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MATA/165/2022
ODHC010544482022
2022:OHC:1-DB



IN THE HIGH COURT OF ORISSA AT CUTTACK

MATA No.164 of 2022

CNR No. ODHC010542862022

Sai Sonali Nanda

....

Appellant

Represented by Adv.
Mr. A. Mohanty, Sr. Advocate
along with Mr. G.M. Rath, Advocate

-Versus-

Sambit Mishra

....

Respondent

Represented by Adv.
Mr. A.K. Sarangi, Advocate

MATA No.165 of 2022

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**CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE CHITTARANJAN DASH**

**Date of Hearing: 27.08.2026
Date of Judgment: 01.10.2026**



CHITTARANJAN DASH, J.

1. The present two appeals i.e. MATA No.164 of 2022 and MATA No.164 of 2022 arise out of a common judgment dated 21.05.2022 passed by the learned Judge, Family Court, Cuttack in C.P. No.431 of 2020 and C.P. No.32 of 2021. Since both proceedings arise out of the same matrimonial relationship and involve overlapping facts and issues, they were heard together and are being disposed of by this common judgment.

2. The marriage between the parties was solemnised on 13.07.2016 in accordance with Hindu rites and customs. The matrimonial relationship, however, did not continue for long and the parties have been living separately since 26.02.2017. The husband instituted C.P. No.431 of 2020 under Section 13(1)(ia) of the Hindu Marriage Act, 1955, seeking dissolution of the marriage on the ground of cruelty. The wife contested the proceeding and, subsequently, instituted C.P. No.32 of 2021 under Section 9 of the Act seeking restitution of conjugal rights. The learned Family Court, upon consideration of the pleadings and evidence adduced by the parties, allowed the husband's petition for divorce, dismissed the wife's petition for restitution of conjugal rights and, while dissolving the marriage, directed payment of ₹16,00,000/- to the wife towards permanent alimony.

3. Learned counsel for the Appellant-wife, during the course of hearing, submitted that the learned Family Court erred in granting a decree of divorce on the ground of cruelty. It was contended that the finding of cruelty substantially rested upon the



allegation that the Appellant was accustomed to a lavish lifestyle, which, by itself, could not constitute matrimonial cruelty. Learned counsel further submitted that the serious allegations made by the Appellant regarding demand of money, physical and mental harassment and other matrimonial misconduct had not been properly appreciated. Reliance was also placed on the decisions of the Hon'ble Supreme Court in *V. Bhagat v. D. Bhagat (Mrs.)*, reported in (1994) 1 SCC 337 and *Vinita Saxena v. Pankaj Pandit*, reported in 2006 (3) SCC 778 to contend that the conduct complained of must be assessed in its matrimonial context and with reference to the legal standard of mental cruelty. However, as recorded by this Court on 24.03.2025, learned Senior Counsel for the Appellant-wife submitted that the Appellant no longer questioned the decree of divorce and confined the challenge in MATA No.165 of 2022 to the quantum of permanent alimony and return of the dowry articles.

4. Per contra, learned counsel for the Respondent-husband supported the judgment of the learned Family Court. It was submitted that the matrimonial relationship had become irretrievably strained within a short period of the marriage; the parties had been living separately since 26.02.2017 and repeated efforts at reconciliation had failed. It was contended that the evidence on record, when considered in its entirety, established the course of conduct on the part of the Appellant which rendered continuation of the matrimonial relationship untenable. Learned counsel also supported the amount awarded towards permanent alimony, on the basis of the income and financial circumstances of



the Respondent. The Respondent has, during the pendency of the appeal, also placed the amount of ₹16,00,000/- before this Court pursuant to the subsequent orders passed in the appeal.

