CGHC010154782025 2026:CGHC:38262

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

THE DATE WHEN THE CASE IS RESERVED	THE DATE WHEN THE JUDGMENT IS PRONOUNCED	THE DATE WHEN THE JUDGMENT IS UPLOADED ON THE WEBSITE	
		Operative	**Full**
14.08.2026	31.08.2026	****	31.08.2026

FA(MAT) No. 156 of 2025

Vivek Agrawal S/o Late Shri Hariprasad Agrawal Aged About 43 Years R/o House No. 67, Bajariya Chhairaha, Police Station Kotwali Itawa, District Itawa, Uttarpradesh

... Appellant

versus

1 - Sarita Agrawal W/o Vivek Agrawal Aged About 37 Years D/o Vishwanath Prasad Agrawal, Aged About 37 Years, R/o Harsh Collection, Beside Agrawal Lodge, Pendraroad, District Gaurela Pendra Marwahi Chhattisgarh.

2 - Naranyan Prasad Mishra S/o Bhakku Prasad Mishra R/o Near Sarashwati Shishu Mandir Mangli Bazar, Pendraroad, District Gaurela Pendra Marwahi Chhattisgarh.

... Respondents

For Applicant	:	Mr. Pritam Singh, Advocate
For Respondent No.1	:	Mr. Vijay Shankar Mishra, Advocate

(Hon’ble Shri Justice Naresh Kumar Chandravanshi)

CAV JUDGMENT

1. Instant appeal under Section 28 of the Hindu Marriage Act, 1955 (for short ‘the Act 1955’) has been preferred against judgment and decree dated

18.02.2025 passed by the District Judge, Pendra Road, Bilaspur (CG) in Civil Suit No.50A/2022, whereby the application preferred by the appellant/husband under Section 13-A of the Act 1955 seeking decree of divorce from respondent No.1/wife was dismissed.

[For the sake of convenience, the appellant herein would be referred to as "husband" and respondent No.1 herein would be referred to as "wife"]

2. Brief facts of the case, are that, marriage between the parties was solemnized on 12.12.2014 at Itawah, Uttar Pradesh as per Hindu rites and customs, and from their wedlock, a son, namely Devang, was born on 18.12.2015. The husband alleged that after marriage, the wife frequently quarrelled with him, abused and assaulted him and his family members, and failed to discharge her matrimonial and parental responsibilities. He further alleged that she insisted upon living separately from his mother and threatened him and his family members with false criminal cases. The husband also alleged that the wife maintained an improper relationship with non-applicant No.2, Narayan Prasad Mishra, and that he had discovered objectionable call recordings and chats between them. The applicant further alleged that on 17.06.2018, the wife assaulted his mother and that, thereafter, on 26.06.2018, while travelling to Pendra Road, he came to know from her mobile phone about the alleged objectionable communications with non-applicant No.2. According to him, despite an assurance by the wife that such conduct would not be repeated, her behaviour did not improve. It was further alleged that on 11.08.2019, the wife left the matrimonial home without his consent, taking with her gold and silver ornaments and cash, and went to Pendra Road, leaving the minor child at Itawah. On these grounds, the applicant pleaded that the conduct of wife amounted to mental and physical cruelty and desertion, making it impossible for him to continue the

matrimonial relationship. Hence, he filed the petition under Section 13 of the Hindu Marriage Act, 1955, seeking dissolution of his marriage with wife Sarita Agrawal.

3. In reply, the wife has denied all the allegations levelled against her and contended that the husband was suspicious of her character and frequently subjected her to mental and physical harassment. She denied having any illicit relationship with non-applicant No.2 and also denied the allegations regarding assault, taking jewellery and cash, and desertion. According to the wife, she had performed her matrimonial duties and that it was the husband who, because of his suspicious nature and conduct, had caused the matrimonial discord. Thus, the grounds mentioned by the husband in his application seeking divorce from the wife are totally false and the husband does not want to keep the wife with him, therefore, the application filed by the husband seeking decree of divorce from the wife is liable to be dismissed.

4. On the basis of the rival pleadings of both the parties, the learned District Judge framed issue in respect of allegation of cruelty and after considering the evidence adduced by both the parties, the learned District Judge, Pendra Road recorded a negative finding on the said issue and held that the husband failed to prove that he had been subjected to cruelty by the wife and dismissed the divorce petition filed by the husband. Hence, this appeal.

