send all his earnings to the respondent for her family maintenance and there were quarrels between them etc.

i) However during cross-examination, he admitted that he did not remember when the appellant left for Dubai and he did not know in which bank the respondent has the account. The appellant did not show any document with regard to sending the amount to the respondent from Dubai. He gave evidence in three suits i.e., O.S. Nos.3 of 2002, 130 of 2007 and 152 of 2006, all are on the file of Principal Junior Civil Judge, Nizamabad.

8. PW.3 - D. Kalavathi, neighbour of the parties, also deposed with regard to the appellant sending the amount to the respondent while he was in Dubai and there were quarrels between them etc. During cross-examination, the answers given by PW.3 are as that of PW.2.

9. The respondent as RW.1 deposed in her evidence reiterating what has been stated in her counter. However, during cross-examination, she has admitted that she did not file any complaint before the Police against the appellant. She had joint account with the appellant in State Bank of Hyderabad, Dichpally Branch. She denied the suggestion that he had illicit intimacy with one Ramesh and that her elder son caught them red handed. She also denied the suggestion that her elder son stopped her from committing suicide. Three or four months prior to 21.08.2010, they are living separately. One year prior to 21.08.2010, the appellant returned from Dubai.

10. RW.2, son of the parties, deposed that his father filed the aforesaid OP with false grounds, with an intention to get rid of her mother. His father never sent any earnings to his mother. He denied the suggestion that he caught his mother red handed while she was in

the company of one Mr. Ramesh and that she poured kerosene upon her body and that he prevented her from committing suicide. During cross-examination, RW.2 deposed that his mother kept the amount sent by his father from Abroad in Bank. He volunteered that his father used to withdraw the amount after his arrival to India. His mother did not file complaint before police after receiving notice from his father. He and his two brothers stayed with the appellant till 2012. He denied the suggestion that his mother had illicit intimacy with the said Ramesh. He also stated that the appellant married second time with one Palle Gangamani.

11. RW.3 - Mr. M. Ramulu, brother of the respondent, deposed that the appellant used to go to Saudi and his entire earnings sent to his brothers and to his other family members. The appellant also used to harass the respondent for additional dowry etc. During cross-examination, RW.3 admitted that the respondent is residing with him since six years. The appellant sent money for the house-hold expenses of the respondent. The respondent did not file any case against the appellant till filing of the aforesaid OP.

12. On consideration of the aforesaid evidence, both oral and documentary, learned Family Court dismissed the aforesaid OP holding that the appellant failed to prove the said cruelty. Challenging the said order, the appellant preferred the present appeal.

13. Despite service of notice, there is no representation on behalf of the respondent. We have heard Mrs. T. Bala Jayasree, learned counsel for the appellant extensively. We have perused the record.

14. As stated above, it is the appellant - husband, who filed the aforesaid OP against the respondent - wife seeking dissolution of their marriage on the ground of cruelty. Therefore, he has to plead and prove the same by adducing cogent evidence.

15. As discussed above, it is the specific contention of the appellant that the respondent maintained illicit relation with one Mr. Ramesh and they were caught red handedly by their elder son, Mr. [redacted] But, the appellant filed the aforesaid OP under Section - 13 (1) (ia) of the Hindu Marriage Act, 1955, seeking dissolution of marriage on the ground of 'cruelty'. He has not filed the said OP on the ground of 'adultery'. He has not made the said Ramesh as party.

16. It is also the specific contention of the appellant that the respondent was also caught red-handedly by his first son, the respondent poured kerosene upon her and attempted to commit suicide and that her first son prevented the same, but the appellant failed to examine his first son or any other witness in proof of the same. On the other hand, the respondent examined her elder son i.e., [redacted] as RW.2, who denied the aforesaid contention of the appellant. Therefore, the appellant herein failed to prove the said illicit relation alleged to have maintained by the respondent with Ramesh.

17. The appellant also alleged that the respondent left his company on her own without intimation etc., but he has not examined any witness in proof of the same. The appellant also made a specific allegation that the respondent along with her relatives trespassed into his house, assaulted one Palle Gangamani, a distant relative of the appellant, dragged her out of the house by holding her tuft of hair and beat her. But, the appellant failed to examine the said Palle Gangamani. Therefore, mere allegation is not sufficient and the appellant has to prove the same by producing cogent evidence. On the

other hand, RW.2, elder son of the appellant and the respondent, deposed that the appellant married the said Palle Gangamani.

18. It is also the specific contention of the appellant that he has sent money to the respondent when he was in Dubai and Iraq. She failed to account for the same. But, except filing Ex.P1 - passbook, he has not let in any evidence to prove the same. On the other hand, the respondent examined herself and her elder son as RW.1 and RW.2 to disprove the same.

19. As discussed above, the appellant also made a serious allegation that the respondent left his company in the year 2010 along with her gold articles, but he failed to prove the same by examining relevant witness.

20. As discussed above, it is the appellant - husband, who filed the aforesaid OP against the respondent seeking dissolution of marriage on the ground of cruelty, has to plead and prove the same by producing reliable and cogent evidence. In the present case, the appellant failed to prove the same.