5. The learned Family Court, upon consideration of the pleadings and evidence, framed the principal questions as to whether the husband was entitled to dissolution of marriage on the ground of cruelty and whether he had withdrawn himself from the company of the wife without reasonable cause. The Court noticed that the parties had lived together only for a short period after their marriage and had thereafter remained separate since 26.02.2017. It also noticed the several attempts at reconciliation and settlement which had failed. The learned Family Court found that the allegations levelled by the wife regarding dowry demand, physical assault, demand for unnatural sex and the husband's alleged drinking habit had not been satisfactorily established, while the conduct of the parties and the circumstances surrounding their separation indicated that there was no realistic prospect of restoration of the matrimonial relationship. The Court accordingly granted a decree of divorce on the ground of cruelty and declined the wife's prayer for restitution of conjugal rights. It further directed payment of ₹16,00,000/- towards permanent alimony.

6. We have considered the submissions advanced by learned counsel for the parties and have carefully examined the pleadings and evidence available on record. The principal question which arises for consideration is whether the material brought on record establishes matrimonial cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act, 1955 and, consequently,



whether the Appellant-wife was entitled to a decree for restitution of conjugal rights under Section 9 of the Act.

7. Before examining the evidence, it would be apposite to notice the settled principles governing the determination of matrimonial cruelty. The expression “cruelty” has not been defined under the Hindu Marriage Act and encompasses both physical and mental cruelty. In *Suman Kapur v. Sudhir Kapur*, reported in (2009) 1 SCC 422, the Hon'ble Supreme Court emphasised that the entire matrimonial relationship has to be examined and that the cumulative effect of the conduct and its impact upon the complaining spouse, rather than an isolated incident, assumes significance. The Hon'ble Supreme Court, while explaining the concept of mental cruelty, held as below:

"39. Mental cruelty has also been examined by this Court in *Parveen Mehta v. Inderjit Mehta* thus: (SCC pp.716-17, para21) "21. Cruelty for the purpose of Section 13(1)(i-a) is to be taken as a behaviour by one spouse towards the other, which causes reasonable apprehension in the mind of the latter that it is not safe for him or her to continue the matrimonial relationship with the other. Mental cruelty is a state of mind and feeling with one of the spouses due to the behaviour or behavioural pattern by the other. Unlike the case of physical cruelty, mental cruelty is difficult to establish by direct evidence. It is necessarily a matter of inference to be drawn from the facts and circumstances of the case. A feeling of anguish, disappointment and frustration in one spouse caused by the conduct of the other can only be appreciated on assessing the attending facts and circumstances in which the two partners of matrimonial life have been living. The inference has to be drawn from the attending facts and circumstances taken cumulatively. In case of mental cruelty it will not be a correct approach to take an instance of misbehaviour in isolation and then pose the question whether such behaviour is sufficient by itself to cause mental cruelty.



The approach should be to take the cumulative effect of the facts and circumstances emerging from the evidence on record and then draw a fair inference whether the petitioner in the divorce petition has been subjected to mental cruelty due to conduct of the other."

8. Equally relevant is the exposition of the Hon'ble Supreme Court in *Vishwanath Agrawal v. Sarla Vishwanath Agrawal*, reported in (2012) 7 SCC 288, that cruelty has an inseparable nexus with human conduct and behaviour and that no rigid or universal standard can be prescribed for determining the same. The social, economic and cultural circumstances in which the parties live, their background, temperament and the nature of their matrimonial relationship are relevant considerations. At the same time, the Court has to examine the actual conduct proved on record and not proceed merely on the basis of abstract standards. Relevant paragraphs are reproduced below:

"22. The expression "cruelty" has an inseparable nexus with human conduct or human behaviour. It is always dependent upon the social strata or the milieu to which the parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status.

xx xx xx

25. After so stating, this Court observed in Shobha Rani case [(1988) 1 SCC 105 : 1988 SCC (Cri) 60] about the marked change in life in modern times and the sea change in matrimonial duties and responsibilities. It has been observed that: (SCC p. 108, para 5)

"5. ... when a spouse makes a complaint about the treatment of cruelty by the partner in life or relations, the court should not search for standard in life. A set of facts stigmatised as cruelty in one case may not be so in another case. The cruelty alleged may largely depend upon the type of life the parties are accustomed to or their economic and social conditions. It may also



depend upon their culture and human values to which they attach importance.”

