

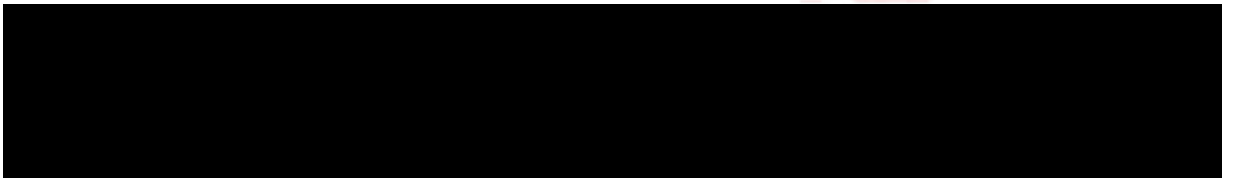


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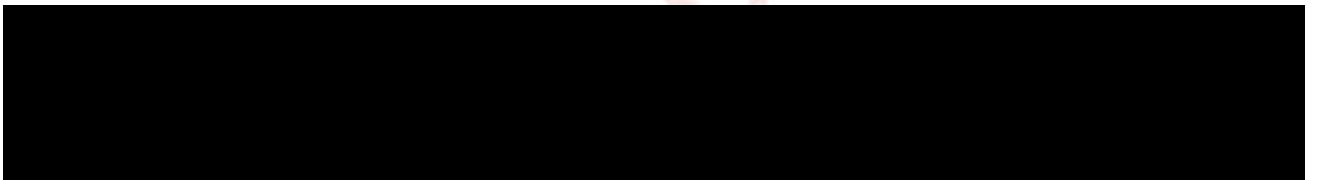
NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

FA(MAT) No. 79 of 2019

--- Appellant

versus

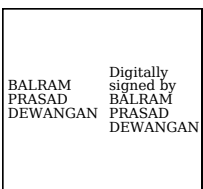


--- Respondent

(Cause title is taken from CIS system)

 For Appellant : Mr. F.S. Khare, Advocate

 For Respondent : None present

Division BenchHon'ble Shri Parth Prateem Sahu, JudgeHon'ble Smt. Sushma Sawant, JudgeJudgment On Board(18.09.2026)Per Parth Prateem Sahu, J

1. This appeal under Section 19(1) of the Family Courts Act, 1984 is directed against the judgment and decree dated 08.08.2019 passed by learned Judge, Family Court, Camp Court – Katghora, District Korba,

Chhattisgarh, in Civil Suit 52-A/2017, whereby application preferred by appellant (husband) under Section 13(1) (ia) and (iii) of the Hindu Marriage Act, 1955 (for short, "*the Act of 1955*"), seeking dissolution of marriage by a decree of divorce on the ground of cruelty, has been dismissed.

2. Facts necessary for disposal of the present appeal are that the appellant/applicant (husband) filed an application under Section 13(1) (ia) and (iii) of the Act of 1955 seeking decree of divorce on the ground of cruelty and mental illness of non-applicant/wife pleading inter alia that his marriage with non-applicant/wife was solemnized on 02/06/2015 at Janjgir as per traditional Hindu customs and rituals. After marriage, non-applicant left Janjgir and came to Darri, District Korba, Chhattisgarh, to live with the applicant. She stayed there for about eight days. During this time, she did not speak properly with applicant or any family member and mostly remained silent, giving only "yes" or "no" answers. After eight days, she returned to her parents' home in Janjgir. Applicant, who was working in a private company in Bangalore, had to return to Bangalore two days later because he could not get more leave. It was further pleaded that about 15 days after non-applicant went to her parental home at Janjgir, brother of applicant went to bring her back then her parents initially refused, stating that she would go directly to Bangalore, where applicant was working. Brother of applicant explained her parents that after arranging separate accommodation at Bangalore, his brother will keep non-applicant at Bangalore, then only parents of non-applicant agreed to send her to Darri. Non-applicant stayed in Darri for about 15 days and misbehaved with applicant and his family members. She thereafter

