



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

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Reserved on: August 29, 2023

Pronounced on: December 20, 2023

+ MAT.APP.(F.C.) 125/2020 & CM APPLS.51199/2020 & 51206/2022

..... Appellant

Through: In person with Ms. Raavi Birbal,
Advocate

Versus

..... Respondent

Through: In person with Mr.Prateek Mehta,
Mr.Anshul Luthra & Mr.Vikas,
Advocates

CORAM:

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

JUDGMENT

SURESH KUMAR KAIT, J.

1. The present appeal under Section 19 of the Family Courts Act, 1984 read with Section 28 of the Hindu Marriage Act, 1955 has been preferred by the appellant-husband against the dismissal of Divorce petition seeking divorce from respondent-wife under Sections 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955, has been dismissed vide judgment and decree dated 28.01.2020 by learned Family Court in HMA No.788/2017.

2. The facts in brief are that the parties got married on 10.02.2001, according to the Hindu Customs and Rites. Two girls were born from their



wedlock, who were aged 13 years and 10 years, at the time of filing of the divorce petition on 07.07.2017.

3. The appellant had claimed that after the marriage, the respondent was treated with respect, affection and dignity by the family members of the appellant. However, on account of the conduct of the respondent, he took the entire jewellery of the respondent from his mother and handed it over to the her, who kept it in her bank at Punjab National Bank, Brij Vihar, Ghaziabad.

4. The appellant had planned a honeymoon trip to Mata Vaishno Devi and thereafter, to Manali but he had to cancel the programme on account of sudden illness of his Nanaji (grandfather), which upset the respondent, who used intemperate language against the Nanaji.

5. The respondent allegedly visited her parental home on every weekend to which no exception was taken by the appellant since he understood her love and affection for her parents and also wanted the respondent to live peacefully in the matrimonial life. They enjoyed a peaceful life without any complaint till 27.11.2016 and he did not cause any kind of harassment of cruelty to the respondent. However, the same sentiments were not reciprocated by the respondent, who was allegedly a greedy women and in a habit of quarrelling with the appellant with the motive of extracting money from him.

6. At the time of marriage, the appellant was working at Chandigarh while the respondent was employed at Firozabad but she left her job after 10 days of marriage and joined a College at Greater Noida. She, however, again left the job and shifted to Chandigarh with the petitioner in the rented accommodation, in April, 2002. She thereafter worked in different Colleges



between the year 2004 to 2007. It was claimed by the appellant that she had high ego and did not have good relations with anyone either in her family or in the society. She created chaos in the matrimonial life and had altercations with his parents. The attitude of the respondent was indifferent and abusive. She failed to discharge the household chores and wanted the appellant to dance to her tune. When the appellant tried to make her understand, she allegedly rebuked him by asserting that she wanted to live in luxury and if the appellant did not live his life according to her desire, he would suffer.

7. The appellant further asserted that in April, 2003, on the persuasion of the respondent, he got his job transferred to Delhi but he was pressurised by the respondent to set up his house independently, separate from his parents and forced him to reside in her parental home. She eventually compelled him to buy a separate house in her name. Thereafter, due to constant quarrels, the appellant along with the respondent shifted to different rented accommodation from time to time from the year 2003 till 2005.

8. According to the appellant, the respondent regularly taunted him on one pretext or the other. The appellant further claimed that even the mother of the respondent used to demand expensive things from him and she along with the respondent, planned to grab more money from him so much so, the mother of the respondent stayed with them for more than three years. In addition to this, the mother of the respondent constantly taunted the appellant stating that there were better suitors for the respondent had she not married the appellant.

9. In the third week of January, 2010, the respondent allegedly threatened to leave the matrimonial home if he failed to shift to a better accommodation. Due to this, the petitioner was persuaded to purchase a flat



in Chander Nagar where he along with the respondent, lived till 2011. However in February 2011, the respondent refused to reside in the said house claiming it to be too small and also being located in a colony which was not good. The appellant thus booked a plot in the name of the respondent at Yamuna Express Way by arranging the finances from Axis Bank. The petitioner paid only the initial sum of Rs.10,000/- but thereafter they dropped the idea of buying the plot as they intended to buy another flat.

