

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

**THE HON'BLE SRI JUSTICE K. LAKSHMAN
AND
THE HON'BLE SMT JUSTICE K. SUJANA**

Family Court Appeal Nos.202 and 229 of 2017

Date: 06.08.2026

Between:

XXXX

...Appellant

And

XXXX

...Respondent

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

These two appeals are preferred under Section 19 of the Hindu Marriage Act, 1955 (for brevity 'the Act') challenging the Common Order dated 31.01.2017 in O.P.Nos.270 of 2011 and 1888 of 2013 passed by the learned XVI Additional District and Sessions Judge-cum-XVI Additional Metropolitan Sessions Court-cum-III Additional Family Court, Ranga Reddy District at Malkajgiri.

2. Respondent/husband had filed O.P.No.270 of 2011 under Section 13(1)(ia) of the Hindu Marriage Act, 1955

(hereinafter, “the Act”) against the appellant/wife for dissolution of marriage on the ground of cruelty.

3. Appellant/wife had filed O.P.No.1888 of 2013 under Section 9 of the Act against respondent/husband seeking restitution of conjugal rights.

4. As the pleadings in both the petitions are substantially identical, the pleadings in O.P. No. 270 of 2011 are taken into consideration for the purpose of disposing of these appeals.

5. The respondent/husband filed O.P. No. 270 of 2011 against the appellant/wife under Section 13(1)(ia) of the Act, seeking dissolution of the marriage on the ground of cruelty. Appellant is the wife and respondent is the husband. Their marriage was performed on 05.02.2009 as per Hindu Rites and Customs. It is an arranged marriage. Out of their wedlock, they were blessed with a female child on 26.11.2009.

6. He contended that, after the marriage, the appellant and the respondent lived together happily at the respondent's

residence in Sirpur Kagaznagar for some time. Thereafter, disputes arose between them.

7. According to the respondent, the appellant started harassing and ill-treating him. She allegedly used to leave for her parental home without informing the respondent and would not return unless the respondent or his family members personally went to bring her back. The appellant insisted on living separately from the respondent's parents and wanted to reside at Hyderabad. When the respondent refused, she allegedly became violent and assaulted both the respondent and his mother. It was further alleged that when the respondent's father intervened, the appellant abused him in filthy language.

8. The respondent further alleged that the appellant was suffering from psychological disorders and hysteria. He claimed that she used to threaten him that she would implicate him and his family members in false criminal cases. According to the respondent, the appellant left the matrimonial home

along with their child on 15.08.2010. Despite several mediation efforts, the disputes could not be resolved, and the marriage had irretrievably broken down with no possibility of reconciliation due to the appellant's conduct.

9. The respondent further contended that the appellant lodged a criminal complaint before Neredmet Police on false allegations with the intention of harassing him and his family members. He stated that when he and his father went to the appellant's parental home to bring her back, the appellant and her parents insulted them and refused to send her with him. Subsequently, the respondent and his father were arrested in the criminal case lodged by the appellant and were remanded to judicial custody for five days, after which they were released on bail. The respondent's mother and sister obtained anticipatory bail in the said case.

10. The respondent also alleged that the appellant instituted a false dowry harassment case against him and his family

members, refused to resume cohabitation, and subsequently filed a petition seeking maintenance.

11. The appellant/wife filed a counter denying the averments made in the petition. She contended that the respondent made defamatory allegations against her by describing her as a psycho and hysteria patient. She further stated that although she attended to all the household responsibilities, she was not permitted to have food in the presence of her husband and in-laws. According to her, the respondent and his family members used to create a scene whenever she attempted to eat in their presence.

12. The appellant alleged that the respondent treated her like a slave rather than as his wife. He imposed restrictions on her, did not allow her to speak to her parents over the phone, and prevented her relatives from visiting the matrimonial home to enquire about her well-being. She further alleged that the respondent and his family members had turned the matrimonial home into a jail for her. According to the

appellant, the respondent made false allegations against her only to gain sympathy of the Court.

13. The appellant further contended that her father paid a sum of Rs.7,00,000/- as dowry at the demand of the respondent and his parents. She alleged that the respondent and his parents did not cooperate with the mediation efforts initiated by her and her parents during the period from 15.08.2010 to 23.08.2010. She asserted that the respondent could not be permitted to abandon his wife at his whims and fancies and that mere filing of a criminal case by her does not constitute a ground for dissolution of the marriage.

14. The appellant further alleged that the respondent, at the instance of his parents, used to assault both her and their child. She also alleged that after finishing their meals, the respondent and his family members used to lock the kitchen, thereby preventing her from having food. The respondent, his mother, and his sister compelled her to undergo an abortion and

terminate her pregnancy. Despite such pressure, she gave birth to a female child on 26.11.2009.

15. The appellant further alleged that on 14.08.2010, the respondent and his parents assaulted her parents. She also stated that the respondent and his family members threatened that the respondent would file a petition for divorce unless her father paid an additional dowry amount of Rs.2,00,000/-. Finally, she alleged that on 15.08.2010, the respondent and his family members forcibly drove her and her minor child out of the matrimonial home.

16. To prove the cruelty, respondent/husband examined himself as P.W.1 and filed Exs. P1 to P3. Ex. P1 is the copy of wedding card, Ex. P2 is copy of FIR in Crime No.375/2010 of Neredmet Police Station, and Ex. P3 is the final report.

17. To disprove the said cruelty, appellant/wife examined herself as R.W.1 and her father as R.W.2. However, no documents were marked on her behalf.