went to Janjgir for the Hareli festival and stayed there for five months. Applicant arranged accommodation in Bangalore and returned to Darri to take her with him. However, she again behaved rudely, refused to cooperate, used abusive language, and created disturbances in the house. It was further pleaded that non-applicant used to insult applicant and his family members, refused to perform household work and threw household articles. She also threatened to implicate applicant and his family in a false dowry case. It was pleaded that when her father, [REDACTED], and brother, [REDACTED], were called to Darri and informed about her conduct, she abused the applicant, caught hold of his collar, and slapped him. She also misbehaved with her father and brother, who thereafter took her to Janjgir. A complaint was made before the Family Counselling Centre, Korba, where non-applicant was advised for medical treatment looking to her conduct and behaviour. Applicant came to know that before marriage, non-applicant was undergoing psychiatric treatment at [REDACTED], Bilaspur. It was further pleaded that non-applicant is mentally unstable and behaves like a lunatic and parents of non-applicant had concealed her alleged mental health condition at the time of marriage. Consequently, a community meeting was convened, wherein the grandfather of the non-applicant threatened applicant and his family will face police action if the marriage was not accepted. Due to such threats and conduct of non-applicant, applicant and his family remained under constant fear and apprehension. It was further pleaded that, owing to the conduct and behaviour of the non-applicant and her repeated visits to Darri, applicant lost his employment in Bangalore.

3. Non-applicant/wife filed her written statement denying all the material allegations made in the application/plaint. She denied the allegations of cruelty levelled by applicant/husband and asserted that it was she, who had been subjected to continuous physical and mental cruelty by applicant and his family. It was further pleaded that, at the time of marriage, applicant's family misrepresented that applicant was working as an engineer in Bangalore and earning Rs. 50,000/- per month. It was also alleged that a sum of Rs. 5,00,000/- was demanded at the time of engagement and at the time of marriage, gold and silver ornaments along with other articles were given to applicant. It was further alleged that applicant promised to take non-applicant to Bangalore after 06.06.2015. However, he returned only after about six months and demanded Rs. 5,00,000/- from her father as a condition for taking her to Bangalore, failing which she was asked to remain at her parental home. It was also pleaded that applicant abused and physically assaulted non-applicant, causing her fear and adversely affecting her health. Complaint was lodged at Darri Police Station, following which both parties were counselled at the Women's Counselling Centre. Although the parties agreed to live together, however, applicant did not take non-applicant with him. It was further pleaded that applicant left non-applicant at Janjgir on 02.06.2016 and stated that he would marry another woman after obtaining a divorce.
4. The learned Family Court, on the basis of the pleadings of the respective parties, framed three issues for consideration. After appreciating the oral and documentary evidence brought on record by both parties, learned Family Court, by impugned judgment and decree, dismissed the suit/applicant of appellant/husband by holding that

appellant had failed to establish the alleged acts of cruelty committed by respondent-wife. The Court further held that appellant had failed to prove that respondent-wife was suffering from any incurable mental illness or other incurable disease.

5. Learned counsel for appellant would submit that the impugned judgment and decree passed by learned Family Court is erroneous, contrary to the facts and evidence on record, and unsustainable in law. Learned trial Court fell into error in dismissing the suit filed by appellant without appreciating the evidence brought in record by appellant in appropriate manner. It is contended that respondent-wife repeatedly misbehaved with appellant and his family members, used abusive language, and created disturbances in the matrimonial home, causing appellant mental agony and distress. It is also contended that respondent-wife was suffering from incurable mental disorder, which was concealed by her parents at the time of marriage. It is contended that concealment of such material fact, caused mental distress to the appellant and constituted cruelty towards him. He next contended that in order to harass appellant and his family, respondent-wife, initiated false criminal proceedings against him and his family members on false and baseless allegations of demand of dowry and domestic violence, in which appellant was acquitted. To substantiate the aforesaid contention, learned counsel for the appellant submits that the appellant has filed an application under Order 41 Rule 27 CPC for taking additional evidence on record the judgment of acquittal dated 14.12.2023 in Criminal Case No. 669 of 2016 under Section 498-A read with Section 34 IPC, along with the judgment dated 07.03.2025 in Criminal Appeal No. 11 of 2024, whereby the respondent's appeal

against the acquittal was dismissed. The appellant has also placed on record the judgment dated 23.08.2024 in Criminal Appeal No. 46 of 2024, whereby the proceedings under Section 29 of the Domestic Violence Act, 2005, were dismissed. Learned counsel for appellant submits that institution of false and frivolous criminal proceedings by respondent against appellant and his family members caused him mental agony, harassment, and humiliation, which amounts to cruelty and constitutes a ground for dissolution of marriage.

