

IN THE HIGH COURT OF JHARKHAND AT RANCHI
F.A. No.55 of 2023

Manoj Kumar, aged about 45 years, S/o Rangila Baitha,
R/o Q. No. 4247, Sector XII/E, B.S. City, PO & PS Sector
12, District Bokaro, Jharkhand.

...Appellant/Petitioner

Versus

Sushma Dey, W/o Manoj Kumar, D/o Ram Sewak Dey,
R/o Q. No. 2229, Sector XII-E, B.S. City, PO & PS Sector
12, District Bokaro, Jharkhand.

... Respondent/Respondent

CORAM: HON'BLEMR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant : Mr. Rajendra Prasad Gupta, Adv.
Mr. Praveen Kumar Pandey, Adv.
For the Respondent : Ms. Oishi, Advocate
Mr. Ashish Choudhary, Advocate

CAV/Reserved on 08.10.2025
Per Sujit Narayan Prasad, J.

Pronounced on 14/10/2025

Prayer:

1. The instant appeal under Section 19(1) of the Family Court Act, 1984 is directed against order/judgment dated 22.02.2023 and decree dated 28.02.2023 passed by the learned Principal Judge, Family Court, Bokaro in Original Suit No. 83 of 2021, whereby and whereunder the learned Principal Judge has dismissed the suit filed by the appellant under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955 for divorce.

Brief facts of the case:

- 2.** The brief facts of the case, as per the pleading made in the original suit, needs to be referred herein reads, which reads as under:
- 3.** The marriage of the appellant and respondent was solemnized on 14.02.2011 at Ranchi before the Special Marriage Officer, Ranchi. After marriage, they lived together as husband and wife. Out of their wedlock, they have been blessed with a male baby on 19.02.2012 who is living with his mother (respondent).
- 4.** It is further to mention herein that it is his first marriage with the respondent, while it is the second marriage of the respondent. Respondent's first marriage was solemnized with one Sumit Kumar Pal on 02.12.2003, but said marriage was dissolved by the order of the court.
- 5.** It is the case of the appellant that the respondent is a hot tempered and quarrelsome lady. She subjected him and his family members with cruelty and torture. He tolerated all such cruelties and torture with a view to preserve their conjugal life and with the hope that she should mend in her behaviour, but all in vain. Even after birth of their son, there was no change in her behaviour. She even did not discharge her responsibility of their newly born baby. Lastly, in the month of March 2014, she withdrawn herself from his

society of the appellant/petitioner without any rhyme and reason and abandoned him to fulfill her luxurious desire.

6. It is further stated that she had filed Maintenance Case No. 96 of 2017 in the court of learned Principal Judge, Family Court, Banka and as per order of the learned court, the husband is paying Rs.7,000/- per month to the respondent-wife of this case since November 2019. She had also filed a case being Mahila P.S. of Banka (Bihar) Case No. 49 of 2017 against the appellant-husband and his family members u/Ss. 498A, 341, 323, 504, 506 IPC. But the said case was compromised between them at Mahila Police Station. Due to filing of criminal case by the respondent, he became frustrated. At present, they are living separately since March 2014. No love and affection is left between them and their nuptial tie become defunct.
7. However, the petitioner/appellant filed Title (Matrimonial) Suit No. 412 of 2014 u/S. 9 of Hindu Marriage Act, 1955 for restitution of conjugal rights, which was decreed in his favour vide judgment dated 07.09.2017. In spite of direction of the court, she did not bother to join his company.
8. In the aforesaid background, the appellant had filed the suit wherein prayer had been made to pass a decree for dissolution of marriage in favour of the appellant-husband.

- 9.** Before the family court, the respondent-wife appeared and denied the allegations of the appellant contending that the instant suit is misconceived, unwarranted and has been filed only to save his skin from the criminal cases. In fact, the petitioner/appellant and his family members subjected her with cruelty and torture for demand of dowry and appellant-husband wants to solemnize another marriage.
- 10.** The appellant had filed an affidavit before Notary Public, Banka declaring that he will not commit offence with her in future. After that he and his family members obtained bail on the basis of compromise. But after few days, he attempted to kill her. Further ground has been taken that the appellant/husband assaulted and ousted her from his house of Banka.
- 11.** The respondent-wife has further made allegation that the appellant is an alcoholic and used to torture her mentally and physically. His only intention is to solemnize another marriage. The appellant had full knowledge about her life. Earlier, they were in love. He pressurized her to take divorce from her first husband. So, after taking divorce from her first husband, she solemnized marriage with the appellant.
- 12.** It has further been stated that the appellant in intoxicated state assaulted her. He took her with him from the court of District & Sessions Judge, Banka, but he again assaulted

her and ousted her from his house. After that, she had filed Kotwali P.S.Case No. 775 of 2018 under Section 498A IPC and other Sections, but his bail application was rejected by the learned District & Sessions Judge, Bhagalpur. However, he obtained provisional bail from this Court. He has no love and affection with her and their child. He has abandoned them. He also refused to pay School fees of their son and now they are on the verge of starvation. He always deceived her and their son. While she was living with him, he had filed a case fraudulently against her only with a view to take divorce from her. She and their minor son is living in Banka and their son is a student of St. Joseph's School, Banka, but he has filed a suit u/S. 9 of Hindu Marriage Act, 1955 and in Misc. Case No. 96 of 2017, the Principal Judge, Family Court, Banka directed the Petitioner/appellant to keep her and their child with him with direction to pay Rs.7,000/- per month for medicine and clothes.

