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IN THE HIGH COURT OF ORISSA AT CUTTACK

MATA No. 315 of 2023

AND

MATA No. 316 of 2023

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....

Appellant

Mr. A.P. Bose,
Advocate

-versus-

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....

Opposite Parties

Mr. Bibekananda Bhuyan,
Senior Advocate
along with Mr. S.S. Bhuyan,
Advocate

CORAM:

THE HON'BLE MR. JUSTICE B. P. ROUTRAY

THE HON'BLE MR. JUSTICE CHITTARANJAN DASH

Date of Judgment: 19.03.2025

Chittaranjan Dash, J.:

1. By means of this appeal, the Appellant has challenged the joint judgment dated 07.08.2023 passed by the learned Judge, Family Court, Cuttack, granting the dissolution of marriage subject to payment of Rs.63,00,000/- towards permanent alimony in C.P. No. 153/2009, filed by the Respondent, and consequently,



dismissing the petition for restitution of conjugal rights in C.P. No. 531/2009.

2. The background facts of the case are that, the marriage between the Appellant and the Respondent was solemnised on 11.05.2003, in Cuttack. After the marriage, they resided in their matrimonial house in Haripur, Jagatsinghpur, and subsequently resided in Bhubaneswar, Bangalore, USA, Japan, etc. Their marriage soon became strained, with the Respondent alleging that the Appellant pressured him to sever ties with his parents, demanded financial control by insisting on being the sole nominee in his insurance policies, and frequently engaged in quarrels. On the other hand, the Appellant accused the Respondent of emotional neglect, financial control, and isolation, stating that he restricted her access to money and humiliated her in front of others

After facing continuous marital discord, the Respondent filed for divorce under Section 13 of the Hindu Marriage Act in C.P. No. 153/2009, seeking dissolution of marriage on the grounds of cruelty, where he alleged that the Appellant's conduct had made it impossible for him to continue the marriage. His primary grievances included constant quarrels, financial control, and the forced eviction of his elderly parents from their home by the Appellant and local goons. In response to the divorce petition, the Appellant contested the allegations and sought to prevent the dissolution of the marriage. To counter the Respondent's claim, she subsequently filed C.P. No. 531/2009 under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights. She denied all allegations and claimed that the Respondent abandoned her without justifiable cause and that she had always been willing to reconcile



and resume cohabitation, but the Respondent refused to continue the marriage by being influenced by his parents. She contended that her marital rights had been unfairly denied.

3. The learned Judge, Family Court, Cuttack, delivered a consolidated judgment, addressing both cases together. The Court granted the prayer for divorce in C.P. No. 153/2009, holding that the Appellant's conduct amounted to mental cruelty under Section 13(1)(i-a) of the Hindu Marriage Act. It also observed that her persistent behaviour of quarrelling, financial control, and acts of intimidation against the parents of the Respondent, when she, along with local goons, forcibly ousted the Respondent's elderly parents, deeming it a significant act of cruelty. Consequently, since the marriage was legally dissolved, the Court dismissed the Appellant's prayer for restitution of conjugal rights, in C.P. No. 531/2009.

4. Mr. A.P. Bose, learned counsel appearing on behalf of the Appellant, submits that the impugned judgment dated 07.08.2023, passed by the Family Court, Cuttack, is erroneous, legally unsustainable, and liable to be set aside. He contends that the dispute arose not from any cruelty inflicted by her but due to the Respondent's deliberate desertion and abandonment of the marital relationship. Her bona fide intention to resume cohabitation was clearly demonstrated by filing C.P. No. 531/2009 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. Mr. Bose argues that the Family Court misinterpreted the concept of mental cruelty, wrongly equating marital disputes, financial disagreements, and conflicts with in-laws with cruelty under Section 13(1)(ia) of the Hindu Marriage Act. The allegation that she forcibly ousted the Respondent's parents is baseless and



unsupported by independent evidence, with the court relying only on the Respondent's family's testimonies. Additionally, the multiple legal cases filed by her were a legitimate exercise of her legal rights and cannot be construed as cruelty or harassment. It is further contended that the Family Court proceeded with the divorce decree despite ongoing mediation efforts before the Hon'ble High Court of Orissa and the Hon'ble Supreme Court of India. Instead of awaiting the outcome, the court adjudicated the matter prematurely, causing serious prejudice.