26. Their Lordships in Shobha Rani case [(1988) 1 SCC 105 : 1988 SCC (Cri) 60] referred to the observations made in Sheldon v. Sheldon [1966 P 62 : (1966) 2 WLR 993 : (1966) 2 All ER 257 (CA)] wherein Lord Denning stated, “the categories of cruelty are not closed”. Thereafter, the Bench proceeded to state thus: (Shobha Rani case [(1988) 1 SCC 105 : 1988 SCC (Cri) 60] , SCC p. 109, paras 5-6)

“ 5 Each case may be different. We deal with the conduct of human beings who are not generally similar. Among the human beings there is no limit to the kind of conduct which may constitute cruelty. New type of cruelty may crop up in any case depending upon the human behaviour, capacity or incapability to tolerate the conduct complained of. Such is the wonderful (sic) realm of cruelty.

6. These preliminary observations are intended to emphasise that the court in matrimonial cases is not concerned with ideals in family life. The court has only to understand the spouses concerned as nature made them, and consider their particular grievance. As Lord Reid observed in Gollins v. Gollins [1964 AC 644 : (1963) 3 WLR 176 : (1963) 2 All ER 966 (HL)] : (All ER p. 972 G-H)

‘... In matrimonial affairs we are not dealing with objective standards, it is not a matrimonial offence to fall below the standard of the reasonable man (or the reasonable woman). We are dealing with this man or this woman.’”

9. Tested on the aforesaid principles, the evidence in the present case discloses that the matrimonial relationship deteriorated almost from its inception. The parties were married on 13.07.2016. The evidence of the Respondent-husband is that there was no cordial relationship even after the first month of marriage and that the Appellant ultimately left the matrimonial home on 26.02.2017. More significantly, the Respondent has spoken of repeated efforts to resolve the dispute. His evidence



refers to meetings held on 15.10.2016 at Mumbai, 13.12.2016 at Cuttack, 03/04.02.2017 at Bhubaneswar, 29.07.2017 at Bhubaneswar and again on 05.08.2017, each of which, according to him, was intended to resolve the matrimonial dispute but failed to bring about any reconciliation.

10. The significance of this evidence lies not merely in the number of meetings, but in what it demonstrates about the state of the matrimonial relationship. The marriage had lasted only for a few months when the parties ceased to live together. The attempts made thereafter did not result in restoration of cohabitation. The Respondent further stated that he addressed a letter to the Appellant with a view to working out an amicable settlement, but the dispute instead escalated into allegations of cruelty and dowry harassment through the Advocate's letter dated 12.08.2018.

11. On the other hand, the Appellant levelled serious allegations against the Respondent. She alleged, inter alia, that her father had been compelled to make payments on different occasions, including ₹5,00,000/- at the time of marriage and approximately ₹3,00,000/- thereafter, besides gold ornaments and household articles. She further alleged that her father had been compelled to spend approximately ₹10,00,000/- for the marriage function at a Star Hotel and, subsequently, that the Respondent demanded a further amount of ₹20,00,000/- as a condition for taking her back.

12. These allegations, however, required scrutiny on the touchstone of the evidence. The Appellant's father, while



supporting her allegations, admitted in cross-examination that he had no direct knowledge regarding allegations of unnatural sex, regular drinking and certain instances of ill-treatment allegedly suffered by his daughter. His evidence regarding the transfer of ₹2,00,000/- was also confined to the fact of such transfer, while the parties gave different explanations regarding its purpose. The evidence of the Appellant's uncle, examined as RW-3, substantially followed the version of the father.

