CGHC010047102020 2026:CGHC:48318-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SAIFAN KHAN Digitally signed by SAIFAN KHAN

Judgment reserved on: 05-11-2026

Judgment delivered on: 25-11-2026

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FA(MAT) No. 66 of 2020

[Arising out of judgment and decree dated 23.11.2019, passed in Civil Suit No.25A/2018 (Harigovind Singh v. Urmila Singh) by the Family Court, Baikunthpur, District Korea (CG)]

Harigovind Singh S/o Aagar Sai, aged about 44 years, Caste Gond, R/o Village Charcha Basti, P.S. Charcha Tahsil Baikunthpur, District Korea, Chhattisgarh, District : Koriya (Baikunthpur)

... Appellant/
Plaintiff

Versus

Urmila Singh D/o Laalsai Aged About 42 Years W/o Harigovind Singh, By Caste - Gond, R/o Bhatthipara, Bhaiswar, P.S. - Sonhat, District Korea, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

... Respondent/
Defendant

[Cause-title taken from Case Information System (CIS)]

For Appellant : Mr. Vivek Kumar Tripathi, Advocate
For Respondent : Mr. Shrikant Kaushik, Advocate

Division Bench
Hon'ble Mr. Justice Parth Prateem Sahu, and
Hon'ble Mrs. Justice Sushma Sawant

CAV Judgment

Sushma Sawant, J.

(1) Invoking the appellate jurisdiction of this Court enshrined under

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Section 19(1) of the Family Courts Act, 1984 (for short the "Act of 1984") read with Section 39 of the Special Marriage Act, 1954 (for short the "Act of 1954") the appellant herein/plaintiff- husband has preferred this appeal challenging the judgment & decree dated 23.11.2019, passed by the Judge, Family Court, Baikuthpur, District Korea (CG), in **Civil Suit No.25A/2018 (Harigovind Singh v. Urmila Singh)** by which the application filed by the appellant herein/plaintiff husband under Section 27(1)(a) & (d) of the Act of 1954 for grant of a decree of divorce against the respondent herein/defendant wife has been dismissed, finding no merit.

(2) The aforesaid challenge has been made on the following factual backdrop: -

(For the sake of convenience, parties hereinafter will be referred as per their status shown and ranking given in the civil suit before the Family Court.)

Factual Matrix

-:Admitted facts between the parties:-

(3) The admitted facts of the case are that the marriage between the plaintiff- husband and the defendant- wife was solemnized in the year 1994 in accordance with Hindu rites and customs and, from the said wedlock, 03 children: a son, Suraj, aged 18 years; a daughter, Vandana, aged 16 years and another daughter, Preeti Singh, aged 14 years, were born. All the children are residing with

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the plaintiff-husband.

-:Case of the Appellant/Plaintiff before the Family Court:-

(4) According to the plaint averments, for the initial six years after their marriage, both parties maintained cordial relations. The plaintiff- husband, being a marginal farmer, also used to work as a vehicle driver and, prior to the year 2008, was driving a private passenger bus. Consequently, he could devote comparatively less time to his family and to staying with the defendant-wife and the children. After the year 2000, the defendant-wife started neglecting her marital obligations towards the plaintiff- husband. Whenever the plaintiff- husband left for work, the defendant-wife started inviting other men to their house and began spending nights with them. The plaintiff came to know about these activities through his children and neighbours. However, whenever he questioned the defendant, she used to explain that those men were her distant relatives, thereby satisfying the plaintiff. Since the plaintiff had great affection for the defendant, he continued to repose faith in her statements.