Mr. Bose highlighted another error in presuming that the marriage was irretrievably broken, despite this not being a statutory ground for divorce. According to Mr. Bose, the Court overlooked documentary evidence such as emails, flight tickets, and communication records that demonstrated her attempts to maintain the marital bond, and the learned Court, without providing sufficient opportunities for reconciliation, wrongly concluded that cohabitation was impossible. Mr. Bose asserts that with respect to financial relief, the Court's award of ₹63,00,000/- as permanent alimony is grossly inadequate considering the Respondent's substantial income and assets. Despite multiple I.A. filed for enhanced financial support, the court failed to properly adjudicate these claims. Mr. Bose finally concludes his argument stating that the judgment is based on conjecture and surmises, wrongly assuming that the Appellant was unwilling to cooperate in the marriage and for these reasons, the Appellant prays that this Hon'ble Court set aside the impugned judgment of the learned Family Court, Cuttack, and allow her appeal in restoring her matrimonial rights.



5. Mr. B. Bhuyan, the learned Senior Advocate, on the other hand, submits that the present appeal filed by the Appellant-Wife is devoid of merit and is merely an attempt to prolong the litigation and harass him despite the Family Court's well-reasoned decision granting him a decree of divorce in C.P. No. 153/2009. He further submits that the Appellant's claims of false abandonment and willingness to cohabit were rightly rejected, as her conduct was found to be inconsistent with a spouse seeking restitution of conjugal rights. Mr. Bhuyan highlights that the Appellant systematically harassed the Respondent and his family by filing multiple false cases, including over 45 FIRs against him and his family members. The Respondent, who resided abroad for employment, has been forced to defend himself in multiple jurisdictions and has been subjected to continuous harassment at the hands of the Appellant. Mr. Bhuyan asserts that the repeated abuse of legal processes was solely intended to create mental distress for the Respondent and to prevent him from leading a peaceful life. This pattern of malicious litigation further reinforces the cruelty inflicted upon the Respondent, justifying the dissolution of the marriage.

He further argues that the Appellant's deliberate acts of financial manipulation and suppression of facts played a significant role in the dispute. She was awarded interim maintenance in 2017, yet she intentionally withheld this information from the Court while filing additional maintenance claims under Section 24 of the Hindu Marriage Act. The most egregious act of cruelty on the part of the Appellant was her forcible ousting of the Respondent's elderly parents from their home in Hariharpur, Jagatsinghpur, by bringing



local goons to threaten them, which was witnessed by the neighbours vide their sworn testimonies.

Mr. Bhuyan further submits that the appeal lacks any substantial legal ground, as the Appellant has failed to point out any fundamental error in the Family Court's judgment. The findings of the Family Court are based on well-documented evidence, including the Respondent's consistent pleadings, witness testimonies, and legal precedents supporting his claim of cruelty. The Appellant's attempt to challenge the divorce decree is nothing but a desperate measure to prolong the litigation and continue exerting control over the Respondent's life. The Respondent, who has dutifully complied with all Court procedures, has been forced to return to India repeatedly to address these matters, which has caused undue hardship in both his personal and professional life, and subsequently led him to resign from his job last year. Mr. Bhuyan finally concludes his argument, stating that in light of the overwhelming evidence of cruelty, misuse of legal processes, and clear findings of the Family Court, the present appeal deserves to be dismissed.

6. The main grounds for challenging the impugned judgment dissolving the marriage between the Appellant and the Respondent are as follows, that –

- a) The learned trial Court considered the filing of multiple cases by the wife as an act of cruelty, failing to recognise that seeking legal remedies and challenging orders are legitimate rights and cannot be equated with mental cruelty.



