



2026:AHC:6244-DB

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL No. - 252 of 2025

Neetesh Kumar Pal

.....Appellant(s)

Versus

Smt. Ramendree Pal

.....Respondent(s)

Counsel for Appellant(s)	: Ashwani Kumar Sachan, Saurabh Sachan
Counsel for Respondent(s)	: Shyam Bahadur

Court No. - 39

**HON'BLE ARINDAM SINHA, J.
HON'BLE SATYA VEER SINGH, J.**

(Per Arindam Sinha, J.)

1. The first appeal stands preferred by aggrieved husband in the marriage. The Family Court on judgment dated 24th January, 2025 refused to accept appellant's petition for dissolution of the marriage. In other words, it stood dismissed. Mr. Saurabh Sachan, learned advocate appears on behalf of appellant-husband and Mr. Shyam Bahadur, learned advocate, for respondent-wife.

2. We had required the registry to make English translation of impugned judgment as well as judgment dated 22nd September, 2017, earlier passed by a different learned Judge of the Family Court, rejecting the petition of respondent-wife claiming interim maintenance under section 125 of Code of Criminal Procedure, 1973. We have perused both judgments. We have also heard learned advocates for the parties.

3. It appears from impugned judgment, the Family Court disbelieved appellant's case because he was found to have separated from respondent on 25th December 2015, when she was two months pregnant. Said Court found appellant had admitted that neither did he know for how many days his daughter was in intensive care unit (ICU) after birth nor what disease she was suffering from. He never attended his daughter's birthdays. On 25th May, 2019, when respondent went to Bengaluru, appellant did not take her to his room because he was staying with other roommates (colleagues).

Having found so, the Family Court proceeded to say, inter alia, as in paragraphs 19 and 20 of the judgment, English translation of which are reproduced below.

19. The cruelty must be of such a nature as to satisfy the conscience of the court that the relationship between the parties has deteriorated to such an extent that it has become impossible for them to live together without mental agony. Cruelty generally does not involve a single act but a series of acts extended over a period of time. The cruelty inflicted may take many forms and must be such as to create an apprehension in the mind of the spouse that it is dangerous to live with the at-faulting party. The standard of proof required is a preponderance of probability and not "beyond all reasonable doubt" as in criminal proceedings. A particular type of statement and conduct may not amount to cruelty in all cases. It depends on the status of the spouse and the environment in which they live.

*20-In the present suit, the extended series of cruelty-based acts described by the petitioner, **other than the filing of a criminal case for dowry by the opposite party, is not such that it shows the intensity of cruelty and harsh conduct and it becomes impossible for the spouse to live with each other.***

(emphasis supplied)

4. Contention of appellant before us is that earlier, respondent had petitioned for interim maintenance under section 125. Her petition was rejected on aforesaid judgment dated 22nd September, 2017. Facts were found by the Court to so reject. The judgment, along with rejection of the criminal revision directed against it by the learned single Judge on **order dated 23rd July, 2021 [Criminal Revision no. 9 of 2018 (Smt. Ramendri Pal vs. State of U.P. and others)]** were both tendered in evidence by him in the dissolution of marriage proceeding. There is no discussion in impugned judgment to find to the contrary. As such the learned Judge erred on facts and there be reversal of the judgment, to declare dissolution of the marriage. Respondent's contention on the other hand is reliance on impugned judgment, on the facts found as stated therein.

5. The earlier learned Judge in the Family Court, who delivered said judgment dated 22nd September, 2017 while considering facts in issue relevant to award of interim maintenance had framed, amongst others, issue nos. 4 and 5, reproduced below.

"4- Did the opposite party intentionally neglect to support the petitioner and refused to support her?"

5- Does the petitioner have reasonable and justifiable grounds for living separately from the opposite party?"

The learned Judge answered the issues in favour of appellant and against respondent. The answer was dependent on finding of the facts. Here it is necessary for us to refer to section 3, interpretation clause in Indian Evidence Act, 1872, since repealed but as applicable on making of said judgment. The section gives interpretation of, inter alia, 'fact', 'relevant', 'facts in issue', 'proved', 'disproved' and 'not proved'. Sections 5 and 6 provide for evidence that may be given of facts in issue, relevant facts and relevancy of facts forming part of same transaction. Here we may say, marital discord having caused separation and respondent thereafter seeking interim maintenance would give rise to finding of facts in deciding her claim, which can be relevant facts in the continuing marital discord giving rise to appellant's petition for dissolution of the marriage.

6. Having said as above, the learned Judge in dealing with the maintenance claim is seen to have found respondent's allegation that appellant had tendered written apology and having promised to treat her well in future, not proved. Appellant had proved that the parties came to know each other through the internet. While he stayed in a hotel, the parties got married and respondent went to her paternal home to convince her parents to accept him. She alleged, there was subsequent wedding ceremony arranged by her side, in which photographs were taken, also found as not proved. The marriage having been solemnized on 2nd July, 2017 in fact situation as found by the learned Judge, led to further conclusion that her subsequent allegation of dowry demand at Rs. 10,00,000/-, was false. The learned Judge found, precious little time together was spent by the parties. In addition, respondent had made allegation that appellant was carrying out with a girl, which allegation also she could not prove.

7. It is undisputed that respondent caused initiation of a criminal case against appellant carrying accusation invoking section 498A in Indian Penal Code, 1860. Clauses (a) and (b) of the explanation under the section gives meaning of what is cruelty as provided therein. It includes wilful conduct as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health or such conduct with a view to coercing her or any person

related to her to meet any unlawful demand. Respondent did not even produce let alone tender a police complaint, at the hearing of her maintenance claim. Having thereafter perused impugned judgment we accept submission made on behalf of appellant that the earlier judgment and order in criminal revision, produced in evidence by appellant, were not even looked at. In this connection a passage from English translation of paragraph 5 in impugned judgment is reproduced below.

