



CGHC010324722024

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Judgment reserved on 25/06/2026
Judgment delivered on 18/09/2026
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FA(MAT) No. 325 of 2024

Akash Ghosh S/o Shri Ramesh Chandra Ghosh Aged About 28 Years R/o Village - Champa, Old College Road, Near High School, In Front Of Utsav Vatika, Police Station - Champa, District Janjgir-Champa (C.G.)

... Appellant/plaintiff**versus**

Smt. Pooja Seet W/o Shri Akash Ghosh Aged About 25 Years R/o Village - Champa, Old College Road, Near High School, In Front Of Utsav Vatika, Police Station - Champa, District Janjgir-Champa (C.G.), At Present R/o Deendayal Colony, Deemarapur Chauk, Ward No. 6, Raigarh, District Raigarh (C.G.)

... Respondent/defendant

For Appellant : Shri Parasmani Shriwas, Advocate

For Respondent : Shri Punit Ruparel, Advocate

**DB : Hon'ble Shri Justice Parth Prateem Sahu
Hon'ble Shri Justice Sachin Singh Rajput**

C A V JUDGMENT**Per Sachin Singh Rajput, J.**

The parties hereinafter would be referred to as the appellant/husband and the respondent/wife.

2. The appellant/husband has filed this appeal under Section 19 (1) of the



Family Court Act, 1984 challenging the judgment and decree dated 28.08.2024 passed by Additional Principal Judge, Family Court, Janjgir District-Janjgir-Champa (CG) (for short 'Family Court') in Civil Suit No.129A/22 whereby the application filed by the appellant/husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act of 1955') for a decree of divorce was rejected and the application under Section 27 of the Act of 1955 filed by the respondent/wife was allowed and the appellant/husband was directed to return the gifts (*stridhan*) given by her parents as per schedule 'A, within a period of one month therefrom.

3. **The facts in short:** Marriage between the parties was solemnized on 07.03.2019 at Village Raigarh according to Hindu rites and rituals. After marriage, the respondent/wife lived with the appellant/husband and his family for about 2–3 months. According to the appellant/husband, during this period the respondent/wife treated him with hostility, threatened to implicate him in false cases and frequently went to her parental home. She thereafter went to Rajasthan to attend some of her relative's marriage without the appellant's consent and returned after about 25 days. She thereafter is stated to have suffered miscarriage of the twins. According to the appellant/husband, the respondent's mother thereafter took her to Raigarh and that despite repeated efforts made by him to bring her back, she refused to return. The appellant/husband approached the Counseling Centre, Janjgir on 05.11.2019 where he was advised to approach the Court. On 16.12.2019, the appellant/husband accompanied by members of his community again went to Raigarh to bring the respondent/wife back but she again refused to accompany him. The respondent/wife subsequently instituted proceedings under the Domestic Violence Act against the appellant /husband and his family members which are still pending before the Raigarh Court. On these



grounds, the appellant/husband sought a decree of divorce.

4. In her written statement, the respondent/wife denied the allegations except the factum of marriage. She alleged that the appellant/husband had an illicit relationship with another woman. After the respondent/wife came to know about the same, the appellant/husband started consuming alcohol. Not only this, he also started abusing her and did not take proper care of her including providing medical treatment during pregnancy. She stated that during her illness her mother took her to Raigarh for treatment and after her recovery, repeatedly requested the appellant/husband and his family members to take her back, but they failed to do so. Her mother thereafter submitted a complaint before the Superintendent of Police, Raigarh on 24.02.2020. The respondent/wife also initiated domestic violence proceedings against the appellant/husband and his family members before the Judicial Magistrate, First Class, Raigarh. According to her, the appellant/husband himself was unwilling to continue the matrimonial relationship because of his illicit relationship with another woman. In this factual backdrop, the respondent/wife sought for dismissal of the divorce petition.

5. The issues framed with regard to cruelty and desertion to the appellant/husband by the respondent/wife have been found to be not proved, and eventually his application seeking decree of divorce has been dismissed. Hence this appeal.

6. Learned counsel for the appellant/husband submits that the learned Family Court committed a gross legal error in dismissing the application for decree of divorce filed by the appellant/husband. He submits that the learned Court below has failed to appreciate the pleadings and evidence available on record in their proper perspective while recording its finding. He further



submits that the respondent/wife has been living separately from the appellant/husband since December, 2019 without any sufficient or justifiable reason, and that despite his willingness to continue the matrimonial relationship, she has not resumed cohabitation. He submits that though there is no evidence on record as regards the factum of *Stridhan*, learned Family Court has allowed the application under Section 27 of the Act of 1955. Thus in totality of the circumstances, learned counsel for the appellant/husband submits that the findings recorded by learned Family Court are not in consonance with the evidence adduced by the parties and therefore the impugned judgment and decree are liable to be set aside by allowing the appeal.