5. Learned counsel for the appellant/husband submits that the husband filed divorce petition on the ground of cruelty, as the wife used to pressurize him to live separately from his mother, which he did not accept. He further submits the above fact has also been admitted by the wife and her mother Shakuntala Agrawal in their cross-examination. He further submits that the wife used to talk with respondent No.2 in obscene language and aforesaid

fact has been proved by the husband, despite that the learned trial Court rejected the divorce petition filed by him. He further submits that the wife has implicated the husband in a false criminal case alleging demand of dowry, which was registered as Criminal Case No.372/2021, however, the appellant was acquitted by the Judicial Magistrate First Class, Pendra Road, Distt. Gourela-Pendra-Marwahi vide judgment dated 17.03.2026. He submits that the wife had filed application for custody of their minor child, which was subsequently disposed of on the basis of settlement arrived at between them and pursuant to which, the wife herself handed over the custody of the child to the husband. It is further submitted that the wife has left the company of the husband since 08.11.2019, thus, she has deprived the husband from enjoying marital status. Learned counsel lastly submits that impugned judgment passed by the trial Court is contrary to the evidence available on record, hence, it is prayed that the appeal may be allowed and decree of divorce be granted in favour of the husband.

6. Per contra, learned counsel for the respondent/wife would submit that though the wife and her mother have admitted in their cross-examination that the wife used to tell the husband to reside in a big house beside main road, but it does not mean that she had also stated that she will not keep her mother-in-law with her. He further submits that the learned trial Court has rejected the divorce petition filed by the husband after due consideration of the evidence, which does not call for any interference of this Court, hence, it is prayed that the appeal deserves to be dismissed.

7. Heard learned counsel for the parties and perused the material available on record.

8. The husband filed a petition for dissolution of marriage on the ground of cruelty. In his examination-in-chief, the husband/appellant deposed that after

marriage, the wife started quarrelling with him on trivial issues and frequently abused and assaulted him as well as his mother. He further stated that the wife used to pressurize him to live separately from his mother, which was not acceptable to him. On his refusal to accede to her demand, she allegedly threatened him and his family members with false criminal cases. The husband/appellant further deposed that, despite his objection, the wife used to meet one Narayan Prasad Mishra and maintained an illicit relationship with him. According to him, he subsequently came across objectionable call recordings and chats exchanged between the wife and the said Narayan Prasad Mishra. He stated that although the wife had assured him that she would discontinue such conduct, there was no improvement in her behaviour, conduct or character. The husband/appellant further stated that on one occasion, the wife caught hold of his mother's neck and attempted to choke her, whereupon he and his sister intervened and rescued their mother. He stated that thereafter, the incident was brought to the knowledge of the wife's family members. It was further deposed by the husband/appellant that the wife took away gold and silver ornaments belonging to his mother, allegedly worth about Rs.3,00,000/-, along with cash amounting to Rs.1,00,000/-, from his room. He also alleged that the wife continued to abuse him and remained careless and negligent towards their minor son. According to his deposition, the wife would leave the minor child at Itawah and proceed to her maternal home, where she would reside for considerable periods. On the basis of the aforesaid allegations, the husband/appellant asserted that the conduct and behaviour of the wife had caused him considerable mental agony and harassment and amounted to cruelty, thereby making it difficult for him to continue the matrimonial relationship with her.

9. In his cross-examination, husband, Vivek Agrawal (AW-1), denied the

suggestion that his relationship with the wife was cordial at the time of the birth of their son. However, he admitted that he had neither lodged any complaint with the police nor convened any community meeting in respect of the alleged strained relationship between himself and the wife. He admitted that he had, however, informed the family members of the wife about the problems between them. The appellant further admitted that his mother was very old and suffering from illness. He also admitted that he was not in a position to have access or check the mobile phone of the wife and, therefore, could not personally ascertain as to with whom she communicated or with whom she exchanged WhatsApp messages. He further admitted that whatever had been stated by him in paragraph 3 of his application with regard to WhatsApp and Facebook was based solely upon the messages which he had allegedly seen. The husband also admitted that the wife had never lodged any complaint at the police station regarding any quarrel or assault involving his mother, whether in his presence or in his absence. He further admitted that he himself had not lodged any complaint at the police station alleging that the wife had strangulated his mother. He also admitted that he had not disclosed the alleged incident of strangulation to the members of his community or to his relatives residing at Itawah. The appellant denied the suggestion that the wife had never strangulated his mother. He further denied the suggestion that his sister Rekha could not have rescued his mother, as she was not present at Itawah on the date of the alleged incident and was, instead, at Gaurela.