10. The petitioner after selling the Chander Nagar Flat, purchased a new Flat at A-901, JKG Heights, Plot No.C-9, Sector-18, Vasundhara, Ghaziabad, in their joint name for a total consideration of Rs.47,00,000/-, for which he took a loan of Rs.28.50 Lakhs from the Punjab and National Bank and also took loan from his friends and contributed from the sale proceeds of Chander Nagar Flat. They shifted to this newly acquired flat in May, 2011 but the respondent was still not happy and demanded all the new household articles for the new house without considering the financial position of the petitioner. She also pressurised him to not to talk to his parents or to the family members.

11. The appellant further alleged that from the year 2010 to 2013, she became more arrogant towards him on the instigation of her mother and levelled false accusations. Whenever he talked to his office employees or a client, she threatened him with dire consequences.

12. The appellant further claimed that he arranged Rs.40,00,000/-, some by taking loan and some from his friends and opened an Organic Store-cum-Restaurant in the name and style of 'Sirforganic' at GRS, R6, Ansal Plaza Mall, Vaishali, Ghaziabad, for the business of the respondent as she did not want to sit idle at home. The EMIs of Rs.29,052/- are still being paid by the



appellant. The appellant asserted that the respondent was earning Rs.40,000/- per month from the business but she never paid a penny to the appellant towards the repayment of the loan amounts. Moreover, the mother of the respondent regularly interfered in their matrimonial life leading to serious altercations between them.

13. The appellant on the insistence of the respondent, bought a new car in February, 2014 but she rebuked him for not being able to arrange a driver for driving the car.

14. The appellant further asserted that the respondent was in a bad habit of talking to strangers on internet by using fake Ids and would reveal her personal details to such unknown persons. She put the entire family on risk which became a matter of great mental stress for the appellant.

15. The appellant claimed that the respondent also made allegations of him maintaining illicit relations with his colleagues, friends and relatives. In the year 2012, on the occasion of Holi, when the petitioner threw water on his mother-in-law, the respondent made derogatory remarks by asserting that *Pani Kyon Dala upper kya unke sath bhi tum relation banana chate hoo*. Similar derogatory remarks in adulterous relationship was made in April, 2006, when they both were attending the marriage of one of the colleagues. She had remarked *Khud maze lekar uske tika di*.

16. The appellant further asserted that the respondent was in a bad habit of pilfering things from hotels and the house, which she continued to steal despite the advise of the appellant, who was shocked when she confessed in one of their chats that she had stolen the bangles of his mother about 15 years ago. The appellant further claimed that the respondent was in a habit of drinking and many at times, she got drunk and became out of control. Her



drinking habits had a bad impression on their children and also caused trouble for the appellant.

17. Faced with the such conduct, they both approached a marriage counsellor in the year 2010 and also on 24.04.2015 and 31.01.2016, but the respondent did not follow the advise of the counsellor. She remained in regular contact with a *Tantrik* and performed *tantras* on the appellant and made his life problematic. She even denied him physical intimacy and shouted at him be saying that *Tumne pehle hi bachche paida karke meri jindagi kharab kar di, ab agar mujhe aaj ke baad haath lagaya to mujhse bura koi nahin hoga.*

18. The appellant further claimed that he was compelled by the respondent to give her money for household expenses and he started transferring a sum of Rs.30,000/- per month in her account, though she never gave the details of the expenses incurred by her. He thereafter enhanced the amount to Rs.50,000/- per month, which he paid till August, 2017, aside from paying EMIs of their flat and the shop that was being run by the respondent.

19. The appellant has claimed that he did not have a happy marriage because of day-to-day bickering over the petty matters and also because of the indifferent attitude of the respondent and disrespect shown by her towards him. Aside from verbally abusing him, she even caused physical injury and committed domestic violence and threatened to involve the appellant in false cases of dowry and domestic violence. Further, in October/November 2015 the respondent had allegedly insulted the guests of the appellant who out of embarrassment, left without eating.



20. Thereafter, on 27.11.2016, the respondent at her paternal house allegedly insulted the appellant, due to which he felt humiliated and left their matrimonial house for which she never apologised. A police complaint dated 07.12.2016 was filed by the appellant apprehending false implication in the cases by the respondent.

21. The respondent filed a **Petition bearing No. 11/17** under Section 9 of the Hindu Marriage Act, 1955, aside from filing a complaint of Domestic Violence. According to the settlement under the Petition under Section 9, they agreed to live together as husband and wife from 06.06.2017 and he also agreed to bear the household expenses and of the children.

