



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 2643 OF 2023**

**AMUTHA**

**...APPELLANT**

**VERSUS**

**A.R. SUBRAMANIAN**

**...RESPONDENT**

**J U D G M E N T**

**VIKRAM NATH, J.**

1. The present appeal challenges the validity of the order dated 08.06.2018 passed by the Madras High Court's Madurai Bench in CMSA (MD) No. 34 of 2014 wherein the High Court allowed the appeal of the respondent – husband herein, thereby setting aside the judgments of the two lower Courts, and thus granting a decree of divorce on the ground of cruelty. The appellant herein is the wife challenging the grant of divorce.
2. The appellant and the respondent got married on 30.06.2002. At the time of their marriage, the respondent was employed as a software engineer in Punjab. After the marriage, the appellant moved to Chandigarh with the respondent and secured employment as an engineer in the same company as the respondent. The couple lived together for a few months, during which the appellant conceived a child. Subsequently,

she returned to her parental home for the delivery of the child. On 09.07.2003, she gave birth to a female child. The respondent visited to see the child, but when he requested the appellant to return to the matrimonial home, she allegedly refused. Consequently, the respondent issued a legal notice for reunion on 29.12.2003, to which the appellant replied on 31.12.2003 with allegations against him. Thereafter, the respondent filed a petition for restitution of conjugal rights in January 2004, pending which attempts at reconciliation through a panchayat failed.

3. During the pendency of the restitution petition, the appellant agreed to resume cohabitation and joined the respondent at his residence on 28.06.2004. The couple subsequently moved to Bengaluru, Karnataka, where they resided together. However, the respondent alleged that the appellant treated him with cruelty during this period. Eventually, the petition for restitution of conjugal rights was dismissed for default. The appellant once again left the matrimonial home allegedly without informing the respondent and returned to her parental home. The respondent claimed that this desertion, combined with the mental anguish caused by her absence during the demise of his father, amounted to cruelty. Consequently, the respondent filed a divorce petition in 2010 on the grounds of cruelty.
4. The appellant denied the allegations in the petition for dissolution of marriage and contended that the respondent was at fault for failing to bring her back to the matrimonial home. She filed a counterclaim for restitution of conjugal

rights in her response before the Trial Court, expressing her willingness to reconcile. Both parties presented their cases: the respondent examined himself as PW1 and submitted twelve documents as evidence, while the appellant testified as RW1 but did not produce any documentary evidence. After evaluating the evidence, the Trial Court dismissed the respondent's divorce petition, holding that he has failed to establish that the appellant's conduct amounted to mental cruelty.

5. The respondent's appeal against this decision was also dismissed by the First Appellate Court. The First Appellate Court concurred with the Trial Court's findings, observing that the respondent had not proven that the appellant had voluntarily deserted him without cause or inflicted mental cruelty. Instead, the First Appellate Court noted that the appellant had expressed a desire for reconciliation.
6. Challenging the findings and the judgment of the First Appellate Court, the respondent approached the High Court. The High Court in its judgment reviewed the contentions of both the parties, as well as the rulings of the Courts below. The respondent's primary contention was that the appellant had subjected him to cruelty, both mental and physical. He argued that her actions, including filing false cases against him and deserting the matrimonial home, amounted to mental cruelty. He further claimed that despite his repeated attempts to reconcile, the appellant remained adamant and disinterested in reuniting, which led to the breakdown of the marriage. The respondent emphasized that their separation,

which had lasted for over ten years, demonstrated the irretrievable breakdown of the marital relationship.

7. On the other hand, the appellant contended that the Courts below had correctly appreciated the evidence and rightly dismissed the respondent's claims for divorce. Her counsel before the High Court argued that the alleged acts of cruelty were not substantiated with sufficient evidence and that trivial disputes or normal wear and tear of married life could not constitute grounds for divorce. The appellant maintained that the burden of proof rested on the respondent to demonstrate acts of cruelty, which he failed to do. Furthermore, the appellant contended that there was no evidence to suggest she had no interest in continuing the marital relationship, and the claims of cruelty were unsubstantiated.
8. The High Court, in its findings, held that lodging false complaints against a spouse amounts to mental cruelty. In this case, the wife had filed a criminal complaint alleging dowry harassment against the husband and his family but later abandoned it without pursuing the matter further. The Court inferred that the complaint was baseless and filed with intent to harass, constituting an act of mental cruelty. Furthermore, the Court observed that the couple had been living separately for over fifteen years by then, which demonstrated an irretrievable breakdown of the marriage. Drawing from judgments of this Court in **Naveen Kohli vs. Neelu Kohli**<sup>1</sup>, and **Samar Ghosh vs. Jaya Ghosh**<sup>2</sup>, the High