7. On the other hand, counsel for the respondent/wife supports the judgment impugned and submits that the findings recorded by learned Family Court are based on just and proper appreciation of the evidence on record and therefore no disturbance with the well reasoned findings is required to be made by this Court. He submits that the appeal has no substance at all and therefore it is liable to be dismissed.

8. Heard learned counsel for the parties and perused the records with utmost circumspection.

9. Upon consideration of rival submissions and on a careful appraisal of the pleadings and evidence available on record, this Court finds that the appellant/husband has failed to establish the ingredients of cruelty and desertion on the part of the respondent/wife so as to seek decree of dissolution of marriage against her. On the contrary, the respondent/wife has categorically stated that she had gone to Rajsthan to attend a marriage in the house of her relatives along with her husband, mother-in-law and also her



mother. The record also shows that when the respondent/wife had fallen ill, she informed the appellant/husband about the same, and then he took her to Champa and got her admitted in Lakhiram Agrawal Memorial Hospital for treatment from where her mother took her to Raigarh. The respondent/wife has further admitted that she did not lodge any report against the appellant/husband about ill-treating her after consuming liquor. Mother of the respondent/wife has also made the statement in the same terms. The respondent/wife has stated that in Rajasthan she stayed for 10-11 days, but has categorically denied that just after returning therefrom she had fallen ill. She has rather clarified that her health condition deteriorated four-five months thereafter. She has stated that she did not present herself before the Counseling center though notice was received by her. The reason for her non appearance there-over has been disclosed to be the Covid-19 pandemic and resultant lock down. The respondent/wife has expressed her ignorance about the mention of the fact in the legal notice that in case the appellant/husband gave Rs. 20 lakhs to her, she would agree for divorce. Rather this amount was sought for one time maintenance. Her evidence further discloses that the appellant/husband never went to take her back, or that she was living in her parents' house out of her own volition. From her evidence it is further apparent that she did not make any report to anyone regarding her husband having affair to some other woman. Mother of the respondent/wife has also made almost similar statement.

10. Though the appellant/husband has made several allegations against the respondent/wife yet none of them have been substantiated by leading any cogent evidence of the witnesses. Of course, he has alleged that the respondent/wife used to brand him as being a black complexioned or a fatty shaped but they cannot be taken to be sufficient ground for granting a decree



of divorce to him. Even as regards desertion, he could not be able to prove that the respondent/wife was living with her parents without there being any reasonable excuse, because from the statement of her mother it is quite evident that when the respondent/wife had suffered miscarriage, this witness had gone to see her and that it is the family members of the appellant/husband who had forcibly sent the respondent/wife with her. Even the wife has reiterated that no efforts were made by the appellant/husband to take her back or keep her with him.

11. While dealing with the case as to where the cruelty can be said to be meted out in a matrimonial case in the matter of **Samar Ghosh vs. Jaya Ghosh** reported in **(2007) 4 SCC 511** the Supreme Court has held that though no uniform standard can ever be laid down for guidance, yet it has enumerated some instances of human behaviour which may be relevant in dealing with the cases of 'mental cruelty', though such instances have been taken as only illustrative and not exhaustive. If the facts and circumstances of the case in hand are analyzed, there is nothing on record on the basis of which the act of the respondent/wife can be dragged within the sweep of cruelty as has been categorized in the case referred to above.

12. Having thus gone through the material on record, this Court is of the considered opinion that though number of allegations have been made against the the respondent/wife, they have not been proved by adducing any cogent and clinching evidence in this regard. May be, the allegations are many in number by the appellant/husband but in the absence of any pin-pointed evidence to substantiate the same, they cannot be made basis for granting decree of divorce in his favour. As regards the element of cruelty at the hands of respondent/wife, the elements required to constitute the same appear to be totally amiss entailing the grant of decree of divorce in favour of



the appellant/husband. So also is the case with the component of desertion because it has been persistently pleaded by the respondent/wife and also her mother that the appellant never made any effort to take her back in order to keep her with him. As already discussed earlier, it is the family members of the husband who forcibly sent the wife with her mother when she had gone to see her at the time of miscarriage. In the present case, the appellant/husband has failed to prove the requisite *animus deserendi* on the part of the respondent/wife. Thus, the approach of learned Family Court in rejecting the plea of dissolution of marriage cannot be said to be faulted with. Being that, the impugned judgment and decree appear to be based on just and proper appreciation of the evidence on record and warrant no interference in this appeal. Appeal being devoid of any merit is therefore liable to be dismissed. It is dismissed as such but without any cost. Let decree be drawn accordingly.

Sd/-
(Parth Prateem Sahu)
Judge

Sd/-
(Sachin Singh Rajput)
Judge