

RAJ TALREJA

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v.

KAVITA TALREJA

(Civil Appeal No. 10719 of 2013)

APRIL 24, 2017

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[ADARSH KUMAR GOEL AND DEEPAK GUPTA, JJ.]

*Hindu Marriage Act, 1955:*

*s.13 – Divorce Petition by husband – Amendment thereof, sought by husband on ground that due to false complaints filed by his wife against him, he had been subjected to cruelty – Held: The wife made reckless, defamatory and false accusations against husband, his family members and colleagues, which definitely had the effect of lowering the reputation of the husband in the eyes of his peers – It amounted to cruelty – Marriage of parties dissolved by decree of divorce.*

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*s.25 – Permanent alimony and maintenance – Held: Court not to be oblivious to the requirements of wife, keeping in view the status of the parties – Direction to husband to pay the wife Rs.50 lakhs as one time permanent alimony – Wife to continue to live in the house in which she was residing, till the husband provided her a flat of similar size in a similar locality.*

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**Allowing the appeal, the Court**

**HELD: 1. Cruelty can never be defined with exactitude. What is cruelty will depend upon the facts and circumstances of each case. In the present case, it is apparent that the wife made reckless, defamatory and false accusations against her husband, his family members and colleagues, which would definitely have the effect of lowering his reputation in the eyes of his peers. Mere filing of complaints is not cruelty, if there are justifiable reasons to file the complaints. However, if it is found that the allegations are patently false, then there can be no manner of doubt that the said conduct of a spouse levelling false accusations against the other spouse would be an act of cruelty. The petition for divorce filed by the husband under Section 13 of the Act is decreed and**

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A the marriage of the parties is dissolved by a decree of divorce. [Paras 10, 13][389-G-H; 390-A-C; 391-D]

B 2. In the present case, all the allegations made by wife were found to be false. The acts of the wife in filing false complaints against the husband amounts to cruelty, however, one cannot be oblivious to the requirements of the wife to have a decent house where she can live. Some permanent arrangement has to be made for her alimony and residence. Keeping in view the status of the parties, the husband shall pay to the wife a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) as one time permanent alimony. The wife shall continue to live in the house which belongs to the mother of the husband till the husband provides her a flat of similar size in a similar locality. [Paras 10, 13][390-C, G-H; 391-A-B]

D *K. Srinivas Rao v. D.A. Deepa* (2013) 5 SCC 226 : [2013] 2 SCR 126; *Ravi Kumar v. Julmidevi* (2010) 4 SCC 476 : [2010] 2 SCR 545 – referred to.

#### Case Law Reference

[2013] 2 SCR 126      referred to      Para 9

[2010] 2 SCR 545      referred to      Para 9

E CIVIL APPELLATE JURISDICTION: Civil Appeal No. 10719 of 2013.

F \* From the Judgment and Order dated 01.03.2013 of the High Court of Judicature for Rajasthan at Jodhpur in D. B. Civil Miscellaneous Appeal No. 1432 of 2004.

Gaurav Agrawal, S. K. Verma, Advs. for the Appellant.

Ms. Vibha Datta Makhija, Sr. Adv., Akshat Shrivastava, Ms. Disha, Advs. for the Respondent.

G The Judgment of the Court was delivered by

H **DEEPAK GUPTA, J.** 1. Parties to the appeal got married in 1989 according to Hindu rites. Out of this wedlock a son was born in the year 1990. It is not disputed that till the year 1999 both husband and wife lived together with the parents of the husband. In the year 1999, the couple shifted to their own residence. On 19.03.2000, the husband left the matrimonial home and, soon thereafter, on 25.03.2000, filed a

petition for grant of a decree of divorce dissolving the marriage.