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<sup>1</sup> (2006)4 SCC 558

<sup>2</sup> (2007)4 SCC 511

Court noted that such prolonged separation indicates that the marital relationship is beyond repair and forcing the parties to remain in a dead marriage would be neither just nor beneficial. Additionally, the High Court concluded that the appellant's act of leaving the matrimonial home without reasonable cause, coupled with her lack of interest in reconciliation, amounted to desertion.

9. The High Court extensively analyzed the principles laid down by this Court, particularly in the case of **Samar Ghosh (Supra)**, which provides illustrative examples of mental cruelty. These principles emphasize that mental cruelty is a subjective state of mind caused by prolonged anguish, frustration, and emotional turmoil, which renders it unreasonable for spouses to cohabit.
10. The High Court observed that the appellant had filed a false criminal complaint accusing the respondent and his family of dowry harassment. However, the appellant neither pursued the complaint nor provided reasonable justification for her actions. Her conduct demonstrated malice and intent to harass, causing mental agony to the respondent and his family. The High Court inferred that this amounted to mental cruelty, as the complaint disrupted the matrimonial harmony and caused significant emotional distress to the respondent.
11. The High Court also addressed the respondent's claim of desertion. The appellant had been living separately from the respondent for over fifteen years without valid reasons or attempts at reconciliation. Although she filed a counterclaim seeking restitution of conjugal rights, she failed to actively

pursue it, revealing lack of genuine intent to resume marital cohabitation. Prolonged separation, coupled with absence of any reasonable explanation, demonstrated the appellant's intention to permanently withdraw from the marital relationship. The High Court held that this constituted desertion under the principles established by this Court, which define desertion as the willful and permanent abandonment of matrimonial obligations without consent of the other spouse.

12. The High Court also relied on precedents wherein this Court had held that filing false criminal complaints and leveling unsubstantiated allegations amounts to mental cruelty. It emphasized that false accusations erode trust and affection, irreparably damaging marital bond. Additionally, the High Court observed that the appellant's behavior caused an irreparable rift between the parties, rendering their marriage broken beyond repair. Prolonged separation of over fifteen years, coupled with lack of any effort to resolve disputes or reconcile, supported the conclusion that the marital bond had become a legal fiction.
13. The High Court noted that the respondent's efforts for reunion were unsuccessful, as the appellant displayed indifference towards reconciliation. Her insistence on retrieving her belongings from the matrimonial home and the absence of any subsequent action for restitution of conjugal rights further illustrated her lack of interest in continuing the marriage. Her admission during cross-examination that she had not taken any steps for reconciliation further strengthened the

conclusion that she was not genuinely invested in salvaging the marriage. The Court emphasized that the factum of separation and *animus deserendi*, that is, the intention to desert, were conclusively established, and in the absence of reasonable justification for her conduct, the appellant's actions amounted to both cruelty and desertion.

14. The High Court underscored that mental cruelty cannot be established through direct evidence but must be inferred from the cumulative circumstances of the case. It observed that the appellant's behavior, including the filing of a false dowry harassment complaint and her prolonged separation from the respondent, clearly fell within the parameters of mental cruelty as outlined in **Samar Ghosh (Supra)**. This included sustained reprehensible conduct, studied neglect, and indifference that rendered cohabitation intolerable and caused significant mental anguish to the respondent.
15. Further, the High Court addressed the breakdown of the marriage, noting that the prolonged separation of over fifteen years demonstrated that the marital relationship was beyond repair. Relying on precedents such as **Naveen Kohli (Supra)**, it held that maintaining the facade of marriage under such circumstances serves no purpose and only perpetuates emotional distress for both parties. The High Court emphasized that refusing to dissolve a marriage that has become defunct *de facto*, despite its legal tie, undermines the sanctity of marriage and disregards the emotional well-being of the parties.