6. None appeared on behalf of respondent even after repeated calls on different dates in this week as this case is listed in weekly list.
7. We have considered the submissions made by learned counsel for the appellant and perused the record of the Family Court/paper book.
8. Marriage between the parties is not in dispute. Appellant-husband filed civil suit seeking dissolution of marriage by a decree of divorce on the ground of cruelty and the alleged mental disorder of the respondent-wife under Section 13(1)(ia) and (iii) of the Hindu Marriage Act, 1955.
9. Section 13 of the Act of 1955 provides for grant of decree of divorce in certain cases. It enacts that any marriage solemnized whether before or after the commencement of the Act may be dissolved on a petition presented either by the husband or by the wife on any of the grounds specified therein. Clause (ia) of sub-section (1) of Section 13 envisages that a decree of divorce may be passed by a Court on the ground that after solemnization of marriage, opposite party has treated the petitioner with cruelty.

10. Expression 'cruelty' includes both (i) physical cruelty; and (ii) mental cruelty. Cruelty is not defined in the Act of 1955. Physical cruelty can be proved by oral and documentary evidence. As far as mental cruelty is concerned, the same has to be decided based on the facts and circumstances of each case taking into consideration the social standing of the parties.
11. Further Sub-class (iii) of Section 13 (1) envisages that a decree of divorce may be passed on the ground that other party has been incurably of sound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.
12. In the present case, the appellant/husband has stated various acts of cruelty committed by respondent/wife. The law on a wife's cruelty against her husband is not as clear as the other way around. The concept of cruelty under matrimonial law has traditionally been discussed in the context of a husband's conduct towards his wife. There are instances where a wife may be found to have treated her husband with cruelty because cruelty is a matter of conduct, not gender. Matrimonial law does not presume that only one spouse is capable of committing cruelty. Whether the husband or the wife has been cruel depends on the facts and circumstances of each case.
13. In order to prove his case, appellant/applicant examined himself as (P.W.-1) and stated in his evidence that after marriage, non-applicant came to his house and stayed there for about 8 days. During this period, she remained mostly silent and did not properly talk with him or

his family members. Thereafter, she went to her parental home for about 15 days. After 15 days, elder brother of this witness went to bring her back then her family members refused to send non-applicant to village Darri and said that she would go directly to Bangalore, where applicant was working. Then his brother told them that applicant had not yet arranged a house in Bangalore and requested them to send her to Darri. He also told them that after arrangements will be made in Bangalore, she would be taken there. Thereafter, she was sent to the house of applicant at Darri. He further stated that non-applicant stayed at Darri for about 15 days. During this period also behaviour of non-applicant was not good. She did not perform household work and used to misbehave with the family members and told his mother that she was not a servant and asked her sister-in-law to massage her hands and feet. He stated that during the Hareli festival, her family members came and took her back to her parental home. Non-applicant remained at her parental home. He stated that after six months, he made arrangements for her stay in Bangalore and he went to his in-laws' house to bring non-applicant. At that time, non-applicant did not properly behave with his family members. He stated that non-applicant brought some medicines from her parental home and when his mother asked her about the medicines, non-applicant misbehaved with his mother. This witness informed the conduct of non-applicant to her father and brother, they came to house and advised non-applicant to behave properly, but she also misbehaved with them. During the incident, non-applicant also slapped this witness. He further stated that on the same day, at about 8–9 p.m., non-applicant came out of the house and started shouting that the family members were misbehaving

with her. Non-applicant started throwing her clothes and other articles and abused applicant and his family members with obscene language. He further stated that on the next day father and brother of non-applicants came to house along with some members of the society. A meeting was held and non-applicant was advised to behave properly. He further stated that during the meeting also, her behaviour appeared abnormal to the persons present. Therefore, decision was taken that non-applicant should be taken to her parental home for treatment. He further stated that he has submitted an application before the Family Counselling Centre, Korba, regarding the incidents and the difficulty in keeping her with him in such circumstances. He further stated that during counselling proceedings, psychiatrist present in the counselling advised that non-applicant required treatment. Thereafter, non-applicant was taken by her parents for her treatment to Dr. Satish Srivastava, Psychiatrist, Bilaspur, where she was admitted for 3-4 days. This witness further stated that he was informed by Dr. Satish Shrivastava that non-applicant was suffering with mental disease Mania. He further stated that after about one month, a meeting was held at the house of the non-applicant in the presence of both families and community members. During the meeting, her grandfather asked the witness to take the non-applicant back. The witness refused due to the problems that had occurred earlier. Thereafter, her grandfather threatened the witness and his family with serious consequences. He further stated that the doctor advised non-applicant that she should continue her treatment and medicines.