13. The distinction between an allegation and proof assumes considerable significance in a matrimonial proceeding. The mere assertion of grave conduct cannot, by itself, establish cruelty. Equally, the failure to establish each allegation made by one spouse does not, by itself, establish the case of the other. The Court is required to look at the evidence as a whole and determine whether the cumulative conduct of the parties has made the matrimonial relationship such that the continuation of the relationship cannot reasonably be expected.

14. There is, in fact, an important admission from the Appellant herself. In her cross-examination, she admitted that although the parties had lived together as husband and wife till February, 2017, thereafter there was no conjugal relationship between them and they were not even on talking terms. This was not a temporary interruption in cohabitation. The evidence shows that this state of affairs continued for years.

15. The Appellant's own evidence in the proceeding under Section 9 further assumes significance. She stated that she had



filed the said proceeding approximately four years after the institution of the Respondent's divorce proceeding. She also admitted that the Respondent had not agreed to resume cohabitation and that the conciliation efforts before the learned Family Court had failed. She stated that she had left the matrimonial home after the Respondent asked her to leave and thereafter stayed at her friend's residence as a paying guest.

16. Thus, the record presents a matrimonial relationship which, within a very short period of the marriage, had ceased to function in any meaningful sense; the parties had separated on 26.02.2017; there was no subsequent conjugal relationship or even communication between them; repeated efforts at reconciliation failed; and the allegations exchanged between the parties became progressively more serious. This is not a case where an isolated disagreement or a transient episode is being elevated into matrimonial cruelty. It is the sustained course of matrimonial discord, viewed cumulatively, which assumes significance.

17. We may also note the evidence concerning the financial expectations and circumstances of the parties, though the same cannot, by itself, constitute cruelty. The learned Family Court noticed that the Appellant came from a financially well-placed family and that her father had admittedly transferred ₹2,00,000/- to the Respondent. The Respondent explained the payment as being towards marriage-related/household expenses, whereas the Appellant's case was that such payments were made pursuant to demands. The transaction itself is therefore not in dispute; what remains disputed is its purpose. The evidence also discloses that



the Appellant had herself been employed as an Executive Engineer prior to marriage.

18. We are conscious that a difference in financial background, standard of living or lifestyle cannot, standing alone, be treated as matrimonial cruelty. The relevance of these circumstances is only in understanding the actual matrimonial dynamics between the parties. What emerges from the record is not merely a difference in economic status, but a relationship in which financial allegations became part of the larger dispute, attempts at reconciliation repeatedly failed, the parties ceased all marital interaction within months of marriage, and the separation continued for several years.

19. It is apposite to visit the principle laid down in *V. Bhagat v. D. Bhagat (Mrs.)* (supra), wherein the Hon'ble Supreme Court has held as below:

“15. If so, the question arises what kind of cruel treatment does clause (i-a) contemplate? In particular, what is the kind of mental cruelty that is required to be established? While answering these questions, it must be kept in mind that the cruelty mentioned in clause (i-a) is a ground now for divorce as well as for judicial separation under Section 10. Another circumstance to be kept in mind is that even where the marriage has irretrievably broken down, the Act, even after the 1976 (Amendment) Act, does not permit dissolution of marriage on that ground. This circumstance may have to be kept in mind while ascertaining the type of cruelty contemplated by Section 13(1)(i-a).

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.”

20. The aforesaid principle is reiterated in *Samar Ghosh v. Jaya Ghosh*, reported in (2007) 4 SCC 511. The relevant paragraphs are reproduced as below:

“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 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”

21. The question is whether, having regard to the entire matrimonial relationship and the circumstances proved, the conduct is such that the aggrieved spouse cannot reasonably be expected to continue living with the other. The answer has to emerge from a comprehensive assessment of the matrimonial life and not from a compartmentalised examination of individual allegations. Applying the aforesaid test, we find that the learned Family Court was justified in reaching the conclusion that the matrimonial relationship had crossed the stage of an ordinary matrimonial disagreement. The prolonged cessation of cohabitation, absence of conjugal relationship and communication, repeated but unsuccessful efforts at reconciliation, the serious allegations exchanged between the parties and the overall course of the relationship, when viewed cumulatively, establish a course of conduct which falls within the ambit of mental cruelty contemplated under Section 13(1)(ia) of the Hindu Marriage Act. The conclusion of the learned Family Court, therefore, does not call for interference.