- b) The trial Court proceeded with the divorce decree despite being informed that mediation was pending before both the Hon'ble High Court vide CRLMC No. 2174 of 2021 and the Hon'ble Supreme Court vide SLP (CRL) No. 6956/23. It should have adjourned the proceedings and awaited the mediation outcome instead of prematurely dissolving the marriage.
- c) The judgment proceeded on the assumption that the parties could not live together, without any substantive proof that reconciliation was impossible. No concrete evidence was provided to show that the wife had inflicted mental cruelty on the husband.
- d) The Court based the judgment on conjectures and surmises rather than evidence in concluding that the wife was not interested in returning to the husband's company. The Court ignored the fact that the wife had already filed a case for restitution of conjugal rights (C.P. No. 531/2009), which itself proves her intention to continue the marriage. Granting divorce on the ground that she was unwilling to cooperate was contrary to the facts on record.

7. Having regard to the abovementioned grounds, the learned Family Court, Cuttack, found that the filing of multiple legal cases, including over 45 FIRs, was not merely an exercise of legal rights but a deliberate attempt to harass and intimidate the Respondent and his family. It was held that while seeking legal remedies is a legitimate right, the misuse of legal processes to pressurise a spouse constitutes cruelty, justifying the dissolution of the marriage.



Regarding the presumption that the parties could not live together, the Court did not make this assumption arbitrarily but based its conclusion on clear findings that reconciliation was neither practical nor desirable, given the history of disputes, legal battles, and separation. Furthermore, the Court held that the Appellant's filing of a restitution of conjugal rights petition (C.P. No. 531/2009) was contradicted by her actions, including filing multiple cases against the Respondent and allegedly ousting his elderly parents from their home. The Court reasoned that a mere formal request for restitution could not override overwhelming evidence demonstrating the impossibility of cohabitation. Accordingly, the Family Court granted the Respondent-Husband a decree of divorce in C.P. No. 153/2009 and dismissed the Appellant-Wife's petition for restitution of conjugal rights in C.P. No. 531/2009, concluding that the marriage was beyond repair and that forcing the parties to continue cohabitation would be unjust.

It is true that the Court below did not address the order of mediation pending before the Hon'ble High Court and the Hon'ble Supreme Court. However, since the parties had remained estranged for an extended period, and the Respondent having clearly refused to cohabit due to emotional distress, the Court found no justification to delay the proceedings further.

8. Having regard to the grounds raised by the Appellant-Wife in challenging the impugned judgment, as well as the Family Court's findings, we find it imperative to examine the overall circumstances of the case.



9. The Hon'ble Supreme Court, in the case of *K. Srinivas Rao vs. D.A. Deepa* reported in [2013] 2 S.C.R. 126, has observed that –

15. In Naveen Kohli¹, the wife had filed several complaints and cases against the husband. This Court viewed her conduct as a conduct causing mental cruelty and observed that the finding of the High Court that these proceedings could not be taken to be such which may warrant annulment of marriage is wholly unsustainable.

16. Thus, to the instances illustrative of mental cruelty noted in Samar Ghosh², 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.

10. The first contention raised by the Appellant is that the filing of multiple cases cannot amount to mental cruelty as it is her legitimate right to seek legal remedies. However, while the mere filing of cases may not always constitute cruelty, when the legal process is abused to cause constant harassment and mental agony, it crosses into the realm of mental cruelty. In the said case, where the wife had filed several complaints and cases against the husband, the Court held that the filing of repeated false complaints and cases, in the facts of the case, amounted to causing mental cruelty. In the instant case, where the Appellant has filed over 45 FIRs along with numerous civil and criminal proceedings against the Respondent

¹ (2006) 4 SCC 558

² (2007) 4 SCC 511



and his family, the same principle applies here too. Such a high volume of cases reflects a pattern of vexatious litigation rather than a genuine pursuit of justice. The frequency and nature of these cases go beyond a reasonable exercise of legal rights and instead demonstrate a calculated effort to exert pressure and inflict mental agony upon the Respondent. Therefore, the contention that multiple cases alone cannot amount to mental cruelty fails when viewed against the sheer extent of litigation initiated by the Appellant and the prolonged harassment faced by the Respondent and his family.