14. In cross-examination, this witness denied the suggestion that a demand of Rs. 5,00,000/- was made at the time of engagement. He

further denied that the marriage was solemnized after payment of Rs. 5,00,000/- to the father of this witness. He admitted that a case relating to a demand for dowry is pending before the Katghora Court. He further denied that he or his family members harassed or ill-treated the non-applicant for demand of dowry. He also admitted that he had not lodged any report regarding the alleged threat given by the grandfather of the non-applicant. He further denied the suggestion that he had made false allegations against the non-applicant in order to obtain a decree of divorce.

15. Jitendra Prasad (P.W.-2), cousin brother of applicant, stated about marriage between applicant and non-applicant. He stated that after marriage, non-applicant came to Darri while applicant was working in Bangalore. He further stated that behaviour of non-applicant towards applicant and his family members was not proper and that her mental condition was also not good. She used to misbehave with her father-in-law and mother-in-law. He further stated that, due to her conduct and condition, an application was submitted before the Family Counselling Centre, where both parties were counselled and it was advised that the non-applicant should stay at her parental home. Thereafter, when her condition deteriorated, she was admitted to Verma Nursing Home. In a subsequent meeting, the applicant and his family members were asked to take her back. He further stated that the doctor advised that she required long-term treatment and medication. In cross-examination, he denied the adverse suggestions put to him and also denied that there was any demand of Rs. 5,00,000/- in connection with the marriage. He admitted that a case

relating to a demand for dowry against the applicant and his family members is pending before the Court at Katghora.

16. The applicant examined Dr. Satish Kumar Shrivastava as P.W.-4. He stated that he had treated the non-applicant for mania with psychotic symptoms and that the medical documents filed in the case relate to her treatment. In cross-examination, he admitted that the illness is treatable and not incurable, though the symptoms may come back. He admitted that if the symptoms of the illness continue, the possibility of leading a normal married life may be reduced. However, after seeing the medical documents, he stated that the non-applicant was well at that time and was capable of leading a married life. He further stated that the illness can be controlled by taking medicines regularly.
17. The non-applicant examined herself as D.W.-1. She stated that before marriage, she and her family were told that applicant was working as an Engineer in Bangalore and was earning Rs. 50,000/- per month. She further stated that they were told that after 3–4 days of marriage, both applicant and non-applicant would live together in Bangalore. She stated that a false report was lodged against her at Darri Police Station. The matter was later sent to the Women Counselling Centre, Korba, where both parties agreed to live together, but the applicant did not take her with him. She further stated that applicant had filed an application under Section 10(1)(a) of the Hindu Marriage Act for judicial separation before Family Court, which was later disposed of. She also stated that Rs. 5,00,000/- and gold and silver jewellery were given at the time of marriage.

18. This witness further stated that on 06.06.2015, when applicant went to Bangalore for work, he told her that he would take her there later after making arrangements for her stay. After about six months, applicant came back and told her that if she brought Rs. 5,00,000/- from her parents, he would keep her with him, otherwise she should stay at her parental home. She further stated that applicant abused and beat her and harassed her, due to which she became scared and her health condition is deteriorated. She also stated that applicant threatened to divorce her if she did not bring Rs. 5,00,000/- from her parents and this was also supported by his family members. She further stated that she lodged a report against applicant and his family members for harassment and demand of dowry.
19. In cross-examination, she denied that her health was often not good. She also denied that she had been treated by psychiatrist Dr. Satish Shrivastava before her marriage or that she had taken any medicine from him. She further denied that she was presently taking treatment from Dr. Satish Shrivastava. She further denied that after marriage, she did not behave properly or talk properly with the applicant and his family members.
20. Satish Chandra Rathore, father of the non-applicant, was examined as D.W.-2. In his examination-in-chief, he made a similar statement to that of non-applicant. He stated that before marriage, wrong information was given about the applicant, his job and his salary, and that the non-applicant would be taken to Bangalore after marriage. He also stated that a false complaint was lodged against the non-applicant and that thereafter a compromise was reached between the parties to

live together. He further stated about the application filed by the applicant under Section 10(1)(a) of the Hindu Marriage Act and the demand of Rs. 5,00,000/-. He further stated that his daughter was harassed and ill-treated by the applicant and his family members. He also stated that applicant threatened to divorce his daughter if Rs. 5,00,000/- was not given to him. In cross-examination, he denied the suggestion that health of non-applicant was often not good. He further denied that his daughter, non-applicant, had ever taken treatment from Dr. Satish Kumar Shrivastava. He also denied that she had been treated by the said doctor for any psychiatric or mental health condition. Statement of applicant (D.W.-1) and (D.W.-2) is also supported by Dev Singh Rathore (D.W.-3) and Narottam Baghel (D.W.-4).