(5) In the year 2008, when the plaintiff joined the Veterinary Department in service, he used to leave his house in the morning for work and return late at night. Even during this period, he continued receiving information regarding the defendant's association with other men. Thereafter, in the year 2017, the

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defendant expressed her desire to work as a member of a political party. The plaintiff never objected to her doing so. However, the defendant started taking undue advantage of the situation and began remaining absent from the matrimonial home for two to three days at a stretch along with other men. She also developed illicit relationships with other persons. The plaintiff, both personally and through his relatives, made efforts to counsel the defendant. Initially, she behaved properly for some time. However, subsequently, she established contact with one Ramakant Pandey, who was employed in SAIL. The said person started visiting and staying in the neighbourhood of the plaintiff. The plaintiff came to know about their relationship through the defendant's mobile phone, wherein conversations indicating their intimate and illicit relationship were found. When the plaintiff questioned the defendant regarding the said relationship, she expressed her complete unwillingness to discontinue the same.

(6) It is the case of the plaintiff that on 22.08.2017, when he had gone to his workplace, he received information that the defendant's parents were unwell and had been admitted to Sharma Hospital, Baikunthpur. Before leaving for his workplace, the plaintiff had made the defendant board a bus bound for Sharma Hospital. Thereafter, at about 10:00 a.m., he left for his workplace. At around 1:00 p.m., he received information that the defendant had left for Sharma Hospital, but had not reached there, although the

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hospital was situated at a distance of only approximately seven to eight kilometres from her residence. In order to ascertain the whereabouts of the defendant, the plaintiff went and sat in a hotel situated near the road leading towards Bhakhar. After about ten minutes, the defendant was seen sitting on the rear seat of a motorcycle driven by Ramakant, while concealing her face. Ramakant was acquainted with the plaintiff. Upon noticing the plaintiff standing in front of the motorcycle along with the woman sitting behind him, Ramakant accelerated the motorcycle, as a result of which the woman fell down. It was then that the plaintiff realized that the woman was none other than the defendant. Ramakant, however, fled from the spot along with his motorcycle.

(7) It is further pleaded that,thereafter, the plaintiff took the defendant to the hospital and informed her parents about the incident. At that place, the defendant admitted having illicit relations with Ramakant. However, apprehending social disgrace and public humiliation, the plaintiff brought the defendant back to the matrimonial home. He also called the defendant's parents, his relatives and members of the community to counsel her. On that occasion as well, the defendant admitted her mistake and agreed that, in future, she would maintain proper conduct, look after the children, refrain from going out alone and avoid communicating with other persons over the mobile phone. The plaintiff that believing the defendant's assurance and with a view to saving his

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matrimonial life, the plaintiff once again started residing with the defendant.

(8) It is further averred in the plaint that there was no change in the conduct of the defendant and that she again started maintaining contact with Ramakant through mobile phone and meeting him. The son, Suraj, himself discovered that mobile number 9669976353, which was issued in the name of Ramakant, was being used for continuous communication with him. This constitutes clear evidence of the defendant's continued conversations with Ramakant. When the defendant came to know that the plaintiff had discovered these facts, she snatched the mobile phone from her daughter, Vandana, and, on 22.10.2017, left the matrimonial home without informing anyone. Upon making inquiries, the plaintiff came to know that the defendant had neither gone to her parental home nor was she residing there, but had instead gone to the house of Ramakant and was residing with him. Thereafter, the plaintiff, along with his family members, went to the house of Ramakant. However, he was informed that the defendant had already been sent to her parental home. The plaintiff then went to the defendant's parental home and apprised her family members of the entire incident. Subsequently, on 25.10.2017, the plaintiff lodged a report at the police station regarding the incident. However, the police did not take any action on the ground that the matter was matrimonial and familial in

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nature.

(9) In view of the defendant's conduct, her relationship with another man and her behaviour towards the plaintiff, the plaintiff was left with no option but to seek dissolution of the marriage by a decree of divorce before the learned trial Court.

-:Written Statement of the Respondent/Defendant before the Family Court:-

(10) On the other hand, in the written statement, the respondent has pleaded that although the plaintiff has instituted the present suit under the Special Marriage Act, 1954, the marriage between the parties was never solemnized under the said Act. Consequently, the provisions of the said Act are not applicable to the parties. It is further contended by the respondent/defendant in her written statement that the plaintiff himself has stated that the marriage was solemnized in the year 1994 in accordance with Hindu rites and customs. Therefore, the present proceedings under the Special Marriage Act are not maintainable.