18. On consideration of the said evidence, both oral and documentary, learned Family Court dismissed the OP filed by the appellant/wife seeking restitution of conjugal rights and allowed the OP filed by the respondent/husband seeking decree of divorce on the ground of cruelty.

19. Although the Respondent contended that the appellant/wife is Psycho and Hysteria patient and that the said fact was suppressed while performing marriage, he neither filed any document nor examined any witness in proof of the same.

20. On the other hand, the father of the respondent/husband and father of the appellant/wife are colleagues and they used to work in paper mills and that they used to reside in the same colony. R.W.2 admitted the said fact during his cross-examination. There is no consideration of the said aspects while allowing the OP filed by the respondent/husband by the learned Family Court.

21. It is the respondent/husband, who made the aforesaid allegations that the appellant is a Psycho and Hysteria patient, burden lies on him to prove the same by producing cogent evidence. He has not examined any witness and he has not filed any document in proof of the same. He has not elicited the same from the cross-examination of R.Ws.1 and 2. In the light of the same, we are of the view that the aforesaid allegation made by the respondent/husband is false, as he failed to prove the said allegation.

22. As discussed supra, respondent/husband had made several other allegations against the appellant/wife herein, but he has not examined any witness in proof of the same including his parents and panchayat elders.

23. 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, assess the same and come to a conclusion as to whether the same amounts to cruelty or not.

24. 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.

25. Matrimonial cases before the Courts pose a different challenge, quite unlike any other, as we are dealing with human relationships which involve 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

¹. (2007) 4 SCC 511

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.

26. 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.

27. It is the respondent/husband, who filed the aforesaid OP seeking dissolution of marriage against the appellant/wife on the ground of cruelty. Therefore, he has to plead and prove the same by producing cogent evidence. In the present case,

². AIR 2023 SC 2144

³. (2006) 4 SCC 558

except examining himself, he has not examined any other witness.

28. It is the specific case of the respondent/husband that the appellant/wife implicated him and his family members in criminal case i.e., C.C.No.1054 of 2010 for the offence under Section 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act. However, the said criminal case ended in acquittal.

29. Mere lodging of complaint against husband and his family members for the offence under Section 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act does not amount to cruelty. Therefore, on the said ground, respondent/husband cannot seek dissolution of marriage.

30. In an un-numbered para of internal page 9 of the impugned Common Order, learned Family Court held that the parties have been living separately from 15.08.2010, their marriage has irretrievably broken down. A long time of separation itself would lead to mental cruelty and there is no

possibility of reunion. Therefore, learned Family Court gave specific finding that the marriage has irretrievably broken down. There is no possibility of the parties staying together. Therefore, on the said ground, learned Family Court granted decree of divorce dissolving the marriage of the appellant with the respondent.

31. It is a well settled law that neither the learned Family Court nor this Court can dissolve the marriage of the parties by granting decree of divorce on the ground of 'irretrievable breakdown of marriage'. Without considering the same, learned Family Court granted decree of divorce on the ground of 'irretrievable breakdown of marriage'.

32. As discussed *supra*, it is the respondent/husband, who filed the aforesaid OP No.270 of 2011 against appellant/wife seeking dissolution of marriage on the ground of cruelty. Though he specifically alleged certain criminal acts of the appellant/wife towards him and his family members, he neither examined any witness nor filed any documents.

Without considering the said aspects, learned Family Court dissolved the marriage of the appellant with the respondent. Therefore, the impugned order is not on the aforesaid aspects and it is not a reasoned order. It is liable to be set aside and accordingly, the same is set aside.

33. As discussed *supra*, both the appellant and respondent were blessed with a female child on 26.11.2009. She is 16 years old at present.

34. Sri Seshadri Goalla, learned counsel for the appellant/wife, on instructions, would submit that the appellant and her daughter are willing to stay with the respondent.

35. During cross-examination, respondent (P.W.1) has categorically admitted that he is interested in taking his daughter with him, however, he has neither filed any petition seeking interim custody of the child nor for visitation rights. He has also admitted that he is not interested in leading a marital life with the appellant. The said aspects were not

considered by the learned Family Court in the impugned Common Order.

36. During the course of hearing, Sri Seshadri Goalla, learned counsel for the appellant/wife would submit that appellant/wife filed a petition under Section 125 of Cr.P.C against respondent/husband seeking maintenance. Learned Magistrate has allowed the said application and awarded an amount of Rs.5,000/- per month to the appellant/wife and Rs.4,000/- to the minor girl; and the respondent has been paying the said amount. There is no allegation against him that he is not paying the said amount.

37. However, the aforesaid OP filed by the appellant/wife against respondent/husband seeking restitution of conjugal rights is of the year 2013. Therefore, we cannot allow the said application now by setting aside the impugned Common Order. It is for the appellant/wife and her daughter to take steps against respondent/husband seeking restitution of conjugal right, enhancement of the maintenance amount etc..

38. In the light of the aforesaid discussion, F.C.A.No.229 of 2017 is allowed and the decree of divorce granted by the learned Family Court vide impugned Common Order in O.P.No.270 of 2011 is set aside.

39. F.C.A.No.202 of 2017 filed by the appellant/wife seeking restitution of conjugal rights is disposed of since the appellant and the respondent have been living separately from 15.08.2010. However, liberty is granted to the appellant/wife to file fresh application against respondent/husband seeking restitution of conjugal rights.

Miscellaneous applications, if any, shall stand dismissed. There shall be no order as to costs.

K. LAKSHMAN, J

K.SUJANA, J

6th August, 2026.
KVS