

Alka Vs. R.K. Gautam

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Court : Delhi

Decided On : Mar-01-1996

Reported in : 1996IIAD(Delhi)4; AIR1996Delhi276; 62(1996)DLT109; 1996(37)DRJ167

Judge : Dalveer Bhandari, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 13(1)

Appeal No. : Letters Patent Appeal No. 6 of 1996

Appellant : Alka

Respondent : R.K. Gautam

Advocate for Pet/Ap. : Amitabh Narayan, Advs

Judgement :

Dalveer Bhandari, J.

(1) This appeal is directed against the judgment of the learned Single Judge passed in Fao 169/92. The learned Single Judge affirmed the judgment and order passed by the learned Addl. District Judge, and dismissed the appeal.

BRIEF facts necessary to dispose of this appeal are recapitulated hereinunder.

(2) The appellant and the respondent belong to the medical profession. They got married on 27th November, 1986 when the appellant was preparing for her final year examination of Mbbs at Meerut, U.P. The respondent Dr. R.K. Gautam had filed a petition for dissolution of marriage on the ground of cruelty under Section 13(1)(i-a) of the, Hindu Marriage Act, 1959, amended by the Amendment Act, 1976. Section 13 (1)(i-a) of the Act reads as under:

'13.Divorce. (1) Any marriage solemnised, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party- (i) (i-a) has, after the solemnization of the marriage, treated the petitioner with cruelty, or.....

(3) It is alleged in the petition, that even during their short trip of honey-moon to Shimla immediately after marriage, the appellant informed the respondent that she was not happy with the marriage and, in fact she did not want to get married at that stage. It is also alleged that the conduct and behavior of the appellant had been far from normal from the very beginning. During the entire stay of the honeymoon trip of 5 days at Shimla, with great difficulty and persuasion, she submitted for sexual intercourse only on two occasions.

(4) It is alleged that the appellant went back to Meerut on or about 10.12.86 a few days after marriage, and remained there up to the middle of April, 1987. It is submitted in the petition that the appellant during her stay at the house of the respondent maintained a very in different attitude towards other family members. She did not speak to them and even showed utter disrespect to the parents, sisters and brother of the respondent. It is alleged in the petition that the appellant plainly told the respondent that it was difficult for her to live with the respondent along with his family members in Delhi and she would like to live at Meerut at her parents' house. The cumulative behavior of the appellant caused great mental tension, worries and agony in the mind of the respondent. thereforee, from its very inception, the appellant was responsible for developing cracks in their matrimonial relationship.

(5) It is alleged in the petition that the father of the respondent Dr. R.K. Gautam was operated upon on 8.4.87 and he remained in the hospital from 7.4.87 to 11.4.87. The respondent requested the appellant to accompany, him to visit his father at the hospital but she flatly refused. Not only this, when the father returned from the hospital, she also refused to look after him. It is also alleged that the appellant stayed at Delhi and left for Meerut on 12th April, 1987 without the consent of the respondent and his parents. During her stay at Delhi from 8.4.87 to 12.4.87, the behavior of the appellant was rude, arrogant, taunting and disobedient. The appellant did not even like the respondent's staying in the nursing home to look after his father.

(6) On 12.4.87, when the respondent asked the appellant to go and enquire about health of the father of the respondent the appellant flatly refused saying that she was not supposed to look after the old man (her father-in-law). When the respondent objected to the rude behavior of the appellant, the appellant threw a cup of tea saying that she be left at her parents' house at Meerut and she did not want to live at the matrimonial house. It is also alleged that even during her stay for a short period for six days, the appellant denied the respondent the normal matrimonial pleasure and enjoyment of sex.

(7) The respondent called upon the parents of the appellant and informed them about the attitude, conduct and behavior of the appellant. The father of the appellant felt extremely sorry and despite his intervention, her pattern of behavior remained unchanged. It is alleged that the appellant paid a short visit for a day during the month of May, 1987 and thereafter she came to Delhi on the Diwali festival at the instance of the parents of the respondent but again left for Meerut on 24th October, 1987 saying that she did not want to stay with other family members of the respondent jointly. She also told the respondent in the presence of his parents that the respondent should leave Delhi and settle at Meerut, failing which the appellant would have no relationship with the respondent and his parents. She did not even participate in the traditional Diwali puja. It is alleged that she not only misbehaved but also buried abuses at them.

