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FAMILY LAW

WhatsApp Chats and the Weight of Matrimonial Evidence: Bombay High Court Restores the Wife’s Voice

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Introduction

The intersection of digital communication and matrimonial law has increasingly demanded judicial attention in contemporary India. As smartphones become ubiquitous and instant messaging platforms such as WhatsApp pervade daily life, courts across the country have been confronted with the question of what evidentiary value ought to be accorded to digital communications in proceedings as consequential as divorce. A judgment of the Division Bench of the Bombay High Court, in Supriya Gaurav Devare v. Gaurav Jitendra Patil[1] has brought this question into sharp focus, while simultaneously reaffirming a foundational principle of procedural justice: that no person may be condemned without being afforded a fair opportunity to be heard.

In setting aside an ex-parte decree of divorce granted by the Family Court at Nashik, the Bombay High Court, held that a decree of divorce cannot be sustained merely on the basis of WhatsApp chat messages, particularly when the party against whom such evidence is adduced has been denied any opportunity to rebut it. The judgment, though concise in its reasoning, carries significant implications for the manner in which family courts must approach digital evidence and the procedural safeguards owed to parties in matrimonial litigation.

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Factual Background

The Respondent-Husband, Gaurav Jitendra Patil, instituted divorce proceedings against the Appellant-Wife, Supriya Gaurav Devare (née Supriya Raosaheb Patil), by filing a petition before the Family Court at Nashik, registered as Petition No. A-185 of 2024. The petition was filed under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, which provides for the dissolution of marriage on the ground of cruelty. The Respondent-Husband alleged that the Appellant-Wife had subjected him to mental cruelty through the course of their matrimonial relationship.

The proceedings before the Family Court culminated in a Judgment and Order dated 27th May, 2025, by which the petition was allowed and a decree of divorce was granted in favour of the Respondent-Husband. Crucially, however, this order was passed ex-parte, meaning that it was made in the absence of the Appellant-Wife, who had not been afforded a hearing and had not been given an opportunity to lead evidence in her own defence. The entire finding of cruelty against the Appellant-Wife was founded solely upon WhatsApp chats and SMS messages exchanged between the parties, which had been placed on record by the Respondent-Husband without any adversarial testing of their contents by the other side.

The Family Court's Findings on Cruelty

The Family Court's reasoning, as extracted and reproduced in the High Court's order, rested substantially on the contents of the digital communications between the parties. According to the Family Court, the WhatsApp chat and SMS exchanges clearly evidenced the Appellant-Wife's persistent insistence that the couple relocate from Nashik to Pune, notwithstanding the fact that the matrimonial home was situated in Nashik. The Family Court further noted that certain messages sent by the Appellant-Wife contained derogatory references to the Respondent-Husband's sister and mother-in-law, which it characterised as constituting mental cruelty.

The Family Court's observation that a wife who tells her husband whether his sister would "role play as his wife" amounts to serious mental cruelty upon the husband formed a central plank of its findings. Equally, the learned Judge found that a wife who, despite knowing the location of the matrimonial home, employs derogatory language to pressure her husband into relocating to another city while abandoning his parents, commits an act of mental cruelty. The Family Court concluded that the Appellant-Wife had resorted to pressure tactics, emotional blackmail, and intemperate language against both the husband and his family members, thereby establishing the ground of cruelty under the Hindu Marriage Act, 1955. On the basis of these findings, drawn exclusively from the unchallenged testimony of the Petitioner-Husband supported by the said digital messages, the decree of divorce was granted.

The Appeal Before the Bombay High Court

Aggrieved by the ex-parte divorce decree, the Appellant-Wife preferred Family Court Appeal No. 70 of 2025 before the Bombay High Court, accompanied by Interim Application No. 9533 of 2025. Before the Division Bench, the learned counsel for the Appellant, raised the fundamental objection that the impugned order had been passed ex-parte and that the Appellant had not been afforded any opportunity to rebut the evidence relied upon by the Family Court. Counsel emphasised that the sole evidentiary basis for the finding of cruelty was the WhatsApp chat and SMS correspondence, evidence which the Appellant had no occasion to contest, cross-examine upon, or counter with evidence of her own.

The learned counsel for the Respondent-Husband, in a notable concession to the spirit of reconciliation, suggested that the parties be at liberty to explore the possibility of settlement through mediation. No elaborate submissions appear to have been advanced on behalf of the Respondent in defence of the impugned decree, which, in itself, is indicative of the procedurally untenable position in which the ex-parte order stood.

Issues Considered by the High Court

The Division Bench was called upon to adjudicate upon two interconnected issues of considerable legal significance. The first was whether the Family Court had acted lawfully and in consonance with the principles of natural justice in passing an ex-parte decree of divorce without affording the Appellant-Wife any opportunity to be heard, to cross-examine the evidence placed by the Respondent-Husband on record, or to lead evidence in rebuttal. The second, and equally important, issue was whether WhatsApp chat messages and SMS correspondence standing alone, uncorroborated by any independent evidence, and untested by the adverse party could constitute sufficient proof of cruelty within the meaning of Section 13(1) (i-a) of the Hindu Marriage Act, 1955 so as to sustain a decree of divorce.