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2. It is not disputed that the wife filed a suit praying for injunction that the husband should not be permitted to enter the matrimonial home. On 07.11.2000, certain news items appeared in the newspapers in which serious allegations were made against the husband. These newspaper reports were based on the intimation given by the wife. On 04.12.2000, the wife filed a complaint to the State Women Commission making serious allegations against the husband. Thereafter, on 05.12.2000, she sent a similar letter to the Chief Justice of the High Court as well as the Superintendent of Police. Finally, on 07.12.2000, she made another complaint to the Chief Minister. On 16.03.2001, these complaints were found to be false. On 12.04.2001, a First Information Report (for short the 'FIR') was registered at the instance of the wife against the appellant husband under Section 452, 323 and 341 of the Indian Penal Code. The police investigated the matter and filed a report on 30.04.2001 stating that there is no merit in the FIR. According to the police, the injuries on the person of the wife were self inflicted and she has filed a false FIR. It was recommended that the criminal proceedings be initiated against her under Section 182 of the Indian Penal Code (for short 'IPC'). It is not disputed that till 16.03.2001, such criminal proceedings were initiated against the wife.

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3. The husband moved an amendment application in the divorce petition incorporating all these facts and alleging that due to filing of the false complaints before various authorities he had been subjected to cruelty by the wife. This is the only issue raised before us. The learned trial Judge dismissed the petition. The appeal filed by the husband was also dismissed. Hence, this appeal.

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4. It would be pertinent to mention that in the year 2012, 11 years after the police had submitted its report and after proceedings had been initiated against the wife, the wife filed a protest petition against the cancellation of FIR against the husband, in which notice was issued by the court below. However, on a revision being filed by the husband, the revisional court allowed the revision petition and quashed the order of the trial court. As a result, there are no criminal proceedings pending against the husband.

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5. We have heard Mr. Gaurav Agrawal, learned counsel for the appellant and Ms. Vibha Datta Makhija, learned senior counsel for the respondent.

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A           6. Mr. Agrawal, learned counsel has contended that the acts of  
the wife in levelling defamatory allegations and filing false complaints  
against the husband amounts to cruelty. On the other hand, Ms. Makhija,  
learned senior counsel has submitted that her client is not at fault and  
cruelty has not been proved. She further submits that her client wants  
B           the status of being a legally married woman and she prays that the appeal  
be dismissed.

              7. We may now refer to the evidence relied upon by the husband.  
The first is a newspaper report dated 07.11.2000, in which it is reported  
C           that the wife had alleged that she was beaten by her husband and his  
family members many times for not fulfilling the demand of dowry. There  
were allegations that she was kept like an orphan and twice attempts  
had been made to set her on fire. These allegations were made in a  
letter sent by the wife to the police. Thereafter, the wife sent a similar  
D           complaint to various authorities including the State Women Commission,  
Rajasthan. She sent a telegram to the Chief Justice of the Rajasthan  
High Court again alleging that her husband and in-laws had attempted to  
burn her and engaged *goondas* to eliminate her. Complaint was also  
made to Chief Minister of Rajasthan. The matter was referred to the  
E           police. On investigation by the police, the allegations were found to be  
totally false. Thereafter, the wife filed a complaint against her husband  
and 3 other persons alleging house trespass against them and that she  
had been assaulted and threatened to leave the house. In this case also,  
the final report of the police is that the complaint is baseless and false  
and the injuries were self-inflicted.

              8. As noted above, these findings of the police have attained finality  
F           and as on date there is no criminal case pending against the husband. It  
is more than obvious that the allegations levelled by the wife are false.  
It may be true that these allegations were levelled after the divorce  
petition had been filed and the wife may have been in an agitated state  
of mind. However, that did not give her a right to make defamatory  
statements against the husband. The falseness of the allegations is borne  
G           out from the fact that the police did not even find it a fit case to be tried.  
After the police filed its cancellation report, the wife kept silent and  
after 11 years she filed a protest petition.

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9. This Court in Para 16 of **K. Srinivas Rao v. D.A. Deepa**<sup>1</sup> has held as follows: A

“16. Thus, to the instances illustrative of mental cruelty noted in *Samar Ghosh v. Jaya 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.” B

In *Ravi Kumar v. Julmidevi*<sup>2</sup>, this Court while dealing with the definition of cruelty held as follows: C

“19. It may be true that there is no definition of cruelty under the said Act. Actually such a definition is not possible. In matrimonial relationship, cruelty would obviously mean absence of mutual respect and understanding between the spouses which embitters the relationship and often leads to various outbursts of behaviour which can be termed as cruelty. Sometime cruelty in a matrimonial relationship may take the form of violence, sometime it may take a different form. At times, it may be just an attitude or an approach. Silence in some situations may amount to cruelty.” D E