16. Hence, the High Court found that the respondent had sufficiently established the grounds of cruelty and desertion under Section 13(1)(ia) and (ib) of the Hindu Marriage Act, 1955<sup>3</sup>. It held that the appellant's false criminal complaint and her indifference to reconciliation efforts caused significant mental agony to the respondent, amounting to cruelty. Additionally, her prolonged separation without reasonable cause constituted desertion. The High Court dissolved the marriage and set aside the decisions of the Trial Court and the First Appellate Court, granting a decree of divorce to the husband. It noted that maintaining the marital tie under these circumstances was contrary to public interest and the principles of justice, and therefore, the appeal was allowed.

### **SUBMISSIONS ON BEHALF OF THE APPELLANT**

17. The appellant contends that the High Court erred in reversing the concurrent findings of fact established by the Trial Court and the First Appellate Court. According to the appellant, the High Court overstepped its jurisdiction under Section 100 of the Code of Civil Procedure, 1908<sup>4</sup>, which allows intervention only in cases involving a substantial question of law. The appellant asserts that the High Court introduced an entirely new ground—whether the marriage had irretrievably broken down—without this issue being argued in the earlier proceedings. This, the appellant argues, goes against established principles that the High Court cannot reappreciate evidence or interfere with findings unless they are

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<sup>3</sup> In short, 'HMA'

<sup>4</sup> In short, 'CPC'



unsupported by evidence, based on a misreading of material evidence, or are manifestly unreasonable.

18. The appellant highlights that the respondent had not raised any grounds for interference with the concurrent findings in the second appeal under Section 100, CPC. The appellant supports this contention by citing the decision of this Court in **State of Rajasthan & Ors. vs. Shiv Dayal & Anr**<sup>5</sup>, which reiterates the limited scope of second appeals. The appellant further argues that the First Appellate Court had already conducted a detailed reappraisal of the evidence and reached a reasoned conclusion. Therefore, the High Court lacked jurisdiction to revisit these findings.
19. The appellant also submits that the High Court erred in addressing the issue of condonation under Section 23(1)(b) of HMA. Referring to this Court's decision in **N.G. Dastane vs. S. Dastane**<sup>6</sup>, the appellant asserts that acts of cruelty or desertion were condoned when the parties reconciled and resumed cohabitation after the filing of a complaint. The appellant emphasizes that the respondent husband, during cross-examination, admitted that the death of his father was unrelated to the appellant's actions, undermining the claim of cruelty. The appellant argues that the High Court failed to appreciate this evidence and incorrectly reversed the concurrent findings of the lower Courts.
20. Lastly, the appellant underscores that the respondent did not seek divorce on the grounds of desertion under Section

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<sup>5</sup> (2019)8 SCC 637

<sup>6</sup> (1975)2 SCC 326

13(1)(ib) of HMA but instead benefited from his own wrongful actions. The appellant claims that the respondent deserted her and then sought divorce on fabricated grounds. The appellant states that she does not wish to burden her daughter with the stigma of divorce, nor is she seeking financial support from the respondent. She simply wishes to uphold her dignity and safeguard her family's reputation.

### **SUBMISSIONS ON BEHALF OF THE RESPONDENT**

21. The respondent argues that the marriage has irretrievably broken down and should be dissolved to allow both parties to move on with their lives. He submits that the appellant subjected him to cruelty, including filing frivolous criminal complaints against him and his family. The respondent claims that these complaints caused mental agony and created an irreparable rift between the parties. The respondent asserts that the High Court rightly considered the irretrievable breakdown of the marriage as a ground for divorce, even though it was not explicitly raised in the earlier proceedings.
22. The respondent further contends that the appellant's allegations of cruelty and desertion were baseless and unsupported by evidence. He argues that the appellant lodged complaints against him and his family, which amounted to harassment. Although there was an attempt at reconciliation, the respondent maintains that the complaints caused lasting damage to the marital relationship. He submits that the High Court correctly found that the complaints, even if later

condoned, had a significant impact on his mental well-being and justified dissolution of the marriage.

23. The respondent challenges the appellant's reliance on concurrent findings of fact, arguing that the High Court was justified in interfering because the lower Courts failed to consider critical aspects of the evidence. He asserts that the Trial Court and the First Appellate Court ignored the cumulative effect of the appellant's conduct, which amounted to mental cruelty. The respondent highlights that the High Court, in its judgment, noted these deficiencies and addressed the substantial question of law concerning the irretrievable breakdown of the marriage.
24. The respondent also argues that he has acted in good faith throughout the proceedings and has consistently sought a resolution to the marital discord. He claims that the appellant's unwillingness to accept the breakdown of the marriage has prolonged the litigation unnecessarily. The respondent submits that granting a divorce would not only end the prolonged legal battle but also allow both parties to rebuild their lives independently.

