



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Misc. Appeal No. 2708/2024

Smt. Khusboo W/o Manohar Lal, Aged About 25 Years, D/o Shri Mangilal, R/o Near Railway Station, Gurudwara Road, pokaran, Tehsil Pokaran, District Jaisalmer, Rajasthan.

-----Appellant

Versus

Manohar Lal S/o Shri Baina Ram, Aged About 32 Years, R/o Bassi Nagar, Police Station Osian, Tinwari, Jodhpur, Rajasthan.

-----Respondent

For Appellant(s) : Mr. Rahul Vyas

For Respondent(s) : -

**HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT**

Order (Oral)

03/02/2026

Per : Arun Monga, J.

1. Appellant-wife is before this Court, being aggrieved against the judgment and decree dated 20.08.2024 rendered by learned Family Court, Pokaran in Family Main Case No.13/2022, whereby her petition filed under Section 13 of the Hindu Marriage Act, 1955 seeking dissolution of marriage on the ground of cruelty, was dismissed.

2. Succinctly speaking, the relevant facts of the case for the purpose of adjudication of instant appeal, shorn of the unnecessary details, are as follows:-

2.1. That the appellant was married to the respondent on 29.06.2018 as per Hindu rites, including the *Aata-Sata* ritual. However, after some time, the respondent and his family members



subjected the appellant to mental and physical cruelty on account of unlawful dowry demands.

2.2. It is further submitted that on 17.02.2021, the appellant gave birth to a female child, whereafter the respondent and his family members intensified the cruelty and harassment solely on the ground that a daughter was born. Despite repeated efforts of mediation by the appellant's family and community elders, the respondent and his family refused to accept the child and openly declared their intention that the respondent would remarry for the birth of a son.

2.3. That due to continuous cruelty, dowry harassment, and concealment of material facts prior to marriage, the appellant was constrained to lodge a criminal complaint, pursuant to which a charge-sheet was filed against the respondent and his family members under Sections 498-A, 406, 323 and 34 IPC.

2.4. As all attempts at reconciliation failed, the appellant filed a petition for dissolution of marriage on the ground of cruelty. Despite the material on record, the learned Family Court dismissed the petition vide order dated 20.08.2024, which has resulted in grave miscarriage of justice.

2.5. Hence, the instant appeal.

3. Heard learned counsel for the appellant and perused the case filed.

4. Notice was duly issued to the respondent-husband. Pursuant thereto, the respondent initially engaged counsel and entered appearance. The matter was thereafter referred to the Mediation



Centre of this Court; however, the respondent deliberately chose not to participate in the mediation proceedings.

5. Subsequently, it became evident that the respondent had consciously abandoned his defence before this Court and willfully refrained from appearing either in person or through counsel. In these circumstances, by order dated 13.01.2026, the respondent was proceeded against ex-parte.

6. It further emerges that the respondent has not only abandoned the proceedings before this Court, but has also consistently deserted his defence in the entire spectrum of litigation arising out of the matrimonial dispute between the parties, including proceedings before the learned Family Court and the Court of the learned Additional Chief Judicial Magistrate under Section 125 of the Code of Criminal Procedure, as well as other connected matters, the details whereof are set out in the appeal.

For ready reference same are as under:-

- I. ***Criminal Misc. Case No. 510/2024 "Smt. Khushboo V. Manoharlal & Ors." Pending u/s 125 (3) of CrPC at Court of ACJM, Pokaran District Jaisalmer:-***
- II. ***Criminal Misc. Case No. 105/2022 "Smt. Khushboo V. Manoharlal & Ors." Pending under the provisions of Domestic Voilence Act at Court of ACJM, Pokaran, District Jaisalmer.***
- III. ***Criminal Misc. Case No. 106/2022 "Smt. Khushboo & Anr V. Manoharlal & Ors." Pending under section 23 Domestic Voilence Act, 2005 for interim relief, maintenance at Court of ACJM, Pokaran District Jaisalmer***
- IV. ***Criminal Misc. Case No. 230/2023 "Smt. Khushboo & V. Manoharlal & Ors." Pending under section 125C CrPC at Court of ACJM, Pokaran District Jaisalmer for recovery of the interim maintenance.***

7. It transpires that the appellant has been residing with her minor daughter at her parental home ever since the parties separated more than four years ago. At the time when the



appellant filed the divorce petition, the respondent had instituted a petition under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights. The said petition was dismissed on the ground that there was no possibility of reconciliation between the parties and that the appellant was unwilling to resume cohabitation with the respondent. Simultaneously, the appellant's divorce petition was also dismissed on the ground that the allegations of cruelty had not been proved.

8. The conduct of the respondent, as borne out from the record of multiple judicial proceedings, unequivocally constitutes mental cruelty of a grave and continuing nature. The respondent has, with complete impunity, persistently failed to discharge his statutory and matrimonial obligations and has subjected the appellant to sustained harassment, humiliation, and financial deprivation.

8.1. In Criminal Misc. Case No. 510/2024 under Section 125(3) Cr.P.C., pending before the Court of the learned ACJM, Pokaran, despite due service, the respondent remained absent. By order dated 24.10.2024, a recovery warrant was issued against him for non-payment of maintenance. Even thereafter, the respondent neither appeared before the Court nor paid maintenance for nearly three years.