11. Furthermore, the Respondent-Husband has submitted a copy of his resignation email from 30th August, 2024, wherein he explicitly cited his wife's repeated interruptions in his day-to-day work life at TCS, as the sole reason for his resignation. In the email, he conveyed that the Appellant's persistent attempts to contact him at his workplace not only disrupted his professional responsibilities but also created an uncomfortable environment for his colleagues and staff members. The Respondent stated that the situation had become untenable, as the Appellant's behaviour caused undue stress and embarrassment, making it impossible for him to continue working. Consequently, he felt compelled to resign from his employment, further reflecting the profound impact of the Appellant's conduct on his personal and professional life. This resignation serves as crucial evidence of the sustained harassment faced by the Respondent, extending beyond the confines of the matrimonial relationship and into his career and livelihood.

12. Another ground of challenge raised by the Appellant is that the Court presumed the impossibility of cohabitation without



substantive proof. In *G.V.N. Kameswara Rao vs. G. Jabilli*, reported in [2002] 1 S.C.R. 153 the Hon'ble Supreme Court has held that –

“Under Section 13(1) (ia) of the Hindu Marriage Act, on a petition presented either by the husband or wife, the marriage could be dissolved by a decree of divorce on the ground that the other party has, after the solemnization of the marriage, treated the petitioner with cruelty. ‘Cruelty’ is not defined in the Act. Some of the provisions of the Hindu Marriage Act were amended by Hindu Marriage Laws (Amendment) Act, 1976. Prior to the amendment, ‘cruelty’ was one of the grounds for judicial separation under Section 10 of the Act. Under that Section, “cruelty” was given an extended meaning by using an adjectival phrase, viz. “as to cause reasonable apprehension in the mind of the petitioner that it will be harmful or injurious for the petitioner to live with the other party.”

13. In the instant case, the case record reveals several instances of physical violence and abusive behaviour inflicted upon the Respondent and his family, which squarely meet this threshold of cruelty.

The first instance to take note of is with regard to the abusive nature of the Appellant. According to the parents of the Respondent, the Appellant, from the very early days of the marriage, has been abusive towards their family, both verbally and physically. In their sworn testimonies, they deposed that soon after the marriage, the Appellant hurled abusive words at them, consistently referring to them as “bastard,” “chhoto loko,” and “bhikari”. The Appellant even assaulted the Respondent with a Lohakhadika (an iron pot). Upon the advice of family elders, the



Respondent relocated to Bhubaneswar with the Appellant, hoping to resolve matters. However, the violent behaviour continued, resulting in facial injuries to the Respondent. The deposition of Narayan Sahoo (P.W.3), a neighbour in Bhubaneswar, corroborates the occurrence of this assault and the resulting nose and facial injuries.

The second incident occurred on 26.11.2006 while the Respondent was posted in Dallas, Texas, and living with the Appellant. On that night, the Appellant allegedly quarrelled with the Respondent and struck him with a speaker of their music system, causing a scalp laceration. The Respondent's medical records from Parkland Health & Hospital System vide Ext. 5 confirm that he was admitted to the emergency ward for his injuries, which required sutures before being discharged.

The third incident that stands out is the alleged forcible ousting of the Respondent's elderly parents from their home in Jagatsinghpur. As per the testimony of the Respondent's mother, on 11.12.2008, at about 8:00 p.m., the Appellant arrived at their village along with her parents and some antisocial elements, demanding the whereabouts of the Respondent. She screamed at the Respondent's mother, saying – *“Mo swami ku de, nochet tote murder karidebi.”* (Give me my husband, or I will kill you.) The Appellant then grabbed the mother by her neck and attempted to choke her. The Respondent's father, arriving at the scene, tried to rescue his wife but was confronted by the Appellant and her accomplices. The Appellant allegedly threatened him, saying – *“Mo bapa chief engineer, tote sesa karibi.”* (My father is a chief engineer; I will



finish you off.) The Respondent's father fled to the local Matha, where some neighbours gathered and rescued both parents from the Appellant's aggression.

Another incident took place on 11.11.2009, when the Appellant returned to the Respondent's parents' house with her sister. Despite being welcomed by them, the Appellant allegedly began verbally abusing and physically assaulting them with fists and kicks, demanding to know the Respondent's whereabouts. Matters escalated further on 13.11.2009, when the Appellant locked the elderly parents out of the house, forcing them to spend the night at the Matha and later seek shelter at their daughter's house. Subsequently, the Respondent's mother filed D.V. Misc Case No. 110/09 before the S.D.J.M., Jagatsinghpur, resulting in a protection order and police intervention to restore their residence.