21. It is a well-settled principle of law that burden of proving allegation of cruelty lies squarely on the parties who seeks dissolution of marriage on that ground. Mere making of allegations in the pleadings is not sufficient; the party asserting cruelty must establish the same by leading clear, cogent, reliable, and legally admissible evidence before the Court. The standard of proof in such cases is based on the preponderance of probabilities; however, the evidence produced must be of such nature that it inspires confidence and is capable of convincing the Court that the conduct complained of amounts to cruelty within the meaning of law. Vague assertions, general allegations, or unsubstantiated statements, without supporting material, cannot form the basis for granting a decree of divorce.

22. In order to examine the cruelty, the principles laid down by the Hon'ble Supreme Court in **Samar Ghosh v. Jaya Ghosh** reported in **(2007) 4 SCC 511**, would be a relevant guideline wherein the Court has indicated certain illustrative instances at para 101 whereby the inference of mental cruelty can be drawn. Para 101 reads as under :-

“101. No uniform standard can ever be laid down for guidance, yet we deem it appropriate to enumerate some instances of human behaviour which may be relevant in dealing with the cases of “mental cruelty”. The instances indicated in the succeeding paragraphs are only illustrative and not exhaustive:

(i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.

(ii) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party.

(iii) Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable.

(iv) Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of other for a long time may lead to mental cruelty.

(v) A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse.

(vi) Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty.

(vii) Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty.

(viii) The conduct must be much more than jealousy, selfishness, possessiveness, which causes unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty.

(ix) Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day-to-day life would not be adequate for grant of divorce on the ground of mental cruelty.

(x) The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill conduct must be persistent for a fairly lengthy period, where the relationship has 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, may amount to mental cruelty.

(xi) If a husband submits himself for an operation of sterilisation without medical reasons and without the consent or knowledge of his wife and similarly, if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty.

(xii) Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty.

(xiii) Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.

(xiv) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.”

23. Perusal of plaint as also the evidence brought on behalf of appellant/plaintiff shows that allegations levelled against

respondent/wife are vague, general, and omnibus in nature. Appellant/plaintiff has merely alleged that the respondent/wife treated him and his family members with cruelty. However, no specific instances, dates, particulars, or material evidence have been brought on record to substantiate the said allegations. The allegation made by appellant remain general and unsupported by any cogent, convincing, or independent evidence. Perusal of the pleadings and evidence shows that the main dispute between the parties arose because the appellant did not take the respondent/wife to Bangalore and, as alleged, demanded Rs. 5,00,000/- for keeping her with him. It is also alleged that, before marriage, incorrect information was given regarding the appellant's employment and salary.

24. So far as the ground raised by appellant regarding alleged mental illness of respondent/wife is concerned, appellant examined Dr. Satish Kumar Shrivastava in this regard. However, neither in his examination-in-chief nor in the description of the witness, his qualification or field of expertise has been mentioned. Though this witness has stated that he had treated the respondent for mania with psychotic symptoms, however, the medical documents are not brought on record and not properly exhibited. Further, in cross-examination, the doctor admitted that the illness was treatable, was not incurable, and that the respondent could lead a married life when she was well. There is also no sufficient evidence to show that the respondent was suffering from such disorder before the marriage or that her condition was of such nature and extent that the appellant could not reasonably be expected to live with her. The evidence of Dr. Satish Kumar Shrivastava, when

read as a whole, is not sufficient to establish that the respondent was suffering from any mental illness before or after the marriage.

25. The grounds raised of one of spouse to be suffering with mental disease is a serious allegation, therefore, it has to be proved strictly in accordance with law. There is no sufficient material or evidence is brought in record by the plaintiff to prove that respondent was suffering with any mental disease prior to her marriage.
26. Hon'ble Supreme Court in case of **Sharda v. Dharmpal, (2003) 4 SCC 493** while considering the issue has observed thus :-

“11. It is trite law that for the purpose of grant of a decree of divorce what is necessary is that the petitioner must establish that unsoundness of mind of the respondent is incurable or his/her mental disorder is of such a kind and to such an extent that he cannot reasonably be expected to live with his/her spouse. Medical testimony for arriving at such finding although may not be imperative but undoubtedly would be of considerable assistance to the court. We may, however, hasten to add that such medical testimony being the evidence of experts would not leave the court from the obligation of satisfying itself on the point in issue beyond reasonable doubt. Relevance of medical evidence, therefore, cannot be disputed.

