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Case Comment: Naveen Kohli vs Neelu Kohli

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INTRODUCTION

Section 13(1)(i)(a) of the HMA, 1955¹ was clarified and expanded upon in this decision. The court's decision examined and underlined the grounds for mental cruelty, as well as the circumstances that contribute to cruelty and the extent and form of cruel behavior. As the meaning and scope of cruelty, particularly mental cruelty, evolves over time, this case aids in a better understanding of it. Furthermore, it recognized the unique concept of the irreversible breakdown of the congeal bond as a basis for divorce.

FACTS

On November 20, 1975, the couple married lawfully. Their children were born out of wedlock. After a few years, their conjugal bond became increasingly strained. The husband stated that the wife's behavior was unkind and that the wife was having a love affair. The wife leveled similar claims. They began living separately as a result of their marital strife. Both parties brought more civil and criminal accusations and counter-accusation for failing to protect the

¹ Hindu Marriage Act, 1955, s 13 (1)(i)(a)

marriage bond's purity. Later, under Section 13(1)(i)(a) of the Hindu Marriage Act (HMA), 1955, the husband filed for divorce in the Family Court.

ISSUES OF CONSIDERATION

1. Whether wife's action caused cruelty to the appellant? What is its impact?
2. Whether the doctrine of irretrievable breakdown of the marital bond can be applied or not?
3. Whether the husband can obtain the decree of divorce and dissolve the marriage against the respondent?

ARGUMENTS BY THE PARTIES

- **Husband as appellant**

He accused the wife of fighting and misbehaving with him and his parents. And called her a bad-tempered and impolite woman. He alleged that the wife baselessly farmed numerous criminal and civil charges against him and was the reason behind his arrest. And, all this has caused mental and physical cruelty to him. Moreover, the husband contended that the wife's act of departure, false publication against him, suspending him from his company, efforts to toss him out from his apartment, and, added financial fights, etc. are cruel in nature. He also suspected that the wife is in relation with some concubine. Thus, he pleaded with the court for a decree of divorce under Section 13(1)(i)(a), HMA 1955.

- **Wife as respondent**

She accused the husband of cheating, hurt, intimidation, forgery, insult, cruelty, etc. She also charged the appellant's counsel and relatives with criminal intimidation. She also filed charges against the appellant with the Company Law Board and the Women's Cell. She accused her husband of being a Casanova, a criminal, a forger, alcoholic, and an immoral infidel. She also requested a property partition, blaming her husband for shattering the HUF family nucleus. In

addition, the wife sought support under Section 24 of the HMA, 1955². In addition, she refuted all of the husband's claims.

JUDGEMENT

Findings of Family Court, Kanpur

The court ruled that the husband was “mentally, physically and financially” drained by the acts of the wife. For instance, it noted that filing numerous complaints against the husband, initiating torturous proceedings, and framing baseless allegations were not viable. Moreover, the allegations filed by the husband lacked pieces of evidence too. All this makes the settlement between the spouses impossible. And thus, their marriage can be dissolved under Section 13, Hindu Marriage Act, 1955³. Finally, the Court allowed the wife to receive permanent maintenance from her husband of Rs. 5,00,000/-. The aggrieved party, here, the husband filed an appeal in the Allahabad High Court against this judgment.

Findings of Allahabad High Court

The HC found that the husband had an extra-marital affair with Shivangi. Thus, this “misconduct” of the husband becomes “un-condonable” as per Section 13(1)(a) of the HMA, 1955. Concludingly, the judgment of the Trial Court and the decree of divorce were put aside. Later, a Special Leave Petition was filed by the aggrieved husband in the SC.