*"5. List of documentary evidence on behalf of the petitioner viz. from Paper No. 52 C 1/1 to 52 C 1/6, respectively, photocopy of railway ticket, photocopies related to Sharda Health Care Medical, copy of Facebook status, affidavit and copy of evidence of petitioner and opposite party in case no. 131/2016 and **copy of decision and copy of Criminal Revision No. 9/2018,.....**"*

(emphasis supplied)

8. Said judgment dated 22nd September, 2017 contains aforesaid findings on facts. Respondent had brought it for revision to this Court. As aforesaid, on **order dated 23rd July, 2021** (supra) the criminal revision petition was dismissed. The Supreme Court in **State of Maharashtra Vs. Jagmohan Singh Kuldip Singh Anand**, reported in **(2004) 7 SCC 659**, paragraph 22 said that the revisional Court is empowered to exercise all the powers conferred on the appellate Court by virtue of the provisions contained in section 401 in Code of Criminal Procedure, 1973, since repealed. The repealed Act was in operation, when said earlier judgment was passed and **order dated 23rd July, 2021** (supra) made, dismissing the criminal revision therefrom. It follows, no interference by the High Court on findings of fact relevant to the facts in issue not considered was erroneous omission of the learned Judge in delivering impugned judgment. Contention of appellant on facts based on said judgment dated 22nd September, 2017 thus bears substance. We come back to impugned judgment and discussion of additional facts regarding birth of the daughter and petitioner's disinterest. The learned Judge in passing impugned judgment construed those facts in isolation, to give the reasoning as in paragraphs 19 and 20 of the judgment. The English translation stands reproduced above. It must be remembered, disinterest of appellant in relation to offspring, contended by respondent before the Family Court, cannot amount to or be considered good defence to allegation of cruelty against her.

9. On behalf of appellant there was reliance on view taken by co-ordinate Bench on **judgment dated 17th September, 2024 in First Appeal no. 251 of 2013 (Smt. Tripti Singh vs. Ajat Shatru)**. The Family Court had earlier by said judgment dated 22nd September, 2017 found false complaint was made by respondent against appellant. He was taken into custody. In paragraph 17 of impugned judgment, the Family Court referred to the fact but did not thereby find sufficient proof on the allegation of cruelty made by appellant against respondent. Hence, reliance by appellant on view taken in **Smt. Tripti Singh** (supra). Co-ordinate Bench in **Smt. Tripti Singh** (supra) had considered appeal of the wife against judgment dated 22nd February, 2013 of the Family Court dissolving the marriage on ground of cruelty. The Bench considered several judgments of the Supreme Court for declarations of law on cruelty. One of the discussed cases was **Samar Ghosh Vs. Jaya Ghosh**, reported in **(2007) 4 SCC 511**, wherein the Supreme Court gave several instances of what might amount to mental cruelty. Several other landmark judgments of the Supreme Court declaring the law on cruelty were discussed and relevant paragraphs quoted in the judgment. Having done that co-ordinate Bench stated its view in paragraph 23 of the judgment. Reproduced below is a passage therefrom.

*"23.... In the context of a Hindu marriage, one may continue to describe the parents of the spouse as parents-in-laws, at the same time for the act of cruelty committed, once arrest of parents of a spouse is caused on false allegations or allegations found to be false in the course of a criminal trial, no further or strict proof of cruelty may be prescribed or applied by Courts. Those who were arrested were not strangers or third parties. **The victims of the reckless and false accusation made by the appellant were the closest family members of the respondent i.e. his parents. Once that cruel act was committed, in the context of the educational and social background of the parties, it could never be resisted that the respondent was meted out most cruel behaviour in which he may have reasonably felt unsafe to cohabit with the appellant.** It would be completely another case where allegation of demand of dowry is found true. However, divorce sought being a civil proceeding, everything apart, its institution may never have offered the respondent spouse (in that proceeding) motivation to get even with her spouse-by lodging a false criminal case. That act committed by the appellant led to loss of reputation and standing of the respondent and his family, in his society. Having suffered that, the respondent cannot be expected to cope with that and revive his matrimonial relations. As noted above, both parties being well educated,*

the respondent holding Master in Business Administration (M.B.A.) and the appellant holding Doctorate of Philosophy (Ph.D.), loss of reputation suffered by the respondent on the false prosecution pressed by the appellant is seen to have caused cruelty to the extent that it may create a reasonable apprehension in the mind of the respondent that it may not be safe for him and his family to live in a matrimonial discord relationship with the present appellant as that occurrence would always remain exposed to the risk of similar false prosecution etc. "

(emphasis supplied)

10. We see that appellant before us works as a cook in the Army, posted at Bengaluru. Respondent possesses educational qualification of being double MA in English. In this context we are in respectful agreement with the view taken in **Smt. Tripti Singh** (supra), where the co-ordinate Bench found that appellant therein holding Doctorate of Philosophy (Ph.D.), had made false allegation and caused her husband and his family members (her in-laws) to be taken into custody. Such conduct would and gives rise to apprehension that it may not be safe for the other party to live and have matrimonial relationship with the wife.

11. For reasons aforesaid, impugned judgment is reversed. On the petition presented before the Family Court, the marriage solemnized on 2nd July, 2015, is dissolved by decree of divorce on the ground of cruelty. Considering there is earlier finding of fact that parties spent precious little time together and also further finding of fact, not found to the contrary in impugned judgment that husband-appellant was asked to live in respondent's parental house, we are not moved to exercise discretion to direct permanent alimony.

12. The appeal is allowed and **disposed of**.

January 9, 2026

Mohini

(Arindam Sinha,J.)

(Satya Veer Singh,J.)