(8) The learned Additional District Judge has carefully analysed the entire evidence on record and found substance in the allegations of the respondent. The learned trial judge also arrived at the conclusion that the appellant without any reasonable or justifiable cause did not permit the respondent to have normal sex with her.

(9) The learned Additional District Judge also came to the conclusion that the parties were newly married and even incomplete sex may amount to cruelty, what to talk of her totally abstaining from normal marital sex. According to the learned Additional District Judge, the respondent is entitled to dissolve the marriage on this score alone.

(10) The learned Additional District Judge on the basis of evidence on record came to the conclusion that the appellant treated all the relations of the respondent with total indifference. She did not show even the minimum courtesy of visiting her ailing father-in-law in the nursing home much less, looking after him or extending any help even during that period when he was admitted in the nursing home.

(11) The learned Additional District Judge further arrived at a clear finding on the basis of the record that the act of abusing the parents-in-law and slapping her father was totally unpardonable and amounted to grossest kind of cruelty to the respondent and obviously it caused immense mental anguish and agony to the respondent.

(12) The learned Additional District Judge has held that her queer and most outbursting as well as fitful conduct on the eve of engagement ceremony of the younger brother of the respondent crossed all the limits of decency and broke the harmony of matrimonial relations and peace of the house-hold and split into titters. The learned Additional District Judge has held that the appellant had created ugly scene by indulging in tantrums by not even attending the engagement ceremony. Except the father of the appellant who remained behind, everybody else including the appellant's mother left for the ceremony. Immediately thereafter within almost two minutes she had bolted herself inside the room and then went up to the balcony and threatened to kill herself by committing suicide by jumping from the

balcony. When her father tried to plead, she even abused him by using filthy language by calling him a 'dog' and 'bastard' and slapped him by saying that he had ruined her life by marrying her to the respondent.

(13) The learned Additional District Judge has come to the conclusion that the respondent has proved that the general conduct and behavior of the appellant towards his parents, brother and sisters was indifferent, insulting and volcanic. He also held that her persistent resistance to sexual intercourse and depriving the respondent of the normal pleasure of married life by staying away for long duration without " reasonable excuse totally proves the case as set up by the respondent. The appellant's almost schizophrenic and most reprehensible act in creating not only unpleasantness and abhorring situation by not joining the engagement ceremony and giving serious threatening of even committing suicide by jumping from the balcony on that occasion when a large number of relations of the respondent were present fully establishes and corroborates the case of respondent.

(14) The learned Additional District Judge on the basis of evidence on record came to the conclusion that the respondent was treated with extreme cruelty by the appellant, and accordingly was entitled to a decree of dissolution of marriage under Section 13(1) (ia) of the Hindu Marriage Act.

(15) The appellant aggrieved by the order of the learned Additional District Judge filed first appeal before this Court. The learned Single Judge of this Court had heard the counsel for the parties and also made efforts for reconciliation between the parties to save the marriage, particularly because both of them belonged to the medical profession. The learned Single Judge observed that in spite of efforts, nothing fruitful came after such reconciliation. The learned Single Judge has held that in view of the peculiar facts and circumstances of this case, it will not be in the interest of justice to reopen and reevaluate the evidence by this Court in absence of any perversity in the impugned order. The learned Single Judge has held that there was no reasonable or justifiable excuse for the appellant to deny normal matrimonial sex to the respondent. The appellant had not shown even the basic courtesy to her father-in-law, who was lying admitted in the nursing home.

According to the learned Single Judge her cumulative behavior clearly amounted to cruelty on the part of the appellant, and in these circumstances the learned Single Judge has held that there was no justification for him to interfere with the well reasoned order of the trial Court.

(16) In the celebrated English decision King 1952 (2) All ER 584 Lord Normand observed while defining cruelty as under:

'THE general rule in all questions of cruelty is that the whole matrimonial relationship must be considered, and that rule is of special value when the cruelty consists not of violent acts but of injurious reproaches, complaints, accusations or taunts. willful accusations may be made which are not true and for which there are no probable grounds and yet they may not amount to cruelty. To take an obvious example, they may have been provoked by the cruel conduct of the other spouse. There is in many cases no easy rule, no clear line of demarcation which divides cruelty from something which does not amount to cruelty.'