22. On 09.06.2016, the appellant took the respondent and their children out on his birthday for a movie. That day when the appellant attempted to initiate sexual relations with her, she threatened him to file rape charges against him.

23. The appellant asserted that she refused to have physical relationship with him on 11.06.2017. When he tried to discuss the matrimonial discord with the respondent, she retorted that she do not even want to see his face. All his request to patch up the differences for the sake of children, went unheeded by the respondent.

24. On 13.06.2017, the appellant wanted to talk to his children when the respondent allegedly abused and insulted him. On the same day, he received a call on his mobile phone from the Police Station that the respondent has filed a complaint in the Police Station and he was asked by the police officer to return. He was shocked and when he came back to his house, he found only the children present in the house, who told him that the police had come and had left after leaving a message for him to meet in the Police



Station. He then went to Police Station Indirapuram and also to the Police Post Prahlad Garhi but was informed by the police officials that no complaint whatsoever had been filed against him.

25. When he returned back to the matrimonial home, he was not allowed to enter by the respondent, who threatened that she would file false cases against him, if he tried to enter the house ever again. The appellant also asserted that she was poisoning the minds of the daughters against him by providing wrong information and claimed that the mother of the respondent was the root cause for spoiling their matrimonial life. The appellant, therefore, sought divorce on the ground of cruelty and desertion under Section 13(1) (ia) and (ib) of the Hindu Marriage Act, 1955.

26. **The respondent in her Written Statement** denied all the allegations made in the petition. She asserted that a dowry demands were made and the parents of the respondent were compelled to spend about Rs.10,00,000/- in the marriage aside from giving jewellery. She denied that her parents ever interfered in her matrimonial life; rather she claimed that the petitioner and his parents were greedy persons, who constantly made dowry demands from her. His mother took the jewellery from her and asserted that it has been retained by her mother-in-law.

27. She further claimed that the family members of the appellant instigated him against the respondent and her family members and created nuisance in her life. They even used to take her salary from her.

28. She claimed that the appellant and his family members were not happy on the birth of the daughters and failed to take proper care of her. With the design to get rid of the respondent, she was made to shift with the petitioner in a rented accommodation at Delhi but thereafter, he took her



back to the matrimonial house. She claimed that the behaviour of the appellant and his parents was never cordial towards her.

29. She denied having made any frivolous police complaint against the appellant. She also denied that she is living with her daughters in a fully furnished house at Ghaziabad and has also denied that the appellant was paying the EMIs of Rs.56,323/-, in respect of the said house and the shop. She asserted that it is the appellant and his parents, who committed physical and mental cruelties upon her. She denied that she ever deserted the appellant and therefore, submitted that the divorce petition was liable to be dismissed as it was devoid of any merits.

30. Issues on the pleadings were framed on 20.02.2018, which are as under:-

“1. Whether the respondent has treated the petitioner with cruelty, as alleged, after the solemnization of the marriage? OPP

2. Whether the respondent as deserted the petitioner for a continuous period of two years, immediately, preceding the presentation of the petition? OPP

3. Whether the petitioner is entitled to the decree of dissolution of marriage u/s 13 (1) (ia) & (ib) of HMA? OPP

4. Relief.”

31. The appellant and the respondent examined themselves as PW-1 and RW-1 respectively, in support of their case.

32. ***The learned Judge, Family Court***, after considering the entire evidence concluded that the incidents relied upon by the appellant did not establish any cruelty towards the appellant. Since the petition for divorce was filed before two years from the date of their separation, the divorce on the ground of desertion under Section 13 (1) (ib) of Hindu Marriage Act, 1955 was held to be not maintainable. The petition for divorce was



accordingly dismissed on both the grounds. Aggrieved by the dismissal of the divorce petition, the present Appeal has been preferred.

33. Submissions heard and the record perused.

34. It is an admitted case that the parties had got married on 10.02.2001 and were blessed with two daughters, who were aged 13 years and 10 years, at the time of filing of the Divorce Petition in July, 2017. Essentially, it is not in dispute that the parties resided together for about 16 years, after which they separated in November, 2016.