10. NAW-1 Sarita Agrawal, wife, reiterated the allegations made in her written statement. She deposed that after an initially normal period following the marriage, the husband became suspicious of her and subjected her to physical and mental cruelty on allegations of an illicit relationship with one

Narayan Prasad Mishra. She stated that a son, Devang, was born on 18.12.2015 and is presently in the custody of the husband. According to her, the husband repeatedly pressurized her to give consent for mutual divorce and, after Raksha Bandhan, refused to take her back despite repeated efforts by her and her family for reconciliation. She further stated that on 03.09.2019, the husband sent a legal notice containing allegations of theft and seeking mutual divorce, and that his refusal to reconcile continued despite intervention by her family members.

11. In cross-examination, she admitted that her matrimonial house was situated away from the main road and that her aged parents-in-law required considerable care and service. She also admitted that she wanted her husband to shift to a larger house situated on the main road, whereas he was unwilling to leave his parents, and that she used to get angry over the issue. She admitted that she had undergone psychiatric treatment for depression and anger even prior to marriage, but denied suppressing this fact from the husband or that she was habitually quarrelsome. She further admitted that she had not lodged any complaint against the husband or approached the police before receiving the legal notice, and that thereafter she instituted proceedings under Sections 125 CrPC and 498-A IPC and sought custody/return of the child. She denied that she had refused to take care of her husband, child or mother-in-law, or that she had voluntarily left the matrimonial home because the husband declined to establish a separate residence.

12. Smt. Shakuntala Agrawal, mother of the wife, admitted that neither she nor her daughter had ever lodged any police complaint against her daugher's husband alleging assault, harassment, or unlawful suspicion, and further admitted that there had been no occasion warranting such a complaint. She

admitted that her daughter had been undergoing treatment for depression even before her marriage and that she used to become angry. She further admitted that in 2018 her son-in-law brought her daughter to her parental home during Raksha Bandhan and that he subsequently brought the mobile phone of her daughter and played the recording of conversation between her daughter and Pandit Narayan, before the family, which was not pleasant to hear. She admitted that Pandit Narayan apologised to her son-in-law both at the parental home and subsequently at a Bajrangbali temple. Despite the incident, the husband took the wife with him to Itawa and continued to keep her with him. The witness further admitted that when her daughter last came to Gaurela in 2019, she came alone and that she wanted the husband to maintain a separate residence in a large house on the main road. She denied the suggestion that the wife was unwilling to perform household duties or take care of the child and mother-in-law, but admitted that the husband wanted to continue residing with his parents. She admitted that after the husband sent a divorce notice, the family became angry and that, thereafter, the wife lodged a police complaint and initiated proceedings under Section 125 CrPC and proceedings concerning the child. She admitted that had the husband not sent the divorce notice, they would not have initiated any case and that they did not otherwise want to institute any case against him. She also admitted that mother-in-law of her daughter had to cook her own food while her daughter was there.

13. The evidence, taken as a whole, shows that the marriage had become seriously strained and that there were continuous disputes between the husband and wife regarding separate residence, the husband's parents, and the wife's communication with Narayan Prasad Mishra. The husband's allegation regarding the objectionable conversation with Narayan Prasad

Mishra receives some support from the wife's mother, who admitted that she heard the recording and the recorded conversation did not sound good, to which Narayan Prasad Mishra apologised to the husband. However, the allegations of physical assault, strangulation of the mother, theft of jewellery and cash, and neglect of the child are not supported by any strong independent evidence. The husband admitted that he did not lodge any police complaint regarding the alleged strangulation or assault. It is also significant that the husband continued to take the wife back and live with her even after the 2018 incident. This indicates that, at that stage, he was still willing to continue the matrimonial relationship. The evidence further shows that the wife wanted a separate and better residence, while the husband was unwilling to leave his parents. This was clearly a major source of matrimonial discord. The wife's mother also admitted that the wife became angry over this issue. The wife's mother made an important admission that the legal proceedings were initiated only after the husband sent the divorce notice and that, had the notice not been sent, they would not have initiated such cases. However, mere filing of such proceedings cannot by itself amount to cruelty unless it is shown that they were false, malicious or intended to harass the husband.