(17) The best guide for this class of case was a passage in the Judgment of Bucknill, J., in Horton v. Horton 1940 13 All E.R.380 which is as follows:

'MERE conduct which causes injury to health is not enough. If he marries a wife whose character develops in such a way as to make it impossible for him to live happily with her, I do not think that he establishes cruelty merely because he finds that life with her is impossible. He must prove that she has committed willful and unjustifiable acts inflicting pain and misery upon, her and causing injury to his health.'

(18) In King vs. King (supra).. It is observed that,

'THE general rule in all questions of cruelty in a matrimonial cause is that the whole of the relations between the husband and wife and all the relevant circumstances must be considered, and that rule is of special value when the cruelty consists, not of violent acts, but of injurious reproaches, complaints, accusations, or taunts.'

(19) In another case *McEwan Vs McEwan* 1964 108 Sol. 198 Ca, Denning held that:

'CRUELTY being a question of fact the circumstances of each case must be taken into consideration, including the physical and mental condition and the position in life of the parties. However, the conduct complained of must be serious and higher than the ordinary wear and tear of married life.'

(20) Rayden in his leading treatise on 'Divorce' mentioned as under;

'TO obtain a divorce on the ground of cruelty, it must be proved that one spouse in the marriage, however, mindless of the consequences, has been harmed in a way which the other spouse could not in the circumstances, be called to endure, and that misconduct has caused injury to health or a reasonable apprehension of such injury. There are two sides to be considered in a case of cruelty, from the petitioner's side ought this petitioner to be called on to endure the conduct, from the respondent's side, was this conduct excusable.'

(21) The question of cruelty in matrimonial relationship has been dealt in great detail in celebrated English case *Gollins vs. Gollins* (1964) A.C. 644. The House of Lords has in great, depth examined this issue. In this case, the question which arose for consideration of the House of Lords was nature of matrimonial cruelty. The court made the distinction between unequivocal and equivocal conduct and the court has laid down as under:-

'A distinction can be drawn between cases involving 'unequivocal' conduct, which is conduct which clearly constitutes cruelty, and those involving 'equivocal' conduct, conduct which may in certain circumstances amount to cruelty and in other circumstances not do so. The cruelty alleged here is plainly in the second category. There is no fundamental distinction between cruelty which gives rise to grounds for judicial separation and that which gives rise to grounds for divorce. The principles so far evolved from the authorities serve well enough in deciding cases in the first category, but there is no other guidance where the conduct complained of may be described as negative, or indirect, or not aimed at the other spouse or as unaggressive.'

(22) In another English case, *Evans vs. Evans* [1950] 2 All E.R.398, C.A., Sir William Scott (Lord Stowell), on the approach to be adopted in cases of cruelty observed:

'.... it is the duty of courts..... to keep[the definition of cruelty] extremely strict. The causes must be grave and weighty, and such as 'show an absolute impossibility that the duties of the married life can be discharged'.

(23) In *Westall v. Westall* (1949) 65 T.L.R.337 C.A., Denning, L.J.said:

'ALTHOUGH malignity is not an essential element of cruelty.....nevertheless intention is an element in this sense, that there must be conduct which is, in some way, aimed by one person at the other.' Reliance is placed on this further passage from Denning LJ.'s judgment'

'THE conduct of the habitual drunkard, the gambler, the criminal or the profligate may cause his wife to break down in health but it is not cruelty unless combined with some conduct which is aimed at her, as, for example, when her justifiable remonstrances provoke unjust resentment on his part directed at her.'

(24) In *Gollins vs. Gollins*, (supra) , while concluding the case, the court observed as under:-

(A)Whilst the courts should pay regard to changing social conditions, they should be alert not to open the door too wide, so that incompatibility of temperament and every defect of behavior comes to be regarded as grounds for relief under the guise of cruelty.

(B)Checks and brakes by way of enunciated principles are needed, such as that to constitute cruelty the conduct complained of must be grave and weighty and that not all matrimonial misconduct which results in injury to health amounts to cruelty.

(C)The criteria and principles to be applied by the courts should have some measure of uniformity so that there is some degree of probability in the law known to the public and those who have to advise them. One requirement should be that there must be actual or apprehended injury to health. In what has been described

as the equivocal area there ordinarily should be an actual intent to inflict pain.