(11) The respondent/defendant has further pleaded that the plaintiff frequently used to quarrel with her and subject her to physical assault. She has denied ever having gone anywhere with any other man or having maintained any illicit relationship with any other person. She has also denied having made any such admission. It is further stated that the defendant had informed the plaintiff that she was employed in Government service and, therefore, could not

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become a member of any political party. Consequently, the plaintiff himself got her enrolled as a member of a political party. The defendant has further stated that when she was taken to Sharma Hospital for treatment, she wanted to visit her mother, who was admitted there. However, the plaintiff initially prevented her from going. After the plaintiff left by bus, the defendant went to Sharma Hospital, Baikunthpur, to see her mother and remained there until 3:00 p.m. Thereafter, the plaintiff arrived at the hospital and started abusing the defendant, questioning her as to why she had come there despite being told not to do so. He also misbehaved with her.

(12) In the written statement, it has further been pleaded that the plaintiff himself is having an illicit relationship with a woman named Urmila, who is employed as a nurse and whose husband had been murdered while in police custody. The plaintiff has allegedly kept the said woman in his own house as his wife. The defendant has repeatedly objected to the defendant's relationship with the said woman. It is alleged that, for this very reason, the plaintiff has levelled false allegations against the defendant regarding her alleged relationship with another man. It is further pleaded that, under pressure from the plaintiff, the said woman left the plaintiff approximately one year ago and went to Vaishavnagar. Thereafter, the plaintiff developed an illicit relationship with another woman belonging to Village Udhanapur

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and now intends to marry her and keep her as his wife. Accordingly, the plaintiff is making false allegations against the defendant. The defendant has further stated that she has been using a mobile phone for the last five to six years. However, she has never spoken to any person named Ramakant Pandey, nor does she know him. She has also never visited his house.

(13) Further in the written statement, it has also been pleaded that on 25.10.2017, the plaintiff quarreled with the defendant, drove her out of the matrimonial home and handed over a sum of Rs. 30/- to her, telling her to go to her parental home. Thereafter, the defendant went to her parental home on Tuesday and has been residing there ever since. It is further pleaded that the plaintiff made several telephone calls to the defendant asking her to return to the matrimonial home. However, he was not willing to keep her with him and used to tell his parents that she was their daughter and that they could take her away, as well as that they should go and get a false report lodged at the police station. The defendant has no independent source of income. The plaintiff is not making any arrangement for her maintenance and has been unnecessarily maligning her character by levelling false and baseless allegations against her. Accordingly, the defendant has claimed a sum of Rs. 50,000/- towards compensation and Rs. 5,000/- towards litigation expenses and prayed for dismissal of the suit filed by the plaintiff.

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-:Proceedings before the learned Family Court:-

(14) The Family Court after appreciating oral and documentary evidence available on record, framed following issues and answered the issues as under:-

S.No.	Question for Consideration	Finding
1.	Whether the suit filed by the plaintiff is maintainable under the Special Marriage Act, 1954?	"No"
2.	Whether the defendant, after her marriage with the plaintiff, voluntarily engaged in sexual intercourse with a person other than the plaintiff ?	"No"
3.	Whether the defendant treated the plaintiff with cruelty after solemnization of their marriage?	"No"
4.	Relief ?	"The plaintiff's suit is dismissed"

-:Details of evidence and documents available before the Family Court:-

-:Evidence led by the Appellant/Plaintiff:-

(15) Before the learned Family Court, **Harigovind Singh (PW-01), Amar Singh (P.W. 02), Vandana Singh (P.W. 03), Ravi Das (P.W. 04), Umashankar (P.W. 05)** and **Suraj Singh (P.W. 06)** have been examined on behalf of the **appellant/plaintiff.**

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-:Evidence led by the Respondent/Defendant:-

(16) On behalf of the respondent/defendant, **Urmila Singh (DW-01), Lal Sai (D.W. 02) and Phoolkunwar Rajwade (D.W. 03)** were examined.