14. The evidence on record shows that the matrimonial relationship between the parties was subjected to continuing disputes for a considerable period. The parties have been living separately since 2019. Their relationship has thereafter continued largely through litigation and proceedings concerning the matrimonial dispute and the minor child. Prolonged separation by itself is not an independent statutory ground for divorce, but the duration and circumstances of separation are certainly relevant while examining the effect of the conduct of the parties and the extent to which mutual trust and

matrimonial companionship have been destroyed.

15. One of the most significant subsequent developments is the criminal case instituted by wife/respondent No.1 against the husband/appellant. The appellant has placed on record the judgment dated 17.03.2026 by which he was acquitted in Criminal Case No.372/2021. Mere filing of a criminal complaint or the mere fact of acquittal cannot automatically be treated as matrimonial cruelty. A spouse is entitled to approach the police or the criminal Court where there is a genuine grievance. The question is whether, in the facts and circumstances of the present case, the accusations and the prosecution arising therefrom were of such nature and effect that they caused mental cruelty to the appellant.

16. The Supreme Court in the case of **K. Srinivas Rao v. DA Deepa (2013) 5 SCC 226** has observed that " the conduct of the respondent-wife in filing the complaint (under Section 498A IPC) making unfounded, indecent and defamatory allegation against her mother-in-law, in filing revision seeking enhancement of the sentence awarded to the appellant-husband, in filing appeal questioning the acquittal of the appellant- husband and acquittal of his parents indicates that she made all attempts to ensure that he and his parents are put in jail and he is removed from the job. We have no manner to doubt that this conduct has caused mental cruelty to the appellant-husband."

17. The Supreme Court in the matter of **Rani Narsimha Sastri v. Rani Suneela Rani (2020)18 SCC 247**, has observed that " it is true that it is open for anyone to file complaint or lodge prosecution for redressal for his or her grievances and lodge a first information report for an offence also and mere lodging of the complaint or FIR cannot be *ipso facto* treated as cruelty. But when a person undergoes a trial in which he is acquitted of the allegation of offence under section 498-A of IPC, levelled by the wife against the husband,

it cannot be accepted that no cruelty has meted on the husband.

18. In the case of **Raj Talreja v. Kavita Talreja (2017)14 SCC 194** the legal position as to when a false complaint would amount to cruelty was also examined by the Apex Court as below:-

> "11. Cruelty can never be defined with exactitude. What is cruelty will depend upon the facts and circumstances of each case. In the present case, from the facts narrated above, it is apparent that the wife made reckless, defamatory and false accusations against her husband, his family members and colleagues, which would definitely have the effect of lowering his reputation in the eyes of his peers. Mere filing of complaints is not cruelty, if there are justifiable reasons to file the complaints. Merely because no action is taken on the complaint or after trial the accused is acquitted may not be a ground to treat such accusations of the wife as cruelty within the meaning of the Hindu Marriage Act, 1955 (For short the Act). However, if it is found that the allegations are patently false, then there can be no manner of doubt that the said conduct of a spouse levelling false accusations against the other spouse would be an act of cruelty."

19. In view of the aforesaid legal propositions, this Court is of the considered view that on complaint made by wife, the husband was inculpated in criminal case but that criminal case was ultimately culminated in his acquittal. Therefore, in view of the aforesaid law laid down by the Apex Court,

this Court is of the view that false accusation made by wife against the husband under Section 498-A/34 of the IPC amounted to mental cruelty caused to the husband and such conduct of the wife certainly caused agony / pain and suffering on various counts to the husband, which made it impossible for him (husband) to lead future marital life with the respondent/wife.

20. Further, the insistence of a spouse for a separate matrimonial home, by itself, cannot invariably be characterised as cruelty. A spouse may legitimately seek separate residence where there exists a reasonable and justifiable basis, particularly where the matrimonial environment is demonstrably oppressive or unsafe. The question, therefore, is not whether a wife can ever ask her husband to reside separately from his parents, but whether, in the facts and circumstances of the particular case, the persistent insistence was justified or whether it constituted an unreasonable attempt to compel the husband to sever or substantially alter his relationship with his parents.