THE court also tried to define cruelty as the court observed as under:-

'SPOUSES owe rights and duties each to the other and in their relationships they must act reasonably. In every case where cruelty exists it is possible to say that the spouse at fault has been unreasonable. The test of cruelty, therefore, should be breach of the duty to act reasonably, whether in omission or commission, causing injury to health. Such a test avoids imputing an intention where in fact none may exist. Further all such matters as foresight, desires, wishes, intentions, motives, perceptions, obtuseness, persistence and indifference would remain relevant but merely as matters of evidence bearing upon the requirement to act reasonably or as aggravation of the matters charged.

(25) In the said case, the court observed that while deciding such cases, one must have regard to the changes which have taken place in public opinion and in social policy. The court observed,

'SPOUSES owe each other a duty of conjugal kindness. If that duty is breached it is open to a tribunal to regard the conduct constituting the breach as unjustifiable. As to the objection that such a proposition runs counter to the old authorities, which lay stress on the fact that the spouses must put up with a good deal from one another in the interests of the sanctity of marriage, one must have regard to the changes which have taken place in public opinion and in social policy.'

(26) The public opinion and social policy change from time to time and while adjudicating matters of this nature, the present public opinion and social policy must be taken into consideration. The concept of marriage and divorce have undertaken a serious change both in England and in India. Some historical perspective may be relevant. In 1790, when Sir William Scott decided *Evans v. Evans*, the only way of contracting a marriage was by means of a religious ceremony; a marriage once contracted was not dissoluble by any judicial process.

(27) After the development of law and change in the public opinion, and perception of social policy, the policy of the law has been to relax the formalities and to make

it ' easier to dissolve a marriage. With the passage of time, dissolution of marriage became simpler both in England and in India.

(28) In another leading English case, Hall v. Hall [1962] 1 W.L.R. 1246 [1962] All E.R.518

'DANCKWERTSLJ. adopted for the purposes of a case of constructive desertion, the test now proposed for cases of cruelty. He said that the question was whether, this man's conduct to this wife had been of such a nature that she could not reasonably be expected to endure it further. Diplock L.J. said that for conduct to amount to constructive desertion it must be such that a reasonable spouse in the circumstances and the environment of the spouses could not be expected to continue to endure. Thus, in a cruelty case, if it can be shown that the conduct is such that no spouse could reasonably be expected to endure it, that conduct amounts to legal cruelty.'

(29) The court observed that it is very difficult to give comprehensive definition of 'cruelty'. Cruelty cases depend on an even wider variety of matters than negligence cases. The particular circumstances of the home, the temperaments and emotions of both the parties and their status and their way of life, their past relationship and almost every circumstance that attends the act of conduct complained of may all be relevant.

(30) Lord Tucker, in Jamieson v. Jamieson, [1952] A.C.525, observed:

'IT is in my view equally undesirable-if not impossible-by judicial pronouncement to create certain categories of acts or conduct as having or lacking the nature or quality which render them capable or incapable in all circumstances of amounting to cruelty in cases where no physical violence is averred.'

(31) thereforee, each case has to be adjudicated on its own circumstances. The social status of the parties, their educational, cultural and financial background, their perceptions may all be relevant while determining the question of cruelty in matrimonial life.

(32) If we revert to the facts of the present case, it is abundantly clear that general conduct and behavior of the appellant has been far from being normal. She has not permitted the respondent to have normal sexual relationship.

1965-2 All E R 456, it has been held that;

'THE fact that the wife could not control her psychological inhibition did not in law negative the fact that her conduct in consistently depriving the husband of normal sexual intercourse and the opportunity of becoming a father was unendurable and, as it seriously affected his health, constituted cruelty.'

(34) In Evans v. Evans 1965 All Er 789, husband was granted a decree on the ground of cruelty on the finding that the conduct of the wife in refusing to have inter- course was grave and weighty matter and did have an adverse effect on the husband's health and consequently amounted to cruelty.