-:Judgment and findings of the Family Court:-

(17) Parties were given an opportunity to adduce evidence and after completion of trial, the suit of the appellant/ herein/plaintiff/husband has been dismissed vide **Judgment dated 23.11.2019**, being aggrieved against which, this appeal has been filed on the following grounds:-

(i) That, the learned trial court failed to appreciate the evidence available on record and summarily dismissed the divorce petition which has been filed by the appellant, after reasonable period of more than two years when the respondent not willing to resides with the appellant as his wife and develop relation with the said Ramakant.

(ii) That, the respondent has not at all proved that why she residing in a separate house and why she allow the Ramakant though the appellant has proved his case through the witness Vandana who is the daughter of the appellant and respondent as well as the other witness and from the evidence, the appellant duly proved their case.

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(iii) That, the finding recorded by the learned court below erroneous and contrary to the settled principle of law, so the judgment and decree may kindly be set-aside.

-:Proceedings before the Appellate Court:-

(18) Heard on the Appeal. In the context of the appeal and arguments, evidence and documents, available on record of the Family Court were examined.

(19) In order to dispose of this appeal, the following questions are to be considered:-

(i) Whether the Family Court is justified in dismissing the suit filed by the appellant herein/plaintiff for grant of a decree of divorce against the respondent herein/defendant ?

(ii) Whether the appellant herein/plaintiff is entitled for a decree of divorce against the respondent herein/defendant ?

-:Arguments of the Appellant/Plaintiff:-

(20) Learned counsel for the appellant/husband submits that despite repeated objections, the respondent/wife continued communicating with Ramakant, invited him to the matrimonial home in the appellant's absence and also visited his house. The appellant had led sufficient evidence to establish such conduct, but the learned Family Court failed to properly appreciate the

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same. Such conduct amounts to mental cruelty under Section 13(1)(ia) of the Act. Hence, the impugned judgment and decree deserve to be set aside.

-:Arguments of the Respondent/Defendant:-

(21) *Per contra*, learned counsel for the respondent/defendant- wife has supported the impugned judgment and submitted that the same is just, proper and based on due appreciation of the evidence available on record. It is contended that the learned Trial Court has considered the pleadings and evidence in their proper perspective and has recorded findings which are well-reasoned and supported by the material on record. No perversity, illegality or material irregularity has been pointed out warranting interference by this Court in appeal. It is, therefore, submitted that the appeal, being devoid of merit, deserves to be dismissed and the impugned judgment affirmed.

-:Analysis of the Appellate Court:-

Points for determination No. (i) and (ii)-

(22) Both the issues are interdependent on each other and therefore ,they all are being decided together.

(23) It is particularly noteworthy that the **appellant/plaintiff husband** had originally instituted the suit under **Section 27** of the **Special Marriage Act, 1954**. However, the learned Family Court, taking into consideration the specific averment made by the

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appellant/plaintiff husband in paragraph 1 of the plaint that ***"the marriage between the plaintiff/applicant and the defendant was solemnized in the year 1994 in accordance with Hindu rites and ceremonies and customary practices prevailing in their caste"***, treated the matrimonial dispute as one governed by the Hindu Marriage Act, 1955, rather than the Special Marriage Act, 1954, and decided the suit accordingly. In this regard, paragraph 14 of the impugned judgment is relevant.

(24) Although the **respondent/defendant wife** did not specifically admit the aforesaid averment in her written statement, she also acknowledged the said fact in **paragraph 1** of her examination. In view of the pleadings of the appellant himself and the admission made by the respondent in her evidence, the finding recorded by the learned Family Court in this regard appears to be justified.

