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**(2025) 12 UK CK 0039**

**Uttarakhand HC**

**Case No:** First Appeal No. 149 Of 2024

Khusboo Singh

APPELLANT

Vs

Sandeep Kumar

RESPONDENT

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**Date of Decision:** Dec. 3, 2025

**Acts Referred:**

- Hindu Marriage Act, 1955 - Section 13(1)(ia), 13(1)(ib)
- Indian Penal Code, 1860 - Section 323, 354, 376, 498A, 504, 506
- Dowry Prohibition Act, 1961 - Section 3, 4

**Hon'ble Judges:** Ravindra Maithani, J; Alok Mahra, J

**Bench:** Division Bench

**Advocate:** Karan Anand, M.C. Kandpal, H.M. Bhatia

**Final Decision:** Dismissed

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**Judgement**

Ravindra Maithani, J

1. The instant appeal is preferred against the judgment and order dated 12.07.2024 passed in Original Suit No. 673 of 2020, Sri Sandeep Kumar v. Smt. Khushboo Singh, by the court of Principal Judge, Family Court, Dehradun ("the case"). By it, the petition filed by the respondent under Section 13(1)(i-a) & (i-b) of the Hindu Marriage Act, 1955 ("the Act") has been allowed and the marriage between the parties solemnized on 03.12.2024 has been dissolved by a decree of divorce.

2. Heard learned counsel for the parties and perused the record.

3. The respondent did file a petition for divorce under the Act on the following grounds:-

(i) The marriage between the parties took place on 03.12.2024; the respondent took adequate care of the appellant; there are three more persons in the family of the respondent, viz., his mother, father and brother.

(ii) After the marriage, the parties stayed in the Government accommodation of the respondent in Dehradun, but soon after the marriage, the appellate started taking fights on small issues; she would doubt his fidelity for no reason; she would level false allegations of extra-marital relations of the respondent with his female co-worker.

(iii) The appellant would not cook or take care of the household chores.

(iv) She would abuse the respondent.

(v) Most of the time, she would stay in her parental home. It is also the case of the respondent that the appellant was in habit of taking quarrels and insulting the respondent in the presence of his co-workers.

(vi) On 11.04.2017, both the parties were blessed with a baby boy, but thereafter, also the status did not change; the appellant continued doubting relationship; she would check his call details.

(vii) On 12.06.2018, the appellant in the presence of Siddharth Rawat and Sudhanshu Chaudhary and others, levelled false allegation of extra-marital relations on the respondent.

(viii) She has been staying separate now since 17.09.2018. With these and other grounds petition for divorce has been filed.

4. In response, the appellant has denied all the allegations of maltreatment by her. She would submit that she has discharged her marital obligations dutifully; but, the respondent would not take her to Dehradun with him; he would often drop her with his parents; the appellant noted that the respondent would make a video call in the night with unknown person; the respondent has been in extra-marital relationship with a woman in her department, namely, Neelam Bisht. According to the appellant, when she questioned the respondent, he replied that he had old relationship with Neelam Bisht and the appellant should stay away in interfering with their relationship. The appellant has also raised the issues of dowry and harassment. She also records that on 02.12.2019, the respondent had assaulted her.

5. In evidence, on behalf of the respondent five witnesses have been examined, namely, PW 1 the respondent himself, PW 2 Siddharth Rawat, PW 3 Sudhanshu Chaudhary, PW 4 Pramod Kumar and PW 5 Dinesh Chandra. On behalf of the appellant, three witnesses, namely, DW 1 the appellant herself, DW 2 Sudhir Kumar Maurya and DW 3 Vijendra Kumar have been examined. The parties have also filed the documents in support of their contention.

6. The court below did frame two issues, namely - (i) whether the appellant committed cruelty to the respondent, as alleged in various paragraphs of his petition? If so, its effect? And, (ii) Whether the appellant had deserted the respondent as alleged in various paragraphs of the petition? If so, its effect? Finally, issue no.

3 was framed with regard to relief, if any, that may be granted.

7. Regarding issue no. 1, the court below records that it has been proved that the appellant did commit cruelty to the respondent. On desertion, the court found that the appellant did not desert the respondent. Based on these findings, the petition for dissolution of marriage has been allowed.

8. Learned counsel for the appellant submits that the impugned judgment and order is bad in the eyes of law; the appellant was expelled from her matrimonial home; when the parties were together, the appellant had given birth to a child, but no care was taken of her. He also submits that the appellant had filed an FIR against the respondent and other family members, in which the police has submitted the final report, in which protest petition has yet not been filed by the appellant. It is argued that merely on the basis of filing of final report, decree of divorce has been granted, which is bad.

9. On the other hand, learned Senior Counsel for the respondent submits that the appellant had continuously committed cruelty to the respondent; she has filed a false FIR of rape, etc. against the family members of the respondent, which she has admitted that the allegation of rape was false. It is argued that it per se amounts to cruelty. In addition to it, it is argued that the appellant had levelled false allegation of extra-marital relations on the respondent; they are unsubstantiated; some photographs have been filed in support of these allegations by the appellant, but the court below has rightly rejected these allegations of extra-marital relations. It is also argued that there are group photographs of co-workers, male and female both; it in no manner suggest any extra-marital relations; the allegation levelled by the appellant amounts to cruelty; the court below has rightly decreed the petition of the respondent for decree of divorce.