(35) A Division Bench of this Court in Rita Nijhawan v. Balkishan Nijhawan : AIR1973 Delhi200 , had examined the similar issues and arrived at following conclusions;

'THUS the law is well settled that if either of the parties to a marriage being a healthy physical capacity refuses to have sexual intercourse the same would amount to cruelty entitling the other party to a decree. In our opinion it would not make any difference in law whether denial of sexual intercourse is the result of sexual weakness of the respondent disabling him from having a sexual union with the appellant, or it is because of any willful refusal by the respondent; this is because in either case the result is the same namely frustration and misery to the appellant due to denial of normal sexual life and hence cruelty.'

'MARRIAGE without sex is an anathema. Sex is the foundation of marriage and without a vigorous and harmonious sexual activity it would be impossible for any marriage to continue for long. It cannot be denied that the sexual activity in marriage has an extremely favourable influence on a ...woman's mind and body. The result being that if she does not get proper sexual satisfaction it will lead to depression and frustration. It has been said that the sexual relations when happy

and harmonious vivifies woman's brain, develops her character and trebles her vitality. It must be recognised that nothing is more fatal to marriage than disappointment in sexual intercourse.'

(36) The observations in this case are relevant to the facts of the present. thereforee, it would be appropriate to reproduce them as under:

'IN the present case we find that at no time has there been normal married life between the parties. The appellant has never accepted the situation of remaining married but without having normal sexual relations. She has throughout put up with this mental torture, hoping that things might improve but finding that things remain the same and a time had reached when she could not put up with it any longer without danger to her health both physical and mental. It appears to us that the appellant has tried over a number of years genuinely though under very difficult circumstances to make the success of marriage but as the sexual weakness of the respondent has persisted it has obviously caused great strain and frustration to her. We have already found that sexual weakness of the husband has persisted all these years. Once that finding is given to insist on both the parties living together would be nothing but sheer misery endangering the physical and mental health of the appellant.'

(37) In another case reported as Smt. Shakuntala Kumari vs. Om Prakash Ghai, Air 1981 Delhi, 53, this Court held as under:

'A normal and healthy sexual relationship is one of the basic ingredients of a happy and harmonious marriage. If this is not possible due to ill health on the part of one of the spouses, it may or may not amount to cruelty depending on the circumstances of the case. ' But willful denial of sexual relationship by a spouse when the other spouse is anxious for it would amount to mental cruelty, especially when the parties are young and newly married.'

(38) In another case, reported as Smt. Maya v. Brij Nath Air 1982 Delhi 240 while dealing with the concept of cruelty in the Hindu Marriage Act, the court observed as under:-

'CRUELTY has not been defined in the Act. But it is now well settled that the conduct should be grave and weighty so as to make cohabitation virtually unendurable.- It must be more serious than the ordinary wear and tear of marriage. The cumulative conduct taking into consideration the circumstances and the background of the parties has to be examined to reach a d conclusion whether the act amounts to cruelty. The petitioner in a petition has to prove that he was treated with cruelty. The burden of proving the cruelty lies on him.'

(39) In *Dastane v. Dastane*, : [1975]3SCR967 , Chandrachud, J. speaking for the Bench held,

'that where an allegation of cruelty is made, the inquiry has to be 'whether the conduct charged as cruelty is of such a character as to cause in the mind of the petitioner a reasonable apprehension that it will be harmful or injurious for him to live with the respondent.' The learned Judge held further' 'it is not necessary, as under the English law, that the cruelty must be of such a character as to cause 'danger' to life, limb or health or as to give rise to a reasonable apprehension of such a danger. Clearly, danger to life, limb or health or a reasonable apprehension of it is a higher requirement than a reasonable apprehension that it is harmful or injurious for one spouse to live with the other..... But under S.10(l)(b), harm or injury to health, reputation, the working career or the like, would be an important consideration in determining whether the conduct of the respondent amounts to cruelty. Plainly, what we must determine is not whether the petitioner has proved the charge of cruelty having regard to the principles of English law, but whether the petitioner proves that the respondent has treated him with such cruelty as to cause a reasonable apprehension in his mind that it will be harmful or injurious for him to live with the respondent.'

(40) Though comprehensive definition of cruelty is neither available in the decisions of the English courts and nor in the decisions of Indian courts. In various judgments, the courts have tried to define the 'matrimonial cruelty'. Lord Reid in *Gollins v. Gollins* 1964 Ac 644, attempted to define cruelty. The relevant portion is extracted hereinbelow.