The High Court's Analysis and Reasoning

The Division Bench, upon a careful perusal of the findings recorded by the Family Court, concluded that the impugned judgment and decree was unsustainable on both counts. On the question of procedural fairness, the Court found it manifest that the Appellant-Wife had been wholly denied the opportunity to rebut the digital evidence adduced by the Respondent-Husband. In matrimonial proceedings of such grave consequence where the result is the irreversible dissolution of a marriage the requirement that both parties be afforded a meaningful opportunity to present their case and to challenge the evidence marshalled against them is not a mere procedural formality; it is a precondition to the exercise of judicial power. An ex-parte decree of divorce, pronounced without the defendant spouse ever having had the chance to contest the allegations made against her, offends the most basic tenets of audi alteram partem the rule that both sides must be heard before a binding determination is made.

On the evidentiary question, the High Court's holding was equally emphatic. The Court observed that merely relying on WhatsApp chat messages is insufficient to ground a decree of divorce, as cruelty must be proved by way of leading proper evidence through a fair and adversarial trial process. Digital messages exchanged between spouses, while potentially relevant and admissible as evidence, cannot by themselves and certainly not without any opportunity for cross-examination or rebuttal be treated as conclusive proof of cruelty. The weight and probative value of such communications can only be properly assessed within a framework that permits the opposing party to challenge their authenticity, context, completeness, and interpretation. The Family Court's reliance on WhatsApp chats as the singular, self-sufficient basis for its finding of cruelty, in proceedings from which the Appellant-Wife was entirely excluded, was therefore held to be legally untenable.

It is significant that the High Court did not pronounce upon the merits of the case or express any view on whether the conduct of the Appellant-Wife, as reflected in the WhatsApp messages, would or would not constitute cruelty upon a full hearing of the

matter. The Court's intervention was confined to the procedural plane, and rightly so. The proper forum for the assessment of the substantive allegations is the Family Court itself, and only after both parties have been given a fair and complete opportunity to lead evidence and test each other's case.

The Final Order

By its order dated 27th February, 2026, the Division Bench of the Bombay High Court set aside the Judgment and Order dated 27th May, 2025 passed by the Family Court, Nashik in Petition No. A-185 of 2024. The matter was remanded to the Family Court for fresh adjudication on all the issues raised in the petition, with express directions that the Appellant-Wife be afforded the opportunity to be heard and the liberty to lead evidence in her defence. The Court further noted the Respondent's counsel's suggestion and directed that the parties were at liberty, in the meantime, to explore the possibility of settlement through mediation. The Family Court Appeal, along with the pending Interim Application, stood disposed of accordingly.

Significance and Broader Implications

The decision in Supriya Gaurav Devare v. Gaurav Jitendra Patil, though brief in its articulation, carries important lessons for the practice of family law in India. First, it highlights the critical importance of the right to a fair hearing in matrimonial proceedings. The dissolution of a marriage is among the most consequential orders that a court can pass, and the procedural safeguards that attend such proceedings must be scrupulously observed. Courts exercising family jurisdiction must be particularly vigilant to ensure that proceedings are not allowed to run ex-parte in a casual or routine manner, and that every reasonable effort is made to ensure the presence and participation of both parties before a final decree is passed.

Second, the judgment is a timely cautionary note on the evidentiary use of digital communications in matrimonial cases. In an era where spouses communicate extensively over messaging platforms, there is a natural tendency to treat screen-shots of chats as self-evident proof of the state of a relationship. The High Court's holding resists this tendency and insists that proof of cruelty must emerge from a proper evidentiary process. WhatsApp messages, like any other piece of evidence, must be tested, contextualized, and weighed against all available material before they can form the basis of a judicial finding with life-altering consequences. The authenticity, continuity, and context of digital communications are all matters open to legitimate challenge, and a court that bypasses these questions by acting ex-parte risks inflicting grave injustice.

Third, the direction to explore mediation reflects the broader philosophy of the family justice system in India, which views adjudication as a remedy of last resort in matrimonial disputes and prioritises the possibility of reconciliation or consensual resolution wherever feasible. Even as the Court set aside the decree and restored the litigation, it left open the door for the parties to find a mutually acceptable resolution through a less adversarial process.

Conclusion

The Bombay High Court's order in Supriya Gaurav Devare v. Gaurav Jitendra Patil is a salutary reminder that the imperatives of natural justice are not to be sacrificed at the altar of expediency, and that the solemnity of matrimonial proceedings demands the highest standard of procedural fairness. A divorce decree passed ex-parte, founded upon WhatsApp chats that the respondent spouse never had the opportunity to contest, cannot withstand judicial scrutiny. By setting aside the impugned decree and remanding the matter for a fresh and complete hearing, the Division Bench has done justice to the Appellant-Wife in the instant case and has also reaffirmed the enduring principle that the legitimacy of judicial outcomes depends ultimately upon the integrity of the process by which they are reached.

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