10. Before the arguments are appreciated, it would be apt to discuss as to what the witnesses have stated.

11. PW 1 Sandeep Kumar is the respondent. He has reiterated the version of his petition. In addition to it, he has recorded in para 48 of his affidavit in examination-in-chief that the appellant had filed FIR No. 07 of 2021 under Sections 498-A, 323, 504, 506, 354, 376 IPC and Section 3/4 of the Dowry Prohibition Act, 1961 against the respondent and his family members, due to which the family members were in depression; the police did not find any evidence of molestation or rape.

12. PW 2 Siddharth Rawat and PW 3 Sudhanshu Chaudhary have stated that on 12.06.2018, the appellant did level allegations of extra-marital relations on the respondent.

13. PW 4 Pramod Kumar has simply stated in his examination-in-chief that the appellant would quite often complaint to his wife that she would send the respondent to jail.

14. PW 5 Dinesh Chandra submits that whenever the appellant would go to her parental home, she would inquire about the respondent from the wife of this witness.

15. DW 1 is the appellant herself. She has reiterated the contentions of her objection.

16. DW 2 Sudhir Kumar Maurya has stated that on 02.12.2019, the father of the appellant told him that her in-laws are assaulting her; thereafter, he reached Haldwani and found that the appellant was in ICU and there were multiple injuries on her person.
17. DW 3 is the father of the appellant. He has supported the case of the appellant.
18. The court below has quite extensively discussed the evidence and found that the allegations of extra-marital relations that have been levelled by the appellant against the respondent are unsubstantiated. In addition to it, the court found that the appellant had also levelled allegation of rape, etc. on the family members of the respondent, which amounts to cruelty. The court also observed that the desertion as such has not been proved. Accordingly, the decree for dissolution of marriage has been passed.
19. The petition for divorce filed by the respondent has been allowed on the ground of cruelty. The word "cruelty" as such has not been defined under the provisions of the Act. It may have various facets in multiple forms.
20. In the case of Samar Ghosh v. Jaya Ghosh, (2007) 4 SCC 511, the Hon'ble Supreme Court has illustratively given some instances, which may be considered as cruelty. In para 101 of the judgment, the Hon'ble Supreme Court observed 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.”

21. The Hon'ble Supreme Court of India in *V. Bhagat v. D. Bhagat*, (1994) 1 SCC 337, while taking into account its earlier decision rendered in *N.G. Dastane v. S. Dastane*, (1975) 2 SCC 326 has held as under:

“16. Mental cruelty in Section 13(1)(i-a) can broadly be defined as that conduct which inflicts upon the other party such mental pain and suffering as would make it not possible for that party to live with the other. In other words, mental cruelty must be of such a nature that the parties cannot

reasonably be expected to live together. The situation must be such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with the other party. It is not necessary to prove that the mental cruelty is such as to cause injury to the health of the petitioner. While arriving at such conclusion, regard must be had to the social status, educational level of the parties, the society they move in, the possibility or otherwise of the parties ever living together in case they are already living apart and all other relevant facts and circumstances which it is neither possible nor desirable to set out exhaustively. What is cruelty in one case may not amount to cruelty in another case. It is a matter to be determined in each case having regard to the facts and circumstances of that case. If it is a case of accusations and allegations, regard must also be had to the context in which they were made.”

22. In the case of *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226, the Hon’ble Supreme Court, in para 16 of the judgment, has observed as under:-

“16. Thus, to the instances illustrative of mental cruelty noted in *Samar Ghosh* (2007) 4 SCC 511, we could add a few more. Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing notices or news items which may have adverse impact on the business prospect or the job of the spouse and filing repeated false complaints and cases in the court against the spouse would, in the facts of a case, amount to causing mental cruelty to the other spouse.”

23. It is the case of the respondent that the appellant has levelled false allegation of extra-marital relations against him. The appellant in her examination has categorically stated that the respondent had illicit relations with one Neelam Bisht, who is female co-worker of the respondent. Neither any call details nor any material has been filed in support of it. Some photographs were filed by the appellant, which are 53A1/9 on the record of the trial court. The court had considered these photographs in para 37 of the judgment and found that based on it, extra-marital relations are not established. In fact, admittedly, those photographs are group photographs of many co-workers and by no stretch of imagination may even suggest that the respondent had any relation with the girl, who is visible in the photograph, although there are many girls in the photograph. The appellant has written to the superior officers of the respondent with regard to those allegations, but they were all unsubstantiated. This unsubstantiated allegation of extra-marital relations levelled by the appellant in itself amounts to cruelty, which she has committed on the respondent.

24. It is the positive case of the respondent that the appellant did lodge a false FIR of rape, etc. against him and his family members. This is so stated in para 48 of his affidavit given in examination-in-chief. The appellant as DW1 has been questioned about it. She has admitted it in paras 49, 52 and 53 of her cross-examination recorded on 20.12.2023. The appellant has admitted that she has levelled allegations of rape against the brother and the father of the respondent. In para 52 of her cross-examination, she tells that she does not know whether the police has found these allegations false. But, in para 53, she admits that the father of the appellant did not ever attempt to rape her. The fact remains that the appellant had lodged an FIR against the respondent and his family members under Sections 498-A, 323, 504, 506, 354, 376

IPC and Section 3/4 of the Dowry Prohibition Act, 1961. These are serious issues. It definitely amounts to cruelty, as has been held by the court below in para 44 and 45 of the impugned judgment.

25. Having considered the testimony of all the witnesses and other material on record, we are of the view that, in fact, the court below has rightly concluded that the appellant had committed cruelty to the respondent and has rightly decreed the petition of the respondent herein for dissolution of marriage between the parties, and as such the judgment and order passed in the case does not warrant any interference by this Court. Accordingly, the first appeal deserves to be dismissed.

26. The first appeal is dismissed.