12. A sound mind indisputably is a key to a happy married life. A party to the marriage must, thus, have normal and sound mind so as to live a happy marital life. A disorder of thought, behaviour and mind leading to unsoundness of mind may give rise to a cause of action for filing an application under Section 13(1)(iii) of the Hindu Marriage Act. The burden of proof of the

existence of requisite degree of mental disorder is on the spouse making the claim on that state of fact.

* * *

16. Having regard to the complexity of the situation, the doctor's opinion may be of utmost importance for granting or rejecting a prayer for a decree of divorce. The question is as to whether a mental disorder is curable can be the subject-matter of determination of by a court of law having regard to the expert medical opinion and particularly the ongoing development in the scientific and medical research in this direction.”

27. Hon'ble Supreme Court in case of **Vinita Saxena v. Pankaj Pandit, (2006) 3 SCC 778** has observed thus :-

“29. In our view, the trial court failed to appreciate the uncontroverted evidence of the appellant who had proved the case on every count. It has been established beyond doubt by the medical doctors who had deposed as witnesses and brought the original medical record of the respondent that the respondent is suffering from mental disorder. Further ground for grant of divorce on the plea of mental insanity/mental disorder is different than cruelty. The appellant, in our view, had proved beyond doubt that the respondent suffered from mental disorder and that the appellant suffered cruelty by and at the behest of the respondent.

* * *

42. Section 13(1)(iii) “mental disorder” as a ground of divorce is only where it is of such a kind and degree that the appellant cannot reasonably be expected to live with the respondent. Where the parties are young and the mental disorder is of such a type that sexual act and procreation of children is not possible, it may

furnish a good ground for nullifying the marriage because to beget children from a Hindu wedlock is one of the principal aims of Hindu marriage where sanskar of marriage is advised for progeny and offspring. This view was taken in *Alka Sharma v. Abhinesh Chandra Sharma* [AIR 1991 MP 205] .

28. Appellant has filed an application under Order 41 Rule 27 of the CPC for taking additional evidence on record the judgment of acquittal dated 14.12.2023 passed by the JMFC, Katghora, in Criminal Case No. 689/2016 under Section 498-A read with Section 34 of the IPC, the judgment dated 07.03.2025 passed by the First Additional Sessions Judge, Katghora, in Criminal Appeal No. 11/2024 dismissing the appeal against acquittal, and the judgment dated 23.08.2024 passed by the Second Additional Sessions Judge, Janjgir, in Criminal Appeal No. 46/2024 under Section 29 of the Domestic Violence Act, 2005, whereby the appeal was also dismissed, to submit that respondent/wife had implicated the appellant in a false criminal case and thereby subjected him to cruelty.
29. Copy of the application filed under Order 41 Rule 27 of C.P.C. dated 29.06.2026 was served on respondent, however, no reply has been filed till date. Case is continuously listed in final hearing. Learned counsel for respondent was well aware. Even otherwise by way of application under Order 41 Rule 27 of C.P.C., appellant has placed on record order passed by Judicial Magistrate First Class, Katghora, District Korba in Criminal Case No.669 of 2016 dated 14.12.2023, which was initiated based on the report lodged by respondent against appellant and his family members in total 7 persons for alleged commission of offence U/s. 498A read with Section 34 of I.P.C.. In the

aforementioned criminal case, learned Magistrate after conclusion of trial has acquitted all 7 accused persons therein from the charges under Section 498-A read Section 34 of I.P.C.. Another judgment placed in record is of judgment passed in Criminal Appeal No. 11 of 2024, passed by First Additional Sessions Judge, Katghora, District Korba, wherein appeal preferred by respondent against judgment of acquittal in Criminal Case No. 669 of 2016 was dismissed, which shows that respondent not only has lodged a complaint in concerned police station alleging the offence to have been committed by her in-laws but have further challenged the order of acquittal by learned trial Court in appeal. Respondent had filed the complaint/application under the Protection Of Women From Domestic Violence Act, 2005 in which, learned Magistrate has dismissed the application vide order dated 15.03.2024, which was further put to challenged in appeal filed under Section 29 of the Protection Of Women From Domestic Violence Act, 2005. Vide order dated 23.08.2024, appellate Court dismissed the appeal.

30. Perusal of the records would show that Family Court has dismissed the application filed by appellant U/s. 13 (1) (ia) (iii) of the Act, 1995 vide judgment dated 08.08.2019. From the documents it appears that decision in criminal cases under Section 498A read with Section 34 of I.P.C. is subsequent to the passing of impugned judgment. Even after dismissal of the application filed by appellant for divorce, respondent continuously had filed the other cases as also appeal against acquittal and dismissal of application. Subsequent event and conduct of parties with respect to ground taken by appellant of cruelty due to act and conduct of respondent can be considered even in appellate stage.