### **ANALYSIS**

25. We have heard Mrs. V. Mohana, learned Senior Counsel appearing for the appellant and Ms. Haripriya Padmanabhan, learned Senior Counsel appearing on behalf of the respondent.
26. Upon careful consideration of the submissions made by the parties and the facts established in this case, this Court finds itself in agreement with the decision of the High Court, which

granted a decree of divorce in favor of the respondent husband. The appellant's arguments centered around procedural challenges under Section 100 of the CPC, and her insistence on reconciliation, fail to address the core and undeniable realities of the marriage between the parties. On the contrary, the evidence on record unequivocally demonstrates grounds of cruelty, prolonged separation, and an irretrievable breakdown of the marital relationship. These grounds, coupled with legal precedents cited by the High Court, leave no room for doubt that the marriage has lost its essence and that its continuation would serve no meaningful purpose.

27. One of the primary grounds for the dissolution of the marriage is the appellant's conduct, which constitutes mental cruelty under Section 13(1)(ia) of HMA. The respondent has provided sufficient evidence to show that the appellant was engaged in a pattern of behavior that caused him immense mental and emotional distress. This included filing false and baseless criminal complaints against the respondent and his family, which not only strained their relationship but also caused significant damage to his reputation and peace of mind.
28. In **N.G. Dastane (Supra)**, this Court laid down the principle that cruelty is not confined to physical violence but also encompasses actions that inflict mental pain and suffering that creates a reasonable apprehension of harm or injury to the aggrieved spouse from the conduct of the other spouse so as to make it impossible for them to stay together. In the present case, the appellant's conduct, including the initiation of frivolous legal proceedings, falls squarely within the

definition of mental cruelty. The respondent's claim is further supported by this Court's judgment in **Samar Ghosh (Supra)**, wherein it was recognized that actions causing sustained emotional torment and loss of trust in the marital relationship constitutes cruelty.

29. Moreover, the evidence suggests that the appellant's actions were not isolated incidents but formed a pattern of behavior that made cohabitation impossible. In **V. Bhagat vs. D. Bhagat**<sup>7</sup>, this Court emphasized that sustained and deliberate acts of cruelty make it unreasonable to expect one spouse to continue living with the other.
30. The fact that the parties have been living separately for two decades now further reinforces the conclusion that the marriage is no longer viable. Prolonged separation, as observed in **K. Srinivas Rao vs. D.A. Deepa**<sup>8</sup>, creates a presumption of the marriage having irretrievably broken down. In this case, the parties have not shared a marital life since 2004, and all attempts at reconciliation have failed.
31. Marriage is a relationship built on mutual trust, companionship, and shared experiences. When these essential elements are missing for an extended period, the marital bond becomes a mere legal formality devoid of any substance. This Court has consistently held that prolonged separation, coupled with inability to reconcile, is a relevant factor in deciding matrimonial disputes. In the present case, the length of separation and the evident animosity between the parties

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<sup>7</sup> (1994)1 SCC 337

<sup>8</sup> (2013)5 SCC 226

make it clear that there is no possibility of the marriage being revived.

32. Although irretrievable breakdown of marriage is not a statutory ground for divorce under the HMA, this Court has, in appropriate cases, invoked its powers under Article 142 of the Constitution of India to grant relief where the marriage is beyond repair. In **Naveen Kohli (Supra)**, this Court observed that when a marriage has irretrievably broken down, forcing the parties to remain together serves no purpose and only prolongs their misery.
33. The evidence in the present case points unequivocally to an irretrievable breakdown of the marriage. The appellant and the respondent have been embroiled in legal disputes for years, with no signs of reconciliation. The respondent has expressed his desire to move on with his life, while the appellant, despite her assertions to the contrary, has failed to demonstrate any genuine willingness to repair the relationship. As held by this Court in **Ashok Hurra vs. Rupa Bipin Zaveri**<sup>9</sup> and **Shilpa Sailesh vs. Varun Sreenivasan**<sup>10</sup>, prolonging a dead marriage serves no interest and only perpetuates the agony of the parties involved.
34. It is evident from the record that continuation of the marriage would only lead to further animosity and litigation, causing harm to both parties. The appellant's insistence on reconciliation appears to be more of a strategy to prolong the proceedings rather than a genuine effort to revive the

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<sup>9</sup> (1997)4 SCC 226

<sup>10</sup> (2022) 15 SCC 754

relationship. In matrimonial disputes, this Court has emphasized the need to prioritize welfare and dignity of both parties. Forcing a marriage to continue when it has become a source of unhappiness and conflict undermines the very purpose of the institution of marriage. In the present case, the interests of both the parties are best served by allowing both parties to move on with their lives independently.

