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**JOYDEEP MAJUMDAR VS. BHARTI JAISWAL MAJUMDAR**

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***Abstract:*** *From time immemorial, marriage is considered one of the most important social institution in a man's life; however, it wasn't until the modern era that many cultures slowly started accepting the concept that marriage may not be some holy union but a social relationship between two humans that is subjected to the same risk of separation and dissolution like any other.*

*With nations like India that still harbours the importance of family and marriage above everything else, divorce and legal separation had turned to be a very lengthy and rather problematic affair for many – especially in cases where one spouse wants the dissolution of marriage while the other does not. And Joydeep Majumdar vs. Bharti Jaiswal Majumdar is one such case.*

*While the matrimonial laws in India are quite well placed, many grounds of divorce like cruelty are still left undefined in a way that the interpretation of its meaning lies entirely in the hands of the Court; resulting in cases like this one appearing where the husband is found to be facing mental cruelty in the hands of his wife and yet, his petition for divorce has been dismissed by the High Court before an appeal is made to the Supreme Court.*

*This case comment will briefly discuss the facts of the case along with analysing the reasoning behind each Court this case has been filed in, before moving on to the current judgement dealt with the case. We will also discuss the meaning of cruelty while focusing on how the Apex Court has defined it in regarding to this case.*

## **DETAILS OF THE CASE**

**Citation:** 2021 SCC OnLine SC 146

**Bench:** Justice Sanjay Kishan Kaul, Justice Dinesh Maheshwari, and Justice Hrishikesan Roy.

**Date of Judgement:** 26th February 2021

## **INTRODUCTION**

In several religions and nations across the world, marriage is considered to be a holy union of two people – a social institution that is still believed to be a very important and essential milestone in a human's life. And in a country like India, where family is heavily prioritised, marriage is held quite high and important due to its role as the basic foundation of a family.

With such a scenario, the matrimonial and family laws in India are based as such to protect marriages and retain not just the holy union but also the obligations that come with it. However, the problem arises when the marriage is to be dissolved; especially if one of the parties want to be legally separated while the other one does not. In this case, the appellant is the one who filed for the dissolution of marriage on the basis of cruelty under section 13(1) (ia) of the Hindu Marriage Act, 1955 while the respondent demanded for the resumption of their matrimonial life. However, the term 'cruelty' is nowhere defined in the matrimonial laws of the Hindu Marriage Act; thus, leaving the discretion of deciding what acts may be considered as cruelty in the hands of the respective Courts. Meanwhile, section 13(1) (ia) simply states that anyone who is facing any type of cruelty – physical, mental or otherwise – through harassment and abuse from their partner, has the right to seek dissolution of marriage on the basis of treating them with cruelty. In simpler terms, any act that causes the spouse to be mentally and/or physically harmed can be considered as an act of cruelty.<sup>1</sup>

## **FACTS**

Joydeep Majumdar, the appellant, in this case, was an army officer who was married to the respondent Bharti Jaiswal, a faculty member in the Government P.G. College, Tehri with a PhD degree. The marriage took place on September 27, 2006, after which the couple lived together for almost a year at Vishakhapatnam and at Ludhiana, before mutually separating on September 15, 2007, due to some differences that appeared between them during the initial year of their marriage.

The appellant later applied for dissolution of marriage in the Family Court in Vishakhapatnam while the respondent filed a petition for the restitution of conjugal rights in Dehradun with the hope to resume her matrimonial life after the separation of the couple.

However, in the divorce proceeding, the appellant disclosed that he had faced several complaints made by the respondent to his superiors and authorities that had caused irreversible damage to his reputation and career – thus,

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<sup>1</sup> Hindu Marriage Act, 1955, Section 13(1) (ia), Acts of Parliament, 1955 (India).

amounting to mental cruelty, on the basis of which he pleaded for the dissolution of his marriage. On the other hand, the respondent argued that the appellant had deserted her without any reasonable excuse due to which she had been forced to lodge such complaints as a last attempt to preserve their married life. With this, the respondent pleaded for the restitution of conjugal rights.

The Dehradun Family Court found that not only the respondent failed to prove the allegation of adultery against her husband but also caused him mental anguish over numerous malicious complaints and allegations made against him to the Army and the authorities. With this, the Court allowed the appellant's suit for dissolution of marriage while subsequently dismissing the respondent's petition for the restitution of conjugal rights. Aggrieved and dissatisfied by the judgement passed by the Dehradun Family Court, the respondent made an appeal before the Uttarakhand High Court regarding this case.

The High Court accepted the appeal and completely reversed the Family Court's decree by setting aside the previous judgement as the Court held that even when the wife did make several complaints to various authorities regarding her spouse's conduct and character, it did not amount of mental cruelty since none of the mentioned authorities had concluded the said allegations of complaints as false or defamatory. Thus, according to the High Court, these conducts between the parties can be considered as 'squabbles of ordinary middle class married life' at best. With this, the Court allowed the respondent's suit to restitution of conjugal rights.