8.2. Similarly, in Criminal Misc. Case No. 105/2022 under the Domestic Violence Act, the respondent absented himself continuously from 18.11.2022, compelling the Court to proceed ex-parte against him. Though the respondent appeared once on 23.05.2023 and succeeded in getting the ex-parte proceedings set



aside on payment of nominal costs, he thereafter again defaulted in personal appearance and participation.

8.3. Further, in Criminal Misc. Case No. 106/2022 under Section 23 of the Domestic Violence Act, the learned ACJM, by order dated 23.05.2023, directed the respondent to pay interim maintenance of Rs. 5,000/- per month from the date of application i.e. 18.04.2022. However, the respondent paid only Rs. 45,000/- leaving arrears of Rs. 1,75,000/-. Recovery warrants have been issued, yet the respondent has chosen to remain absent and non-compliant.

9. The cumulative effect of the respondent's conduct—namely, repeated non-appearance before courts, persistent non-payment of court-ordered maintenance, deliberate violation of judicial directions, and total abandonment of legal proceedings—has subjected the appellant to prolonged mental agony, financial distress, and social humiliation. Such conduct amounts to sustained mental cruelty, making it impossible for the appellant to reasonably be expected to live with the respondent.

10. The respondent's actions are not isolated lapses but form a consistent pattern of neglect, indifference, and calculated harassment. His willful refusal to maintain the appellant, coupled with blatant disregard for the authority of courts, strikes at the very foundation of matrimonial obligations and squarely attracts the ingredients of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act.

11. Resultantly, we hold that the appellant had a sufficient cause to abandon the marriage in the light of cruelty suffered at the



hands of the respondent. Even perusal of the impugned judgment demonstrates that the appellant-wife had adduced clear, consistent, and credible evidence in support of her allegations of cruelty. Her sworn testimony was coherent and trustworthy, and significantly, it remained wholly unshaken during cross-examination. The learned Family Court failed to appreciate this evidence in its proper perspective and rejected the appellant's case without assigning any legally sustainable reasons, thereby committing a manifest error of appreciation of evidence warranting appellate interference.

12. A holistic and careful scrutiny of the record reveals that the appellant-wife had led clear, consistent, and cogent evidence establishing a continuous course of mental cruelty at the hands of the respondent. Her sworn testimony was not only coherent and trustworthy but stood fully corroborated by undisputed judicial records, including multiple proceedings under the Code of Criminal Procedure and the Domestic Violence Act, which demonstrate the respondent's persistent non-appearance, willful disobedience of court orders, and deliberate failure to pay maintenance over an extended period. Significantly, this testimony remained wholly unshaken in cross-examination.

13. The learned Family Court, however, failed to appreciate the cumulative effect of this conduct and erroneously examined each incident in isolation, thereby overlooking the settled legal principle that mental cruelty must be assessed on the totality of circumstances. By disregarding unimpeached oral evidence supported by contemporaneous judicial orders and by rejecting



the appellant's case without assigning any legally sustainable or reasoned basis, the Family Court committed a manifest error in appreciation of evidence, warranting interference by this Court in appeal.

14. It is further manifest that even after filing of the present appeal, the respondent formally disengaged his counsel and, till date, no effective hearing has taken place due solely to his mala fide conduct. Despite efforts made on his behalf, the respondent has intentionally abandoned not only the present appellate proceedings but also all other proceedings pending between the parties.

15. Taking an overall and holistic view of the matter, we are of the considered opinion that the deliberate and intentional abandonment by the respondent-husband, both of his matrimonial obligations and of the legal proceedings arising therefrom—amounts to a forfeiture of his right to contest the matter. Such conduct clearly signifies implied consent to the allowing of the present appeal by setting aside the impugned judgment and decree.

16. In the premise, the judgment and decree passed by the learned Family Court, Pokaran, together with the findings recorded therein, are unsustainable in law and are hereby set aside. A holistic and careful scrutiny of the record reveals that the appellant-wife had led clear, consistent, and cogent evidence establishing a continuous course of mental cruelty at the hands of the respondent. Her sworn testimony was not only coherent and trustworthy but stood fully corroborated by undisputed judicial



records, including multiple proceedings under the Code of Criminal Procedure and the Domestic Violence Act, which demonstrate the respondent's persistent non-appearance, willful disobedience of court orders, and deliberate failure to pay maintenance over an extended period. Significantly, this testimony remained wholly unshaken in cross-examination.

17. The learned Family Court, however, failed to appreciate the cumulative effect of this conduct and erroneously examined each incident in isolation, thereby overlooking the settled legal principle that mental cruelty must be assessed on the totality of circumstances. By disregarding unimpeached oral evidence supported by contemporaneous judicial orders and by rejecting the appellant's case without assigning any legally sustainable or reasoned basis, the Family Court committed a manifest error in appreciation of evidence, warranting interference by this Court in appeal.

18. Consequently, the appeal filed by the appellant-wife is allowed. Her petition under Section 13 of the Hindu Marriage Act, 1955 stands decreed and marriage between the parties is dissolved. Decree sheet be prepared accordingly.

(YOGENDRA KUMAR PUROHIT),J

(ARUN MONGA),J

31-raksha/-