35. In view of the above, this Court upholds the judgment of the High Court granting a decree of divorce to the respondent. The appellant's submissions are rejected as lacking in merit, both on procedural and substantive grounds. This Court reiterates that cruelty, long separation, and irretrievable breakdown of marriage, as established in this case, and thus, provide sufficient justification for dissolving the marriage.
36. While granting the decree of divorce, we deem it appropriate to award permanent alimony to the appellant wife and the parties' daughter. Although the appellant wife has not specifically claimed any monetary relief or maintenance during these proceedings, it is trite and equitable to grant such relief, considering the financial status of the parties, their professional backgrounds, and the larger interest of justice. The financial independence of a party does not preclude the High Court from granting maintenance if it is necessary to secure dignity, social standing, and financial stability post-divorce, especially in cases where the marriage has subsisted for a long period.
37. It is undisputed that both, the appellant and the respondent are software engineers and were earning handsomely at the

time of their marriage more than two decades ago. It is reasonable to infer that their respective incomes must have increased substantially over the years. However, considering the dynamics of their separation and the financial burdens the appellant may have borne during the protracted litigation, this Court finds it necessary to award her a lumpsum permanent alimony of Rs. 50,00,000/- (Rupees Fifty lakhs only) to secure her financial independence and ensure that she can lead her life with dignity. As observed in **Kiran Jyot Maini vs. Anish Pramod Patel**<sup>11</sup>, the concept of maintenance and alimony encompasses a right to sustenance that allows the spouse to live in a manner suited to her status and standard of living, and the aim is not to penalise the husband.

38. Further, this Court recognizes the responsibility of both parents toward the well-being, education, and future prospects of their child. Although the daughter may be of an age where she is approaching independence, the financial support provided through this judgment will be instrumental in meeting her educational needs as well as expenses related to her future marriage. A sum of Rs. 50,00,000/- (Rupees Fifty lakhs only) is, therefore, awarded to the daughter for these purposes. This is in line with the principles of safeguarding the interests of children suffering under distress of such prolonged matrimonial disputes between the parents. Both parents share the duty of ensuring the daughter's well-being and future security, and this financial provision will contribute to fulfilling that duty.

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<sup>11</sup> (2024) SCC OnLine SC 1724



39. In granting permanent alimony and financial support, this Court is mindful of the principles laid down in **Rajnish vs. Neha**<sup>12</sup>. The factors to be considered while awarding maintenance or alimony include the duration of the marriage, the earning capacities of the parties, their age and health, their standard of living, and their financial and non-financial contributions to the marriage. Here, the appellant has spent substantial time during the pendency of the litigation without the emotional or financial support of the respondent. Moreover, granting a lumpsum as permanent alimony ensures finality and reduces the scope for future litigation between the parties. While the appellant is presumably capable of earning, she has undoubtedly faced financial and emotional setbacks due to the prolonged litigation and separation. Similarly, the financial provision for the daughter ensures her welfare is not compromised due to the breakdown of the marital relationship between her parents.
40. For the reasons stated above, this Court directs the respondent husband to pay a sum of Rs. 50,00,000/- (Rupees Fifty lakhs only) to the appellant as permanent alimony and an additional Rs. 50,00,000/- (Rupees Fifty lakhs only) to their daughter for her education and future expenses, such as her marriage. These payments shall be made within four months from the date of this judgment.
41. Consequently, the appeal is dismissed, the decree of divorce is upheld, and the maintenance amount above granted is

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<sup>12</sup> (2021)2 SCC 324

directed to be paid by the respondent to the appellant and their daughter within the time specified above.

42. There shall be no order(s) as to costs.

.....**J.**  
**(VIKRAM NATH)**

.....**J.**  
**(PRASANNA B. VARALE)**

**NEW DELHI**  
**DECEMBER 19, 2024**