21. In this regard, the decision of the Hon'ble Supreme Court in **Narendra v. K. Meena, (2016) 9 SCC 455,** assumes considerable relevance. The Supreme Court observed that in Hindu society, it is pious obligation of the son to maintain his parents and persistent efforts of the respondent/wife to constrain the appellant/husband to be separate from his family without any justifiable reason, merely for some monetary consideration, would be tortuous to husband constituting the act of "cruelty". However, it is equally true that whether such insistence amounts to cruelty depends upon the circumstances of each case. A mere request or desire to live separately, by itself, does not constitute cruelty; the Court must examine whether the demand was justified and the manner in which it was made.

22. Tested on the aforesaid standard, the present case stands on a different footing from a case where the wife merely expresses a preference for an independent household. Here, the appellant's mother is very old and ailing and this fact has not been disputed by the respondent/wife. The appellant's explanation that he was unwilling to abandon or distance himself from his ailing mother is, therefore, neither unnatural nor unreasonable. On the contrary, it reflects a legitimate familial obligation which the appellant was entitled to take into consideration while deciding his place of residence. The appellant's refusal to accede to the demand for separate residence cannot, in these circumstances, be treated as an act of cruelty towards the respondent. A matrimonial relationship does not confer upon either spouse an unfettered right to compel the other to renounce or abandon pre-existing familial responsibilities. Marriage creates a new family, but it does not, by itself, extinguish the moral and legal responsibilities which a person may owe towards aged or infirm parents.

23. It is trite that mental cruelty cannot ordinarily be determined by isolating one particular incident. The matrimonial relationship has to be examined as a whole, keeping in view the conduct of the parties, the circumstances in which the conduct occurred, its continuity and its impact upon the mind of the spouse alleging cruelty. Ordinary wear and tear of matrimonial life or isolated quarrels would not constitute cruelty; however, where the conduct complained of is persistent and is such as to make the continuance of matrimonial life reasonably difficult, the same may amount to mental cruelty.

24. Thus**,** on appreciation of the evidence available on record, it is found proved that the wife was not only suffering from depression even prior to the

marriage, but that the husband had also overheard her inappropriate conversation with Narayan Prasad Mishra (R-2) over the mobile phone, which did not sound good, and had brought the matter to the attention of his in-laws. The wife repeatedly pressurized the husband to live in a separate and larger house, whereas the husband did not want to live separately from his old aged ailing mother. In fact, during her stay there, the mother-in-law had to prepare food separately. For all these reasons, the wife would not only frequently quarrel with the husband but would also return to her parental home many times. Despite all this, the husband took her back with him. Nevertheless, there was no change in her behaviour, and since 2019, she has not only been living separately from her husband but has also falsely implicated him in Criminal Case No. 372/2021 on allegations of dowry harassment. In the said case, the husband was acquitted by the Judicial Magistrate First Class, Pendra Road, District Gaurela-Pendra-Marwahi, Chhattisgarh, vide judgment dated 17-03-2026. But without considering the aforesaid evidence, the learned District Judge has dismissed the divorce petition filed by the husband/ appellant, is not found to be sustainable.

25. In view of the foregoing discussion, this Court is of the considered view that the appellant/husband has successfully established that the conduct of the respondent No.1/wife, viewed cumulatively, caused him mental cruelty and made continuation of the matrimonial relationship difficult. Hence, this Court is inclined to grant decree of divorce in favour of the husband.

26. Consequently, the appeal is allowed. Judgment and decree dated 18.02.2025 passed by District Judge, Pendra Road, Distt. Bilaspur (CG) in Civil Suit No.50A/2022 is set aside. The petition for divorce filed by the appellant/husband under Section 13 of the Act 1955 against the respondent/

wife is allowed/decreed and the marriage of the parties solemnized on 12.12.2014 is dissolved from the date of this order by a decree of divorce.

27. Let a decree be drawn up accordingly. No order as to cost.

Sd/-
(Naresh Kumar Chandravanshi)
Judge

Bini

BINI PRADEEP

Digitally signed by BINI PRADEEP
DN: cn=BINI PRADEEP, ou=HIGH COURT, o=HIGH COURT OF CHHATTISGARH, st=Chhattisgarh, c=IN