14. These allegations were not made in isolation. The testimonies of the neighbours and independent witnesses corroborated these events, providing independent evidence of the Appellant's violent and threatening behaviour. The pattern of conduct established through these incidents and the prolonged separation between the parties makes reconciliation impossible. Additionally, the Appellant's inability to answer straightforward questions regarding the residence of the Respondent's parents in the double-storied matrimonial home further substantiates the prolonged estrangement and her lack of connection with the Respondent's family.

15. Furthermore, the Appellant's conduct, as evidenced by incidents reported to authorities in Thailand and India, further



substantiates the claim of mental cruelty inflicted upon the Respondent. The Daily Report of The Royal Thai Police in Bangkok, Thailand, dated 11.05.2016, reveals that the Appellant disturbed the Respondent at his workplace at Sino-Thai Company and threatened to commit suicide if he refused to meet her. The report, acknowledged and recorded by the Inquiry Officer of Thong Lo Police Station, serves as official documentation of the Appellant's extreme and coercive behaviour, intended to emotionally manipulate and mentally distress the Respondent.

Additionally, the incident on 22.06.2016 at N.S.C.B.I. Airport, Kolkata, as evidenced by the written complaint filed by the Respondent on 24.06.2016 with the Officer-in-Charge of N.S.C.B.I. Airport P.S., further corroborates the Appellant's persistent pattern of harassment. The complaint details that while the Respondent was about to board a flight from Kolkata to Bhubaneswar to attend a hearing for C.P. No. 153/2009, the Appellant heckled him, obstructed his path, switched off his mobile phone, and threatened his life as well as his family's if he proceeded to attend the Court hearing.

16. It has to be noted that marriage is a partnership where both individuals are expected to nurture the bond with compassion and patience, even in times of disagreement or hardship. However, when one partner resorts to repeated threats of self-harm or violence, the very foundation of this sacred bond is shattered, giving rise to a climate of fear and emotional torment. While an attempt to commit suicide is an act of desperation, a repeated threat



to do so is a calculated act of manipulation, often deployed to exert psychological control over the other spouse.

17. The Hon'ble Supreme Court, in cases such as in *V. Bhagat vs. D. Bhagat*, reported in (1994) 1 SCC 337, has observed that persistent mental stress, caused by threats and coercion, may amount to mental cruelty, justifying the dissolution of marriage, held –

“15. If so, the question arises what kind of cruel treatment does clause (i-a) contemplate? In particular, what is the kind of mental cruelty that is required to be established? While answering these questions, it must be kept in mind that the cruelty mentioned in clause (i-a) is a ground now for divorce as well as for judicial separation under Section 10. Another circumstance to be kept in mind is that even where the marriage has irretrievably broken down, the Act, even after the 1976 (Amendment) Act, does not permit dissolution of marriage on that ground. This circumstance may have to be kept in mind while ascertaining the type of cruelty contemplated by Section 13(1)(i-a).

16. Mental cruelty in Section 13(1)(i-a) 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 expected to live together. The situation must be such that the wronged party 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.”

The Hon’ble Supreme Court has made further observations in *K. Srinivas Rao (Supra)* that –

“26. We are also satisfied that this marriage has irretrievably broken down. Irretrievable breakdown of marriage is not a ground for divorce under the Hindu Marriage Act, 1955. But, where marriage is beyond repair on account of bitterness created by the acts of the husband or the wife or of both, the Courts have always taken irretrievable breakdown of marriage as a very weighty circumstance amongst others necessitating severance of marital tie. A marriage which is dead for all purposes cannot be revived by the Court’s verdict, if the parties are not willing. This is because marriage involves human sentiments and emotions and if they are dried-up there is hardly any chance of their springing back to life on account of artificial reunion created by *the* Court’s decree.