Findings of the Supreme Court

Issue of cruelty in matrimonial matters –

The SC looked into Indian and English Law to inspect the matter of cruelty. To determine the sustainability of the appeal, the SC explained the definition of cruelty. It explained that cruelty refers to “the reasonable apprehension in the mind of the petitioner that it will be harmful or injurious for the petitioner to live with the other party”. It noted that there is no need for the aggrieved party to evidently demonstrate the apprehensive act of the witnessed cruelty. The

² Hindu Marriage Act, 1955, s 24

³ Hindu Marriage Act, 1955, s 13

SC summarized the descriptions given in the English Law and said that unjustified cruel act includes “willingness”, “intention”, and “reprehension” this cruel act must cause mental or physical harm or some apprehension of it.

The SC held that it becomes essential to review the “cumulative conduct” of the wife to judge if it was grave and substantial to cause unbearable and unreasonable suffering to the husband. Here, the husband cannot be reasonably expected to endure such an act. As per Section 13(1)(i)(a) of the HMA, 1955 and *Shoba Rani v Madhukar Reddi*⁴, the nature of the cruel act has importance, and the intention to do it is irrelevant. SC judges also separated the cruel act from normal wear and tear. Here, it was observed that minor fights, an argument with words, infuriation, etc. are no basis for unreasonable cruelty i.e., a cruel act must have some degree of severity in it.

The SC relied on *SirajmohmedkhanJanmohamadkhan v HarizunnisaYasinkhan*⁵ to identify the progressions of cruelty being something more than just physical violence. The act may be in the form of mistreatment, nonstandard conduct, termination of intercourse, desertion, indifferent behaviour, unchastity, serious accusations, etc. comes under cruelty. Additionally, it noted the factors affecting a marital bond, which include, responsibilities, economic situations, social status, duties, education level of the spouses, etc. as these factors may vary in each case, there is no fixed answer in the matter of marital cruelty. Hence, the SC held that the acts of the wife in the present case institute mental cruelty on the husband.

Irretrievable breakdown of marriage –

The SC mentioned several judgments including *Chandrakala Menon v Vipin Menon*⁶, *Sandhya Rani v Kalyanram Narayanan*⁷, *Parveen Mehta v Inderjit Mehta*⁸ and, *Kanchan Devi v Pramod Kumar Mittal*⁹. In these, the decree of divorce was granted as the spouses were not in the

⁴ *Shoba Rani v Madhukar Reddi* 1988 AIR 121

⁵ *Siraj Mohamed Khan Jan Mohamad Khan v Harizun Nisa Yasin Khan* 1981 AIR 1972

⁶ *Chandrakala Menon v Vipin Menon* [1993] 2 SCC 6

⁷ *Sandhya Rani v Kalyanram Narayanan* [1994] SCC 588

⁸ *Parveen Mehta v Inderjit Mehta* [2002] 5 SCC 70

⁹ *Kanchan Devi v Pramod Kumar Mittal* JT 1996 (5)

surroundings of one another for a large period of time. Additionally, it was concluded that it is better for the parties to resort to a peaceful and acceptable manner of divorce to finish the “insoluble mess” created by them. SC said that even though there exist no grounds in HMA for irretrievable breakdown of marriage, it is inevitable to have such relief for the dead marriages. Moreover, where the marriage gets deteriorated or becomes irreparable, this particular ground of divorce comes into the picture to rescue both society and the spouses. Finally, the SC held that as the parties were living separately for more than 10 years, the marriage of the couple has broken down irretrievably and cannot be restored now. **Concludingly**, The SC dissolved the marriage of the couple and set aside the HC’s judgement. It also instructed the husband to pay an additional Rs.20,00,000 for permanent maintenance.

CONCLUSION/ KEY TAKEAWAYS

- A verbal test of the victim is sufficient to highlight the presence of mental cruelty and there arises no need to demonstrate it through criminal standards.
- Cumulative unreasonable behavior has to be of high severity than ordinary wear and tear.
- Cruelty has no straightjacket definition as it depends upon the facts and factors of the case.
- If there is no chance of unification between the couple, the marriage is presumed to have broken down irretrievably.