31. In case of **Rani Narasimha Sastry Vs. Rani Suneela Rani** reported in **(2020) 18 SCC 247**, Hon'ble Supreme Court had occasioned to consider the similar facts wherein also, the judgment of acquittal by learned trial Court was brought and in that circumstances the Hon'ble Supreme Court has held thus :-

“10. The trial court has noted the ground of cruelty on the basis of filing criminal case but the trial court refused to rely on the said allegation on the ground that criminal case filed by the respondent in CC No. 672 of 2007 is pending for adjudication. The trial court's judgment was delivered on 5-9-2011, which was questioned by the appellant before the High Court by filing Appeal No. 1279 of 2011. During pendency of the appeal before the High Court, the judgment in CC No. 672 of 2007 *State of A.P. v. Narasimha Sastry* was decided.

11. The learned Metropolitan Magistrate held that the prosecution has failed to prove charge under Section 498-A IPC. Paras 32 and 34 of the judgment are as follows:

“32. Having regard to the facts and circumstances of the case and after careful scrutiny of entire oral and documentary evidence on record, it is the considered view of this court that both the de facto complainant, PW 1 and the accused seems as coming from respectable families from a respectable community, both are well educated, well brought up, have developed hatred towards each other and the relationship between them is already estranged and it is in irretrievable breakage of marriage perhaps and probably due to some egoistic problems and their hatred went to the extent of throwing mud on

each other before the courts as PW 1 alleged in her complaint that the accused is trying to marry one Valli, the sister's daughter of the accused, and as per the suggestion given by the accused to PW 1 during her cross-examination, the accused is alleging illicit relationship between PW 1 and PW 3 and egoistic problem turned into pervertism against each other adding bitterness further to see the bad of each other. However, though Ext. P-1 complaint given by PW 1 against the accused as A-1 and his sister as A-2 Smt A. Surya Kumari, the proceedings against A-2 were already quashed by the Hon'ble High Court of A.P. in *A. Surya Kumari v. State of A.P.* [A.Surya Kumari v. State of A.P., 2011 SCC OnLine AP 1160] dated 7-12-2011 issued by the Hon'ble High Court of A.P., Hyderabad and now in the present case against A-1 also the prosecution has failed to prove the same beyond all reasonable doubt against A-1 for the offence punishable under Section 498-A IPC.

33.***

34. In the result, the accused is found not guilty of the offence punishable under Section 498-A IPC and thus I acquit him under Section 248(1) CrPC the bail bonds of the accused and that of his sureties, if any, shall stand cancelled after expiry of appeal time."

12. This Court has laid down that averments, accusations and character assassination of the wife by the appellant husband in the written statement constitutes mental cruelty for sustaining the claim for divorce under Section 13(1)(i-a) of the Act. This Court in *Vijaykumar Ramchandra Bhate v. Neela Vijaykumar*

Bhate [Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate, (2003) 6 SCC 334] has laid down the following in para 7 : (SCC p. 339)

“7. The question that requires to be answered first is as to whether the averments, accusations and character assassination of the wife by the appellant husband in the written statement constitutes mental cruelty for sustaining the claim for divorce under Section 13(1)(i-a) of the Act. The position of law in this regard has come to be well settled and declared that levelling disgusting accusations of unchastity and indecent familiarity with a person outside wedlock and allegations of extramarital relationship is a grave assault on the character, honour, reputation, status as well as the health of the wife. Such aspersions of perfidiousness attributed to the wife, viewed in the context of an educated Indian wife and judged by Indian conditions and standards would amount to worst form of insult and cruelty, sufficient by itself to substantiate cruelty in law, warranting the claim of the wife being allowed. That such allegations made in the written statement or suggested in the course of examination and by way of cross-examination satisfy the requirement of law has also come to be firmly laid down by this Court. On going through the relevant portions of such allegations, we find that no exception could be taken to the findings recorded by the Family Court as well as the High Court. We find that they are of such quality, magnitude and consequence as to cause mental pain, agony and suffering amounting to the reformulated concept of cruelty in matrimonial law causing profound and lasting disruption and driving the wife to feel deeply hurt

and reasonably apprehend that it would be dangerous for her to live with a husband who was taunting her like that and rendered the maintenance of matrimonial home impossible.”