27. In *V. Bhagat* this Court noted that divorce petition was pending for eight years and a good part of the lives of both the parties had been consumed in litigation, yet the end was not in sight. The facts were such that there was no question of reunion, the marriage having irretrievably broken down. While dissolving the marriage on the ground of mental cruelty this Court observed that irretrievable breakdown of marriage is not a ground by itself, but, while scrutinizing the evidence on record to determine whether the grounds alleged are made out and in determining the relief to be granted the said circumstance can certainly be borne in mind. In *Naveen Kohli*, where husband and wife had been



living separately for more than 10 years and a large number of criminal proceedings had been initiated by the wife against the husband, this Court observed that the marriage had been wrecked beyond the hope of salvage and public interest and interest of all concerned lies in the recognition of the fact and to declare *defunct de jure* what is already *defunct de facto*. It is important to note that in this case this Court made a recommendation to the Union of India that the Hindu Marriage Act, 1955 be amended to incorporate irretrievable breakdown of marriage as a ground for the grant of divorce.

18. Repeated threats to commit suicide, or worse, to harm the spouse and their family members, transcend mere emotional outbursts, they represent a gross misuse of emotional vulnerability and a blatant form of psychological warfare. The effect of such behaviour is not just confined to the four walls of the matrimonial home but leaves a lasting scar on the mental health and emotional stability of the aggrieved spouse. When coupled with physical aggression and public humiliation, as seen in the present case, the cumulative effect is devastating, irreparably corroding the marital bond. Furthermore, such acts cannot be brushed aside as isolated emotional expressions. In a relationship as intimate as marriage, repeated threats become tools of coercion, forcing the other spouse to remain trapped in a state of perpetual anxiety and emotional paralysis.

This Court is of the considered opinion that the repeated threat of suicide or violence is not merely misconduct; it is an insidious form of emotional blackmail and psychological oppression. Such conduct crosses the boundaries of personal conflict and touches upon the very core of harassment, making it



impossible for the aggrieved spouse to continue leading a peaceful and dignified marital life.

19. It further appears from the impugned judgment that the trial Court has duly considered the aspect of financial control exerted by the Appellant and her family, particularly during the period when the Respondent was out of the country for work. The Court took note of the fact that, in the absence of the Respondent, the father of the Appellant took over possession of the matrimonial house and let it out on rent without the Respondent's consent, depriving him of his rightful access to his property. Furthermore, the Appellant's repeated insistence on living separately from the Respondent's parents and her demand that the nomination for the Respondent's LIC insurance policy be changed in her favour, replacing the Respondent's mother, demonstrated her intent to sever the Respondent's ties with his family and gain financial control over his assets. The trial Court also placed weight on the incident where the Appellant allegedly ousted the Respondent's elderly parents from their home, an act that not only caused emotional distress but also further underscored the Appellant's desire to exercise dominion over the matrimonial property and alienate the Respondent from his family.

20. In light of the above discussions, it is evident that while the Appellant claims that the Family Court overlooked her willingness to reconcile, as demonstrated by her filing of C.P. No. 531/2009 for restitution of conjugal rights, the totality of her actions paints a contradictory picture. The Family Court carefully evaluated the evidence and rightly found that the Appellant's conduct was



inconsistent with a genuine intention to preserve the marriage. Filing for restitution of conjugal rights while simultaneously engaging in acts of legal harassment, financial exploitation, and emotional distress against the Respondent cannot be reconciled as efforts to restore the marital relationship. Rather, the restitution petition appeared to be a strategic countermeasure to resist the divorce proceedings. The Court correctly observed that the Appellant's actions pushed the Respondent to a point where continuing the marriage would be unjust and emotionally damaging, thereby warranting its dissolution.

Additionally, the Appellant's challenge to the ₹63,00,000/- awarded as permanent alimony was carefully considered. The Family Court, after a thorough assessment of the Respondent's financial standing, liabilities, and the standard of living enjoyed by the parties during the marriage, concluded that the awarded sum struck a delicate balance. It aimed to ensure that the Appellant received adequate support for her future needs while ensuring that the burden on the Respondent remained proportionate and fair. The Appellant's claim of inadequacy does not stand in light of the Court's reasoned approach in ensuring equitable financial relief.