20. Therefore, cruelty in matrimonial behaviour defies any definition and its categories can never be closed. Whether the husband is cruel to his wife or the wife is cruel to her husband has to be ascertained and judged by taking into account the entire facts and circumstances of the given case and not by any predetermined rigid formula. Cruelty in matrimonial cases can be of infinite variety—it may be subtle or even brutal and may be by gestures and words. That possibly explains why Lord Denning in *Sheldon v. Sheldon*, (1966) 2 WLR 993 held that categories of cruelty in matrimonial cases are never closed.” F G

10. Cruelty can never be defined with exactitude. What is cruelty will depend upon the facts and circumstances of each case. In the present case, from the facts narrated above, it is apparent that the wife

<sup>1</sup> 2013 (5) SCC 226.

<sup>2</sup> 2010 (4) SCC 476.

A made reckless, defamatory and false accusations against her husband,  
his family members and colleagues, which would definitely have the  
effect of lowering his reputation in the eyes of his peers. Mere filing of  
complaints is not cruelty, if there are justifiable reasons to file the  
complaints. Merely because no action is taken on the complaint or after  
B trial the accused is acquitted may not be a ground to treat such accusations  
of the wife as cruelty within the meaning of the Hindu Marriage Act  
1955 (for short 'the Act'). However, if it is found that the allegations  
are patently false, then there can be no manner of doubt that the said  
conduct of a spouse levelling false accusations against the other spouse  
would be an act of cruelty. In the present case, all the allegations were  
C found to be false. Later, she filed another complaint alleging that her  
husband along with some other persons had trespassed into her house  
and assaulted her. The police found, on investigation, that not only was  
the complaint false but also the injuries were self inflicted by the wife.  
Thereafter, proceedings were launched against the wife under Section  
D 182 of IPC.

11. We have perused the judgment of the High Court. The High  
Court while dealing with the plea of false complaints held that there was  
no reason to hold that the criminal complaint filed by the respondent-  
wife was false and *mala fide*. We are unable to agree with this finding  
of the High Court and the court below. Both the courts below relied  
E upon the statement of the wife that her husband had often visited her  
house and she fulfilled her marital obligations. These observations are  
not based on any reliable or cogent evidence on record. It is not disputed  
before us that the wife continues to live in the house which belongs to  
the mother of the husband whereas the husband lives along with his  
F parents in a separate house and the son and daughter-in-law of the parties  
live with the wife. The son is working with the husband. We may note  
that Ms. Makhija has very fairly stated before us that the husband had  
always fulfilled his paternal obligations to his son and is continuing to pay  
maintenance to his wife as fixed by the court.

G 12. Though we have held that the acts of the wife in filing false  
complaints against the husband amounts to cruelty, we are, however, not  
oblivious to the requirements of the wife to have a decent house where  
she can live. Her son and daughter-in-law may not continue to live with  
her forever. Therefore, some permanent arrangement has to be made  
for her alimony and residence. Keeping in view the status of the parties,  
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we direct that the husband shall pay to the wife a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) as one time permanent alimony and she will not claim any further amount at any later stage. This amount be paid within three months from today. We further direct that the wife shall continue to live in the house which belongs to the mother of the husband till the husband provides her a flat of similar size in a similar locality. For this purpose, the husband is directed to ensure that a flat of the value up to Rs.1,00,00,000/- (Rupees One Crore Only) be transferred in the name of his wife and till it is provided, she shall continue to live in the house in which she is residing at present.

13. The appeal is accordingly allowed. The judgment and order dated 01.03.2013, passed by the High Court in D.B. Civil Miscellaneous Appeal No.1432 of 2004 and the judgment and decree dated 05.08.2004, passed by the Family Court, Udaipur in Civil Case No. 56 of 2000 are set aside. The petition for divorce filed by the husband under Section 13 of the Act is decreed and the marriage of the parties solemnized on 13.04.1989 is dissolved by a decree of divorce. The wife shall be entitled to permanent alimony of Rs. 50,00,000/- (Rupees Fifty Lakhs Only) and a residential flat of the value of up to Rs.1,00,00,000/- (Rupees One Crore Only), as directed hereinabove. Pending application(s), if any, stand(s) disposed of.

Ankit Gyan

Appeal allowed.