13. In the present case, the prosecution is launched by the respondent against the appellant under Section 498-A of IPC making serious allegations in which the appellant had to undergo trial which ultimately resulted in his acquittal. In the prosecution under Section 498-A of IPC not only acquittal has been recorded but observations have been made that allegations of serious nature are levelled against each other. The case set up by the appellant seeking decree of divorce on the ground of cruelty has been established. With regard to proceeding initiated by respondent under Section 498-A of IPC, the High Court made following observation in paragraph 15: (*Rani Narsimha Sastry* case, SCC Online Hyd):

“15.....Merely because the respondent has sought for maintenance or has filed a complaint against the petitioner for the offence punishable under Section 498-A of IPC, they cannot be said to be valid grounds for holding that such a recourse adopted by the respondent amounts to cruelty.”

The above observation of the High Court cannot be approved. 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 complaint or FIR cannot ipso facto be 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. As per pleadings before us, after parties having been

married on 14.08.2005, they lived together only 18 months and thereafter they are separately living for more than a decade now.

In view of forgoing discussion, we conclude that appellant has made a ground for grant of decree of dissolution of marriage on the ground as mentioned in Section 13(1)(i-a) of the Hindu Marriage Act, 1955.”

32. In case of **Rakesh Raman Vs. Kavita**, reported in **(2023) 17 SCC 433**, Hon’ble Supreme Court held as under :

"9. The High Court in appeal, came to the conclusion that the mere fact that the respondent did not allow her husband to enter his house on 29-11-1998, would not prove that it was her intention to bring cohabitation permanently to an end and therefore the ground of dissolution of marriage on desertion was not made out. *As far as filing of various complaints under Sections 323, 324 and 498-AIPC are concerned, the High Court was of the view that mere filing of such complaints, or their result in acquittal would not amount to cruelty, as the wife was only exercising her options available to her under the law.* Moreover, what has to be seen are also the circumstances under which these complaints were filed.

x	x	x
x	x	x

15. The High Court has taken a view that mere filing of criminal cases against the appellant husband would not constitute cruelty. *All the same, the number of criminal cases filed by the respondent wife against the appellant husband are far too many which have been discussed above. All these cases have either resulted in discharge or acquittal of the*

appellant husband, if not before the pronouncement of the judgment of the Delhi High Court but definitely after the pronouncement of the judgment [Kavita v. Rakesh Raman, 2011 SCC OnLine Del 1768] of the Delhi High Court. Moreover, a three-Judge Bench of this Court in Naveen Kohli v. Neelu Kohli [Naveen Kohli v. Neelu Kohli, (2006) 4 SCC 558] held that repeatedly filing of criminal cases by one party against the other in a matrimonial matter would amount to cruelty and the same was reiterated by a Division Bench of this Court in K. Srinivas Rao v. D.A. Deepa [K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226 : (2013) 2 SCC (Civ) 775 : (2013) 2 SCC (Cri) 963] .”

33. For the foregoing discussions and the facts and circumstances of the case and the decisions of Hon’ble Supreme Court in case of **Rani Narasimha Sastry (supra)** and decision in case of **Rakesh Raman (supra)** we are of the considered view that act and the conduct of respondent to challenge the order of acquittal of appellant and his family is put to challenge in criminal appeal and further that order passed by Magistrate under the Act of 2005 rejecting the application was further challenged in appeal under Section 29 of the Act of 2005, in the considered opinion of this Court, it is the act of cruelty by respondent upon appellant. Accordingly, this Court has taken into consideration the subsequent events brought to the notice of the Court i.e. the judgments of acquittal passed in the criminal proceedings initiated against appellant and his family members on complaint filed by respondent-wife alleging offences under Section 498A of the IPC and offences under the provisions of the Protection of Women from Domestic Violence Act, 2005 and appeals preferred by the respondent

wife challenging the said judgment of acquittal, which demonstrates continued efforts of respondent/wife to prosecute appellant and his family even after their acquittal. In the facts and circumstances of the case, the continuation of such proceedings caused considerable mental agony, harassment and distress to the appellant. This conduct, when considered in its entirety and in the background of the matrimonial dispute, has caused mental cruelty to appellant-husband. In above facts of the case we are of the view that appellant has made out a case for grant of decree of dissolution of marriage under Section 13 (1) (ia) of the Act, 1995.

34. Accordingly, the appeal is allowed and the impugned judgment and decree dated 08.08.2019 is set-aside. The marriage solemnized on 02.06.2015 between appellant and respondent is dissolved.
35. Let a decree be drawn accordingly.

Sd/-
(Parth Prateem Sahu)
Judge

Sd/-
(Sushma Sawant)
Judge