21. The Apex Court, in the matter of *Samar Ghosh vs. Jaya Ghosh*, reported in [2007] 4 S.C.R. 428, has detailed an elucidative guideline to anchor the understanding of "mental cruelty"

"101. No uniform standard can ever be laid down for guidance, yet we deem it appropriate to enumerate some instances of human behaviour which may be relevant in dealing with the cases of 'mental cruelty'. The instances indicated in the succeeding paragraphs are only illustrative and not exhaustive.



(i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.

(ii) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party.

(iii) Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable

(iv) Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of other for a long time may lead to mental cruelty.

(v) A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse.

(vi) Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty.

(vii) Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty.

(viii) The conduct must be much more than jealousy, selfishness, possessiveness, which causes unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty.



(ix) Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day to day life would not be adequate for grant of divorce on the ground of mental cruelty.

(x) The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill-conduct must be persistent for a fairly lengthy period, where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty.

(xi) If a husband submits himself for an operation of sterilization without medical reasons and without the consent or knowledge of his wife and similarly if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty.

(xii) Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty.

(xiii) Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.

(xiv) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.”

22. The institution of marriage rests upon the pillars of trust, compassion, and mutual respect, that form the very essence of a harmonious marital bond. In the instant case, however, the fabric of



this relationship has been irreparably torn apart by a sustained pattern of mental cruelty inflicted upon the Respondent-Husband by the Appellant-Wife. Amidst the to and fro complaints exchanged between the parties, this Court cannot overlook the fact that the Appellant and Respondent once shared moments of happiness and companionship. The Appellant pursued her M.Sc. degree from the New York Institute of Technology, U.S.A. and the Respondent not only supported her academic journey but also attended her convocation ceremony, celebrating her achievement. The couple also took pleasure trips together, creating memories that reflected an attempt to nurture their bond. However, it is after these trips that tensions began to surface, giving rise to misunderstandings and grievances that gradually escalated into irreconcilable differences. The evidence paints a heart-wrenching picture of a marriage that once held promise but gradually descended into a cycle of emotional turmoil, intimidation, and relentless litigation. From physical assaults and verbal abuse to repeated acts of financial control and emotional blackmail, the Respondent was subjected to a state of perpetual distress, where fear and anxiety overshadowed any hope of marital peace.

23. The Appellant's contradictory legal actions filing for restitution of conjugal rights while simultaneously initiating domestic violence cases and excessive criminal complaints only deepened the emotional chasm between the parties, leaving the Respondent with no reasonable prospect of reconciliation. The Appellant's conduct, far from reflecting a desire to rebuild the marriage, displayed a deliberate pattern of harassment and control, causing the Respondent severe mental agony and emotional



exhaustion. The prolonged separation, coupled with acts of physical violence, humiliation, and calculated financial exploitation, has rendered the marital bond beyond repair.

24. In light of these circumstances, the findings of the Family Court are rooted in sound legal reasoning and supported by overwhelming evidence. The Appellant's actions, viewed collectively, meet the threshold of mental cruelty as defined under Section 13(1)(i-a) of the Hindu Marriage Act. Therefore, this Court finds no infirmity in the impugned judgment granting divorce to the Respondent-Husband, and the appeal is liable to be dismissed. The law cannot compel a person to endure a marriage that has become a source of suffering and torment, and the Respondent is entitled to the peace and emotional relief that can only be found in the dissolution of this broken bond.

25. In the absence of a specific prayer by the Appellant with respect to permanent alimony, this Court finds that the financial relief granted by the learned Judge, Family Court, Cuttack, is just and equitable. Marriage, even when dissolved, carries with it certain obligations that cannot be overlooked, particularly in cases where one party may face financial hardship post-separation. Taking into consideration the income, assets, and liabilities disclosed by both parties, as well as their educational qualifications and social backgrounds, this Court too deems it necessary to fix the permanent alimony. Consequently, the permanent alimony of Rs.63,00,000/- awarded by the learned Judge, Family Court, Cuttack, is not to be interfered with. This amount seeks to strike a balance between providing the Appellant with reasonable financial security and



ensuring that the Respondent is not unduly burdened, thereby upholding the principles of fairness and equity in matrimonial disputes.

26. The Appeal is hence dismissed on merit.

(Chittaranjan Dash)
Judge

B.P. Routray, J. I agree.

(B.P. Routray)
Judge

A.K.Pradhan/Bijay