35. Though the parties were in a matrimonial relationship for a long period but it has come on record that their married life was not blissful. Rather, it was tumultuous and the parties were not able to forge any love, affection and trust *inter se* them.

36. The respondent had claimed that the dowry demands were made by the appellant and his family members, at the time of marriage and her parents were compelled to spend about Rs.10,00,000/-, aside from giving jewellery, cash and costly articles in their marriage. She even claimed that her jewellery had been taken away by her mother-in-law, on the pretext of keeping it in the locker. Even thereafter, the appellant and his family members constantly made demands for dowry from her and her parents, which she continued to endure in the expectation of the relations getting smoothed over a period of time.

37. *The respondent's allegations of dowry demands have not been substantiated by any cogent evidence. Significantly, while she has been alleging dowry demands throughout the time they were together, neither any incident of dowry demands has been explained explicitly nor any formal*



complaint was ever made until 2019. The allegations of dowry demands made by the respondent are vague and lack details.

38. The consistent and completely unsubstantiated allegations of dowry harassment as made by the respondent in her Written Statement against the appellant and his family members, that too after sixteen years of marriage, are without any basis and can only be termed as source of great mental pain constituting grave cruelty.

39. The respondent thereafter, filed a petition under Section 12 the Protection of Women from Domestic Violence Act, 2005 on 03.03.2017 which was dismissed vide Order dated 23.12.2019 on the ground of lack of territorial jurisdiction. An Appeal was preferred against the said dismissal which was again dismissed on 16.01.2021.

40. The respondent thereafter filed a fresh petition under Domestic Violence Act on 20.12.2021, by giving her residential address of Rohini, in order to meet the objections of territorial jurisdiction. It may also be observed that in the Petition filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 on 20.12.2021, serious allegations of being sexually harassed by her father-in-law on 27.12.2001 have been levelled aside from other allegations. This incident is alleged to have taken place immediately after marriage. Neither is there a whisper of these allegations in the entire divorce pleadings nor in the grounds of appeal. It is inconceivable that the respondent/wife would leave out such a serious allegation while opposing the Divorce Petition filed by the appellant/husband. Irresponsible and serious allegations made against the father-in-law without any basis, again can be termed as nothing but an act of extreme mental cruelty.



41. The respondent undeterred, then filed the Complaint against the appellant at PS Indira Puram, Janpad, Ghaziabad, as is evident from the Order dated 16.01.2021 in C.A. 108/2020 before the Principal District and Sessions Judge, Rohini. Interestingly, it is the respondent's own assertion that a complaint in the CAW Cell has been made on 14.12.2021, that is almost after five years of their separation, but has failed to disclose the fate of her complaint. Neither has the contents of the said complaint been stated by the respondent, nor has she provided any justification for the filing the same after so many years of separation.

42. It is also unclear if the CAW Cell complaint had any merit, as no details of it culminating into an FIR has been pleaded by the respondent/wife. Such complaints, if frivolously made, exposes the person against whom the complaint is made, to embarrassment in the eyes of the society causing mental agony.

43. The respondent, from her conduct, demonstrates that she has been persistent and insistent on making allegations against the appellant, without any basis. Resorting to legal remedies cannot be termed as an act of cruelty, however, invoking of the jurisdiction of legal authorities has to be *bona fide* and with some basis. Unfortunately, the respondent has not been able to prove or justify the grounds of either alleged dowry harassment or of domestic violence in the present case.

44. The Supreme Court in the case of **Ravi Kumar Vs. Julmidevi** (2010) 4 SCC 476 has categorically held that “reckless, false and defamatory allegations against the husband and family members would have an effect of lowering their reputation in the eyes of the society” and it amounts to



‘cruelty’. Similar observations were made by the Coordinate Bench of this Court in the case of *Rita Vs. Jai Solanki* (2017) SCC OnLine Del 907.

45. Further, in the case of *K. Srinivas Vs. K. Sunita* (2014) SLT 126 the Hon'ble Supreme Court held that filing of the false complaint against the husband and his family members also constitutes mental cruelty for the purpose of Section 13 (1) (ia) of the Hindu Marriage Act.

46. In totality, the respondent, having completely failed in substantiating her allegations, has left no stone unturned to cause disgrace to the appellant and his family.