'NO one has ever attempted to give a comprehensive definition of cruelty and I do not intend/try to do so. Much must depend on the knowledge and intention of the respondent on the nature of his (or her) conduct, and on the character and physical or mental weaknesses of the spouses, and probably no general statement is equally that the party seeking relief must show actual or probable injury to life, limb or health. It is easy to see that the origin of this requirement is the decision in the well known case of *Russel vs. Russel* 1897 AC 395

TO the same effect are the observations of Lord Pearce:

'IT is impossible to give a comprehensive definition of cruelty, but when reprehensible conduct or departure from normal standards of conjugal kindness causes injury to health or an apprehension of it, it is, I think, cruelty if a reasonable person, after taking due account of the temperament and all the other particular circumstances would consider that the conduct complained of is such that this spouse should not be called on to endure it.

(41) Justice K. Jagannatha Shetty of the Supreme Court, as he then was, while speaking for the Division Bench, in *Shobha Rani v. Madhukar Reddi* : [1988]1SCR1010 , observed as under:

'SECTION 13(1)(i-a) uses the words 'treated the petitioner with cruelty'. The word 'cruelty' has not been defined. Indeed it could not have been defined. It has been used in relation to human conduct or human behaviour. It is the conduct in relation to or in respect of matrimonial duties and obligations. It is a course of conduct of one which is adversely affecting the other. The cruelty may be mental or physical, intentional or unintentional. If it is physical the court will have no problem to determine it. It is a question of fact and degree. If it is mental, the problem presents difficulty. First the enquiry must begin as to the nature of the cruel treatment. Second, the impact of such treatment on the mind of the spouse. Whether it caused reasonable apprehension that it would be harmful or injurious to live with the other. Ultimately, it is a matter of inference to be drawn by taking into account the nature of the conduct and its effect on the complaining spouse. There may, however, be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect on the other

spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted.

It will be necessary to bear in mind that there has been marked change in the life around us. In matrimonial duties and responsibilities in particular, we find a sea change. They are of varying degrees from house to house or person to person. therefore, when a spouse makes 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 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. We, the judges and lawyers, therefore, should not import our own notions of life. We may not go in parallel with us and the parties. It would be better if we keep aside our customs and manners. It would be also better if we less depend upon precedents.'

(42) The Hon'ble Supreme Court in the case of V. Bhagat vs. Mrs. D. Bhagat, : AIR 1994 SC710 , has defined mental cruelty in the following manner:

'MENTAL cruelty in S.13(1)(ia) 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 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.'

(43) The observations of Lord Denning in *Sheldon v. Sheldon* (1966) 2 All Er 257 are as under:

'THE categories of cruelty are not closed.' 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 realm of cruelty.'

'THE conduct of the habitual drunkard, the gambler, the criminal or the profligate may cause his wife to break down in health but it is not cruelty unless combined with some conduct which is aimed at her, as, for example, when her justifiable remonstrances provoke unjust resentment on his part directed at her.'

(44) We have heard the learned counsel for the appellant at length. The learned counsel for the appellant failed to assail the findings of the learned Additional District Judge and later affirmed by the learned Single Judge regarding appellant's total indifference and disrespectful conduct and behavior towards the respondent and his relations and her attitude towards the normal matrimonial sexual relationship.

(45) The general indifferent behavior of the appellant with the respondent and his relations reached its pinnacle when she tried to jump from the balcony on the event of marriage in the family certainly amounted to the gravest act of cruelty. No infirmity or lacuna could be pointed out by the learned counsel in the finding of the trial court which were affirmed by the learned Single Judge of this Court.

(46) This is one of those unfortunate cases where every effort to save the marriage or in other words all efforts for reconciliations have miserably failed. When all the facts, circumstances and evidence on record are comprehensively taken into consideration then it is not possible to arrive at any other conclusion than the one taken by the learned Additional District Judge.

(47) In the present case, the learned Addl. District Judge has carefully scrutinized the allegations of the respondent and found substance in those allegations. Against that order, appeal was preferred to the learned Single Judge who has again looked into the allegations, heard learned counsel for the parties and even unsuccessfully made an attempt for reconciliation of the parties. In this view of the matter, the judgment of the learned Addl. District Judge, affirmed by learned Single Judge must be respected and treated as conclusive. We do not find any infirmity with the impugned judgment. The appeal being totally devoid of any merit is accordingly dismissed.

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