(25) It is noteworthy that the provisions relating to **dissolution of marriage** by a decree of divorce are contained in **Section 27** of the Special Marriage Act, 1954, and **Section 13** of the Hindu Marriage Act, 1955. Except for the numbering of the clauses, sub-clauses and sub-sections, there is no difference in the language of the relevant provisions.

(26) As in the present case, the petition has been instituted on the grounds of the wife's alleged **"relationship with other**

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persons" and **"cruelty"**, which are covered under **clauses (a) and (d) of sub-section (1) of Section 27** of the Special Marriage Act, 1954. The corresponding provisions under Section 13 of the Hindu Marriage Act, 1955, read as follows:

> "**13. Divorce.-** (1) any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party-
>
> **(i)** has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or
>
> **(ia)** has, after the solemnization of the marriage, treated the petitioner with cruelty; or"

(27) The learned Family Court, while appreciating the evidence adduced in respect of both the aforesaid grounds, did not find them established, particularly in view of the admission made by the appellant/plaintiff-husband in paragraph 10 of his cross examination that the respondent/defendant-wife had been residing with him from the previous date of hearing, i.e., 28.10.2018, till the date on which his evidence was recorded, i.e., 28.11.2018. The learned Family Court observed that had the alleged circumstances actually existed, the appellant/plaintiff-husband would not have continued to keep the respondent/defendant-wife with him.

(28) The aforesaid approach adopted by the learned Family Court does not appear to be justified. Merely because the appellant/plaintiff-

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husband continued to keep the respondent/defendant-wife with him, it could not, by itself, be inferred that the alleged circumstances did not exist.

(29) An attempt to preserve the marital relationship and avoid its breakdown may itself be a reason for the husband to continue residing with his wife despite the alleged circumstances. Therefore, drawing an adverse inference against the appellant/plaintiff-husband solely on this ground was not proper, particularly when the learned Family Court itself observed that

"मात्र इस शिथिल अभियोग पर की पत्नि **2-3** रात अन्य व्यक्ति के साथ रहती थी,

फोन से बात करती थी, इस आधार पर तलाक मंजूर नही किया जा सकता।". This observation itself indicates that the learned Family Court had considered the existence of some material in the evidence relating to such circumstances, but declined to accept the allegation as proved. Consequently, the evidence was required to be examined on its own merits rather than rejecting the allegation on the basis of the appellant/plaintiff husband's conduct in continuing to reside with the respondent/defendant wife.

(30) It is noteworthy that, in support of the first ground, namely, the respondent/defendant-wife's alleged relationship with other persons, the appellant/plaintiff-husband **Hargovind Singh (P.W.-1)** has not confined his allegations to a single incident or a single individual. In his evidence, he has alleged the

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respondent/defendant's involvement with two or three persons and has specifically deposed about her repeatedly talking to a particular person over the phone and having been caught moving around with him.

(31) He has also examined his friend, **Ravi Das (P.W.-4)**, who stated that, in his presence, the appellant had caught his wife with a particular person. Further, another witness, **Umashanker Singh (P.W.-5)**, deposed about a meeting having been convened in connection with the said incident and the respondent/defendant-wife having admitted her mistake and assured that she would not repeat such conduct in future. However, the learned Family Court has not accepted the aforesaid evidence while considering the said ground.

(32) It is true that, in cases involving an alleged extramarital relationship, it may not always be possible for the aggrieved spouse to collect direct or specific evidence of the nature of seeing the wife with another person, catching her while talking to him over the phone, or establishing that she had physical relations with him. Such conduct, if it occurs, is generally kept secret, and expecting the aggrieved spouse to produce telephone recordings, video footage or other direct evidence in every such case would be unrealistic.

(33) Therefore, the absence of such specific evidence cannot, by itself, be a ground to discard the other evidence available on record. In

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the present case, the suggestions put to the respondent/defendant-wife and her father in this regard were denied by them. However, such denial, by itself, cannot be treated as conclusive, as a person would not ordinarily be expected to admit allegations of such conduct against herself. The evidence on record, therefore, requires consideration in its entirety, including the testimonies of the appellant/plaintiff-husband and the supporting witnesses.