47. *The appellant, on the other hand*, submitted that he has made every effort to make the marriage peaceful and blissful, but his efforts went in vein due to the lack of love and affection of the respondent. Despite their differences, the appellant purchased a flat in the joint name of himself and the respondent showing that he valued their union. He even took the respondent on several trips to Shimla, Goa, Jaipur, Nainital, Mussoorie etc.

48. Admittedly, the appellant had opened an Organic Store-cum-Restaurant business for the respondent for which he had arranged a loan of Rs. 40,00,000/- and has ever since been paying EMI for the same. Further, he even purchased a car for his wife to facilitate her travel.

49. The appellant had narrated day to day incidents causing him great mental strain. He deposed that in April, 2015, the respondent without any rhyme or reason threw a flower pot on the appellant due to which he had sustained injuries. On the other hand, the respondent has repeatedly stated that it was she who harassed and abused by the appellant on several occasions. However, she has failed to point out or narrate even a single incident to that effect.



50. The appellant has further deposed that in October, 2015 the respondent insulted some guests who had come home for dinner saying that *Tum logon ko jara bhi tameej nahi hai, kahi bhi muh utha ke khane chale aate ho*. Resultantly, the guests left without eating due to which the appellant felt extremely embarrassed.

51. The appellant had also deposed in his affidavit of evidence that the respondent was in a habit of making baseless allegations against him about having illicit relationship with his colleagues, friends and relatives. He has illustrated this averment by claiming that in the year 2012, on the occasion of Holi, he had been abused by the respondent, when he threw water on at his mother-in-law. It was stated that the appellant made similar innuendo indicating that the appellant was trying to make such relations with his mother in law as well. Another such remark was made on the occasion of the marriage of his friend in the year 2016, when she made a statement that *Khud maze lekar uske tika di*. Though, independently such averments may be taken to be trivial but definitely impacts the mind of the person and if such conduct persists, it becomes a source of mental cruelty.

52. Though, the appellant denied making any such remarks in her Written Statement, she deposed in her Affidavit by way of Evidence that the appellant was in the habit of talking to many girls and she had asked him to mend his ways.

53. Such was the apprehension in the mind of the appellant of implication in the criminal cases in order to save himself, the appellant gave a police complaint dated 07.12.2016, All these incidents show that the appellant has been living in a constant state of fear and apprehension, not knowing how the respondent would impulsively react.



54. All the aforesaid allegations have been reasserted by the appellant in his Affidavit by way of Evidence, however, the respondent has even failed to deny such allegations in her evidence. While the mere failure of the respondent to deny such allegations in her evidence alone would not be sufficient to prove these allegations, considering the seriousness of these said allegations, the lack of an express denial by the respondent in her deposition, gives credibility to the case of the appellant.

55. From taking a comprehensive view of the entire evidence brought on record, it can be concluded that though an endeavour was made by the parties to reside together but despite their efforts which spend over 16 years, there was constant bickering and disquiet in their relationship, which did not allow their relations to flourish. So much so, when the parties felt a mental strain in their relationship which they were not able to address, they had even attempted to go for marriage counselling but such effort also miserably failed.

56. When the appellant left the matrimonial house on 22.11.2016 after an altercation, the respondent filed a petition under Section 9 of the Hindu Marriage Act, 1955. In that period, it is admitted by the respondent that the petitioner was regularly paid Rs. 50,000 per month until April 2017. The parties had subsequently arrived at a settlement to reside together from 06.06.2017 and it was agreed that the appellant would pay a sum of Rs.10,000 for the household expenses and bear all the expenses of the children.

57. Once the parties began to reside together, indisputably, the appellant on 09.06.2017 took the appellant and his kids on a movie outing as it was his birthday. Admittedly, during this period of seven days from 06.06.2017



to 13.06.2017 when they resided together in an endeavour to crease out their differences, the appellant incurred an expenditure of Rs. 80,000/-. The respondent wife has testified that the appellant made this expenditure towards the groceries for the home, which were allegedly not available at the store/restaurant run by her.

58. The appellant also asserted that it was the appellant who left the matrimonial house in 2017 due to the cruel behaviour of the respondent and that it was not he who displaced her from their house. All these admitted facts reflect that the conduct of the appellant was to somehow reconcile with the respondent.