21. Human mind is extremely complex and human behaviour is equally complicated. Similarly human ingenuity has no

bound, therefore, to assimilate the entire human behaviour in one definition is almost impossible. What is cruelty in one case may not amount to cruelty in other case. The concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, traditions, religious beliefs, human values and their value system as observed by the Apex Court in **Samar Ghosh v. Jaya Ghosh**[1]**.**

22. Matrimonial cases before the Courts pose a different challenge, quite unlike any other, as we are dealing with human relationships with its bundle of emotions, with all its faults and frailties. It is not possible in every case to pin point to an act of "cruelty" or blameworthy conduct of the spouse. The nature of relationship, the general behaviour of the parties towards each other, or long separation between the two are relevant factors which a Court must take into consideration as observed by the Apex Court in **Rakesh Raman v. Smt. Kavita**[2]**.**

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[1]. (2007) 4 SCC 511
[2]. 2023 AIR (SC 2144

23. Cruelty is a course or conduct of one, which is adversely affecting the other. The cruelty may be mental or physical, intentional or unintentional. The cruelty alleged may largely depend upon the type of life the parties are accustomed to or their economic and social conditions and their culture and human values which they attach importance. Each case has to be decided on its own merits as held by the Apex Court in **Naveen Kohli v. Neelu Kohli**[3].

24. Marriages are made in heaven. Both parties have crossed the point of no return. A workable solution is certainly not possible. Parties cannot at this stage reconcile themselves and live together forgetting their past as a bad dream. We, therefore, have no other option except to allow the appeal and set aside the judgment of the High Court and affirming the order of the Family Court granting decree for divorce as held by the Apex Court in **Durga Prasanna Tripathy v. Arundhati Tripathy**[4].

25. Cruelty is not defined in any statute. It is a course or conduct of one, which is adversely affecting the other. We have to consider the entire evidence and the allegations made by the husband,

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[3]. (2006) 4 SCC 558
[4]. (2005) 7 SCC 353

assess the same and come to a conclusion that the same amounts to cruelty or not.

26. In **Savitri Pandey v. Prem Chandra Pandey**[5], the Apex Court held as under:

> **"6.** Treating the petitioner with cruelty is a ground for divorce under Section 13(1)(*i-a*) of the Act. Cruelty has not been defined under the Act but in relation to matrimonial matters it is contemplated as a conduct of such type which endangers the living of the petitioner with the respondent. Cruelty consists of acts which are dangerous to life, limb or health. Cruelty for the purpose of the Act means where one spouse has so treated the other and manifested such feelings towards her or him as to have inflicted bodily injury, or to have caused reasonable apprehension of bodily injury, suffering or to have injured health. Cruelty may be physical or mental. Mental cruelty is the conduct of other spouse which causes mental suffering or fear to the matrimonial life of the other. "Cruelty", therefore, postulates a treatment of the petitioner with such cruelty as to cause a reasonable apprehension in his or her mind that it would be harmful or injurious for the petitioner to live with the other party. Cruelty, however, has to be

[5]. (2002) 2 SCC 73

> distinguished from the ordinary wear and tear of family life. It cannot be decided on the basis of the sensitivity of the petitioner and has to be adjudged on the basis of the course of conduct which would, in general, be dangerous for a spouse to live with the other….. .
>
> **7.** No decree of divorce could be granted on the ground of desertion in the absence of pleading and proof…..”

27. As discussed above, though the appellant made an allegation that the respondent deserted him in the year 2010, he has filed the aforesaid OP against the respondent seeking dissolution of marriage on the ground of **‘cruelty’** only. He has not filed the aforesaid application seeking dissolution of marriage on the ground of **‘desertion’**. Therefore, he cannot allege the ground of ‘desertion’ in the aforesaid OP. Like-wise, though the appellant made a specific allegation that the respondent lived in adulterous life with one Mr. Ramesh, he has filed the aforesaid OP only on the ground of ‘cruelty’, but not on the ground of ‘**adultery’** and he has not made the said Ramesh as party to the aforesaid OP. His first son (RW.2) deposed against him. On consideration of the said aspects only, learned Family Court dismissed the aforesaid OP filed by the appellant.

28. It is apt to note that the marriage of the appellant and the respondent was performed in the year 1992, which was in the form of *Udiki*. Recognizing the marriages in the form of *Udiki*, the Hon'ble Supreme Court in **Shakuntalbai v. L.V. Kulkarni**[6] held as under:

> "26. From the above evidence on record, appreciated in the light of the case law on the subject and the authoritative texts as discussed above relating to the custom of dissolution and Udiki form of marriage prevalent among the Lingayats who are a religious sect following teachings of Basava, we entertain no doubt that there has been ancient and unbroken customs of dissolution of marriage and of serai Udiki marriage among the Panchamasale Lingayats which was already judicially noticed by the Courts, and that the marriage of the fourth defendant with Gurulingappa was proved to have been customarily dissolved and that she was subsequently legally married with Gurappa in the valid customary form of Udiki marriage, whereafter, she lived with Gurappa as husband and wife until Gurappa died, and that thereafter she enjoyed the family pension by dint of her being nominated as wife by Gurappa to the knowledge of all concerned. She was accepted by the community

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[6]. (1989) 2 SCC 526

as 3 wife of Gurappa even after his death. There is therefore, no scope for declaring the marriage illegal posthumously."

29. The parties herein were blessed with three sons out of their lawful wedlock. As on the date of filing the aforesaid OP, the appellant was 38 years and presently he is 54 years, while the respondent was 36 years and at present she is 52 years, and their three sons are majors. Therefore, the appellant herein is not entitled for any relief, much less the relief sought in the aforesaid OP. The appellant failed to make out any case to interfere with the order under challenge. It is a reasoned and well-founded order. Thus, the present appeal is devoid of merits and the same is liable to be dismissed.

30. The present Appeal is accordingly dismissed. In the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal case shall stand closed.

K. LAKSHMAN, J

K. SUJANA, J

6th November, 2026
Mgr