(34) It is a matter of common experience that, whenever there is an unexpected change in the conduct or behaviour of either spouse, the other spouse is likely to notice and become aware of the same. In the present case, the matter is not devoid of evidence. Even if the other evidence is kept aside for the moment, the testimonies of the children, namely, daughter **Vandna Singh (P.W.-3)** and son **Suraj Singh (P.W.-6)**, assume considerable significance.

(35) Both of them have supported the case of their father. They have deposed that their mother used to remain in constant communication with a person named **Ramakant** over the phone and that she did not desist from doing so despite being advised against it. The daughter, **Vandna Singh (P.W.-3)** has further stated that a meeting was also convened in this regard, but her mother did not mend her conduct. The son, **Suraj Singh (P.W.-6)** has additionally deposed that the said Ramakant used to visit their house in the absence of their father; that, when they

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informed their father about it, their mother used to scold them; and that, on one occasion, their mother even left the house and went to Ramakant's house.

(36) Both children were aged about 17–19 years at the relevant time and were, therefore, sufficiently mature to understand the circumstances they were deposing about. Their testimonies could not have been brushed aside without proper consideration. However, the learned Family Court appears to have overlooked these material aspects of their evidence while appreciating the allegation of the respondent/defendant-wife's relationship with another person.

(37) The aforesaid evidence, when considered cumulatively, indicates that the respondent/defendant-wife continued to remain in contact with a particular person despite objections from the members of her family and also visited his house.

(38) Even if the learned Family Court considered the evidence on record insufficient to establish the allegation of having "had voluntary sexual intercourse" with another person, as contemplated under Section 13(1)(i) of the Hindu Marriage Act, 1955, it ought to have independently examined whether the circumstances established through the same evidence constituted mental cruelty within the meaning of Section 13(1)(ia) of the Act. The evidence, at the very least, indicates that the respondent/defendant-wife, contrary to the wishes of her

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husband, continued to communicate with a particular person over the telephone, invited him to the matrimonial home in the absence of her husband and also visited his house. Such conduct, viewed in the context of the matrimonial relationship and the circumstances established on record, was capable of causing serious mental agony to the appellant/plaintiff-husband and ought to have been examined from the standpoint of **"mental cruelty"**.

(39) The learned Family Court, however, appears to have overlooked this distinct aspect while appreciating the evidence and considering the ground of cruelty.

(40) In **Samar Ghosh (supra)**, the Hon'ble Supreme Court, in paragraph 101, has enumerated certain illustrative instances of human behaviour that may be relevant in determining whether a case of "mental cruelty" is made out. The Court clarified that these instances are illustrative and not exhaustive, and that no uniform standard can be laid down for all matrimonial disputes. The relevant portion of paragraph **101** is as follows:

> ".....No uniform standard can ever be laid down for guidance, yet it is deemed 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

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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 matrimo-nial 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; but 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

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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 sterilization 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."

(41) Even on examining the facts of the present case in the light of the principles laid down in **Samar Ghosh (supra)**, the conduct of the respondent/defendant-wife amounts to mental cruelty within the meaning of Section 13(1)(ia) of the Act. The learned Family Court, therefore, erred in holding that the ground of cruelty was not established.

-:Final Conclusion:-

(42) In view of the foregoing discussion, the appeal deserves to be and is hereby **allowed**. The judgment and decree passed by the

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learned Family Court are set aside. The petition filed by the appellant/plaintiff-husband under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (wrongly mentioned as under Section 27(1)(a) & (d) of the Special Marriage Act, 1954), is allowed and the marriage between the appellant/plaintiff-husband and the respondent/defendant-wife is hereby dissolved by a decree of divorce.

(43) A decree be drawn accordingly. In the facts and circumstances of the case, the parties shall bear their own costs.

Sd/-
(Parth Prateem Sahu)
Judge

sd/-
(Sushma Sawant)
Judge

s@if

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