59. The learned Family Court in the impugned judgement observed that there had been no litigation between the parties for 14 years since their marriage and relationship was smooth until 2016. *It is however, observed that the mere non-existence of legal disputes between the parties can by no means imply that the parties had smooth sailing relationship that was peaceful or blissful. Rather, it only demonstrates the efforts of the appellant to somehow make their relationship work.*

60. Though, the appellant had admitted in his evidence that there was no litigation between the parties until November, 2016, but he has deposed that there was constant bickering in the house and the respondent used to constantly threaten him of implicating him in false cases. The appellant tried his level best to somehow continue in the matrimonial relationship but as has been brought out, it was not in the atmosphere of peace and trust; rather he failed in his attempt to make the marriage somehow work.

61. The Apex Court in the case of ***Sivasankaran Vs. Santhimeenal*** 2021 SCC OnLine SC 702 has observed as under: -



“A marriage is more than a seemingly simple union between two individuals.Families are arranged on the idea of a mutual expectation of support and amity which is meant to be experienced and acknowledged amongst its members. Once this amity breaks apart, the results can be highly devastating and stigmatising.”

62. The Supreme Court in the case of ***Samar Ghosh Vs. Jaya Ghosh*** (2007) 4 SCC 511 observed that while trivial irritations, quarrels, normal wear and tear of married life which happens in day to day life in all families would not entitle a party to a decree of divorce on the ground of cruelty; continuing and subsisting unjustifiable and reprehensible conduct which affects the physical and mental health of the other spouse may lead to mental cruelty. Further, the court should review the married life as a whole in order to see whether the conduct of the spouse amounts to cruelty deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer. A few isolated instances over a period of years will not amount to cruelty.

63. The Apex Court in the case of ***Gurbux Singh Vs. Harminder Kaur***, (2010) 14 SCC 301, observed that while trivial irritations, quarrels, normal wear and tear of married life which happens in day to day life in all families would not entitle a party to a decree of divorce on the ground of cruelty; continuing and subsisting unjustifiable and reprehensible conduct which affects the physical and mental health of the other spouse may lead to mental cruelty.

64. In case of ***V. Bhagat Vs. D. Bhagat*** (1994) 1 SCC 337, the Hon'ble Supreme Court held that mental cruelty under Section 13(1)(ia) of the Act,



1956 can broadly be defined as the conduct which inflicts upon the other party such mental pain and suffering as would make it impossible 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 party. 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.

65. In *A. Jayachandra Vs.. Aneel Kaur*, (2005) 2 SCC 22, the Supreme Court observed as under: -

“10...If from the conduct of the spouse, same is established and/or an inference can be legitimately drawn that the treatment of the spouse is such that it causes an apprehension in the mind of the other spouse, about his or her mental welfare then this conduct amounts to cruelty. In a delicate human relationship like matrimony, one has to see the probabilities of the case..... Therefore, one has to see what are the probabilities in a case and legal cruelty has to be found out, not merely as a matter of fact, but as the effect on the mind of the complainant spouse because of the acts or omissions of the other.

*13.However, insignificant or trifling, such conduct may cause pain in the mind of another. But before the conduct can be called cruelty, it must touch a certain pitch of severity. It is for the Court to weigh the gravity..... Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty. **Cruelty in***



matrimonial life may be of unfounded variety, which can be subtle or brutal. It may be words, gestures or by mere silence, violent or non-violent.”

66. In light of the above discussion, the incidents, though may not be of much significance when viewed in isolation, but when viewed together clearly depicts a non adjusting attitude of the respondent/wife who had no maturity to sort out the differences with the husband without his public humiliation due to which the appellant suffered mental cruelty. In the present case, the evidence on record makes it abundantly evident that the discord between the parties was not a mere normal wear and tear of marriage but when viewed comprehensively, were necessarily the acts of cruelty towards the appellant making their continuation in matrimonial relationship an act of perpetuation of cruelty.

67. We, therefore, conclude that the appellant has been subjected to cruelty during her matrimonial life and no fruitful purpose would be served in flogging a dead horse. We, therefore, set aside the impugned judgment and grant divorce on the ground of cruelty under Section 13(1)(ia) of Hindu Marriage Act, 1955.

68. In the light of above, the present appeal and pending applications are accordingly disposed of.

**(SURESH KUMAR KAIT)
JUDGE**

**(NEENA BANSAL KRISHNA)
JUDGE**

DECEMBER 20, 2023
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