22. The claim for restitution of conjugal rights under Section 9 of the Hindu Marriage Act must also be examined in this



background. The Appellant had remained separate from the Respondent since February, 2017 and admitted that there had been no conjugal relationship or communication between them thereafter. The Respondent's refusal to resume cohabitation cannot be considered in isolation from the matrimonial circumstances proved on record. Once the course of matrimonial cruelty established against the Appellant is taken into account, it cannot be said that the Respondent's withdrawal from her society was without reasonable cause. The dismissal of the Appellant's petition under Section 9, therefore, also warrants no interference.

23. There is one further circumstance which has occurred during the pendency of these appeals and which puts the issue concerning the decree of divorce in a still narrower compass. By order dated 24.03.2025, learned Senior Counsel appearing for the Appellant-wife stated before this Court that the Appellant no longer questioned the decree of divorce granted by the learned Family Court and confined the challenge in MATA No.165 of 2022 to the quantum of permanent alimony and the issue relating to return of dowry articles.

24. In view of the foregoing discussion, we find no ground to interfere with the decree of dissolution of marriage granted by the learned Family Court in C.P. No.431 of 2020 or with the dismissal of the Appellant's petition under Section 9 of the Hindu Marriage Act in C.P. No.32 of 2021. The findings recorded by the learned Family Court, when tested against the evidence on record and the settled principles governing matrimonial cruelty, do not warrant interference in appeal.



25. As regards permanent alimony, the learned Family Court awarded a sum of ₹16,00,000/- in favour of the Appellant. The subsequent disclosure made before this Court also requires notice. The Respondent's Form-16 for the financial year 2023-24 reflects an amount of ₹16,46,916/- as having been paid/credited during that year. At the same time, his affidavit discloses monthly expenditure of approximately ₹1,15,000/-, including rent and medical expenditure incurred by him and his mother. These circumstances have to be considered alongside the fact that the matrimonial relationship was of extremely short duration and that the Appellant possesses independent professional qualifications and prior employment experience.

26. Keeping in view the aforesaid parameters, the income disclosed by the Respondent subsequent to the judgment of the learned Family Court, his disclosed expenditure and liabilities, the professional qualification and previous employment of the Appellant, and, at the same time, her present non-employment, we are of the considered view that the amount of ₹16,00,000/- awarded by the learned Family Court requires a reasonable enhancement. On an overall assessment of the circumstances, we deem it appropriate to enhance the permanent alimony by a further sum of ₹9,00,000/- (Rupees nine lakh only).

27. Accordingly, the Appellant shall be entitled to a total sum of ₹25,00,000/- (Rupees twenty-five lakh) towards permanent alimony. The sum of ₹16,00,000/- already awarded by the learned Family Court shall stand merged in the aforesaid amount, and the



Respondent shall pay the additional sum of ₹9,00,000/- to the Appellant towards full and final satisfaction of her claim for permanent alimony. Upon payment of the aforesaid additional amount, the claim of the Appellant towards permanent alimony shall stand fully and finally satisfied, and no further claim on that account shall survive.

28. In view of the foregoing discussion, the judgment dated 21.05.2022 passed by the learned Judge, Family Court, Bhubaneswar in C.P. No.431 of 2020 and C.P. No.32 of 2021 stands modified to the aforesaid extent. Subject to the modification regarding permanent alimony, the judgment of the learned Family Court is affirmed. As a result, both the matrimonial appeals stand disposed of.

I Agree.

(Harish Tandon)
Chief Justice

(Chittaranjan Dash)
Judge

AK Pradhan/Priyanka

Signature Not Verified

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Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 01-Oct-2026 14:47:07