Feeling dissatisfied and aggrieved from the judgement passed by the High Court, the appellant, thus, appealed in the Supreme Court.

## **ISSUES**

The issues that came up before the Supreme Court of India were as follows:

- Whether the conduct of the respondent leading to several complaints against her spouse amount to mental cruelty?
- Whether mental cruelty is a subsequent ground for the dissolution of marriage in this case?

## **THE REASONING OF THE COURT**

Upon hearing both the parties, the Supreme Court found that the respondent had not only filed complaints against her husband to his superior authorities and officers but also to the staff members up to the level of the Chief of the army along with putting up such allegations that resulted in an investigation being instigated against him. In addition to that, the Court observed that the respondent had also filed such allegations to other authorities such as the State Commission for Women as well, leading to the disruption in the mental well-being of the appellant as well as irreversible damage done to his reputation due to which his career also suffered immensely.

Furthermore, the fact that both the parties had separated mutually in 2007 and had continued to live as such before seeking Judicial help was also highlighted by the Court as the topic of resumption of matrimonial life arose.

And while the respondent defended her actions by arguing that the complaints were her desperate attempt to preserve her marriage and to assert her legal right as the appellant's wife, the Court found that such conduct had inevitably done harm to the appellant's career and reputation – the prospect of which the Court assumed the respondent must have the knowledge of beforehand due to her high education level.

The Court also observed that while what acts may amount to cruelty may vary from case to case, the degree of tolerance of any such act highly depends on the background of the couple that includes their level of education as well as the status of both the parties. In the given case, both the parties were found to have a high level of education; thus, assuming that both had a proper grasp of what such complaints and allegations could do to a person's career would not be far off, regardless of which party had initiated it.

The Court also highlighted how that such conduct could not be justified by arguing that it was done in an attempt to preserve the marriage as it had inevitably undermined the reputation and dignity of the appellant. And after such an act of mental cruelty, the Court observed, it could not be expected of the appellant to accept such conduct and continue his marriage with the respondent.

### **JUDGEMENT**

In view of the reasons stated above by the Supreme Court, it was held that the respondent's conduct did amount to mental cruelty, in this case. Thus, the appellant was found entitled to the dissolution of marriage on the basis of cruelty under section 13(1) (ia) of the Hindu Marriage Act, 1955, while the respondent's petition for restitution of conjugal rights was subsequently dismissed.

Furthermore, the Supreme Court observed that the comments and allegations made against the appellant were found to be defamatory in nature; no Court or authority acknowledging it as such did not invalidate or reverse the fact that such comments were defamatory and did harm the appellant's reputation and his mental well-being, in the end. Thus, the Supreme Court not only reversed the judgement given by the Uttarakhand High Court but also highlighted their error in describing such conduct as mere 'squabbles of ordinary middle class married life.'

### **CONCLUSION**

The judgements given by both the Supreme Court and the Family Court are apt in my opinion as the conduct showcased by the respondent seemed more as an act of malice than an actual effort of attempting to preserve their married life.

The fact that they separated mutually also highlighted that both parties had the knowledge of their differences and the consequences of such separation; thus, nullifying the argument put forth by the respondent that the appellant left her without any reasonable cause. Furthermore, her defamatory allegations to not only his seniors in the army but also other authorities were very severe in nature – the prime example of it being the allegation of adultery the respondent had put forth in the Family Court that she couldn't provide justifiable proof for. Such allegations and

complaints resulted in the appellant's reputation being damaged to a point where his career was severely affected and so was his mental health. In such a scenario, these acts can, and should, be addressed as mental abuse.

The High Court's description of such acts being nothing more than the 'squabbles of ordinary middle class married life' is not only unfair to the appellant but also concerning as it normalizes such conduct instead of seeing it as the abuse it is. Thus, the Supreme Court's judgement and observation on the matter is found to be not only apt but also eye-opening to many.

## **REFERENCES**

- *Joydeep Majumdar v. Bharti Jaiswal Majumdar*, MANU/SC/0119/2021.
- Bhardwaj, P., 2021, *Malicious allegations against spouse costing him his job and reputation not an attempt to preserve the relationship but a definite case of mental cruelty: Supreme Court*, SCC blog, available at: <https://www.scconline.com/post/2021/02/27/malicious-allegations-against-spouse-costing-him-his-job-and-reputation-not-an-attempt-to-preserve-the-relationship-but-a-definite-case-of-mental-cruelty-supreme-court/?amp> (Accessed: 6 October 2021)
- Hindu Marriage Act, 1955, Acts of Parliament, 1955 (India).