- 13.** Further case of the respondent is that Misc. Execution Case No. 21 of 2019 is also pending before the Principal Judge, Family Court, Banka. Only intention of the appellant is to escape from the provision of law and this case has been filed only to save his skin. He has ousted her from his house. He has cheated her. He obtained bail on the basis of false facts and circumstances.

- 14.** The parties adduced oral as well as documentary evidence in support of their case before the Family Court.
- 15.** The learned family court, dismissed the suit filed by the appellant-husband on contest. It has been observed that the appellant would have visiting/contact right under joint parentage of their son. The respondent shall allow the appellant to meet with their son on every second Saturday and last Sunday of each English Calendar month.
- 16.** The appellant-husband being aggrieved with the order passed by the learned family court has approached this Court by filing the instant appeal.
- 17.** On being noticed by this Court, the respondent-wife has appeared and the matter was adjourned on the instance of the parties for seeking instruction on the issue of settlement either in terms of re-union or the permanent alimony, which is to be paid by the husband in favour of the wife. For ready reference, order dated 23rd June, 2025 passed by this Court is quoted as under:

“1. Heard learned counsel for the parties.

*2. Let this matter be listed on next week so as **to seek instruction on the issue of settlement either in terms of reunion or the permanent alimony which is to be paid by the husband in favour of the wife. The husband is working as Deputy Manager in the State Bank of India.***

3. Let this matter be posted on 30.06.2025.”

18. Further, it is worthwhile to mention here that the learned counsel for the respondent-wife has submitted before the Court on 19.09.2025 that since the appellant-husband has solemnized second marriage, as such there is no chance of restitution of conjugal right now. Therefore, the respondent-wife is ready for dissolution of marriage but subject to payment of permanent alimony.

19. This Court, taking into consideration the submissions of the parties, heard the parties on the issue of permanent alimony to be given the respondent-wife and parties were directed to file affidavit in terms of the law laid down by Hon'ble Apex Court in the case of ***Rajnesh Vs. Neha & Anr. reported in (2021) 2 SCC 324.*** For ready reference, order dated 19.09.2025 passed by this Court is quoted as under:

It is alleged by learned counsel for the respondent-wife that the appellant has solemnized marriage and as such, there is no chance of restitution of conjugal right now. Therefore, she is ready for dissolution of marriage, but subject to payment of permanent alimony for her survival. It is further submitted that the appellant is working in the officer cadre in the State Bank of India.

Mr. R.P. Gupta, learned counsel appearing for the appellant-husband, has submitted that the matter may be posted on 24.09.2025 so that he can inform the appellant for his appearance before this Court.

*This Court in order to consider the issue of alimony had passed order on 30.06.2025 directing the parties to file their respective affidavits in terms of the judgment passed in ***Rajnesh Vs. Neha & Anr. reported in (2021) 2 SCC 324.*** Although the affidavits have been filed by both the parties,*

respondent-wife has stated in the affidavit that she had earlier been engaged in a contractual employment, but now she is no more employed.

We have also gone through the affidavit filed on behalf of the appellant-husband, but as per the requirement as referred in the judgment rendered in the case of Rajnesh Vs. Neha (supra), the details regarding the movable/immovable property have not been disclosed.

In view thereof, call upon the appellant-husband and respondent-wife to appear before this Court on 24.09.2025.

The appellant-husband is directed to file an affidavit appending the pay slip of the salary which he is getting and is the gross income, along with the details of the other property by way of term deposit etc.

It is made clear that if the declaration will be found to be false, this Court will ascertain the same from the employer of the appellant-husband.

Let fresh affidavit be filed by the appellant- husband.

Considering the same, let this matter be listed on 24.09.2025 under the heading “For Orders”.

20. In terms thereof, affidavit has been filed by the parties in the light of judgment passed in ***Rajnesh Vrs. Neha & Anr. (supra)*** and the matter has been heard on the issue of ‘permanent alimony’ to meet the expense of respondent-wife and their son, who is living with the respondent-wife.

Submission of learned counsel for the appellant-husband

21. Learned counsel for the appellant-husband has submitted that the respondent-wife is a working lady and since the year 2017 she was withdrawing Rs.20,000/- per month, where she was working in Jharkhand Silk Textile and Handicraft Development Corporation Limited. Therefore, submission has been made that the respondent-wife is a

working lady and as such she is not entitled for any maintenance .

22. Learned counsel for the appellant has further submitted that the respondent-wife has deposits in the form of National Saving Certificate in the GPO Post Office, Bokaro as also she is having Saving Bank Account in State Bank of India and bank accounts in Punjab National Bank.

23. Learned counsel for the appellant has further submitted that he has 76 years old father on which huge amount of expenses are there on account of medicine expenses etc.

24. Learned counsel for the appellant-husband has further submitted that at present he is withdrawing salary of Rs. 65,536/- only and he has taken loan in total to the tune of Rs.63,29,000/-.

25. However, in course of hearing, on instruction, learned counsel for the appellant-husband has submitted that appellant is ready and willing to shoulder responsibility of his son i.e., towards his education and higher education etc.

Submission on behalf of respondent-wife:

26. While on the other hand, learned counsel appearing for the respondent-wife has submitted that she was employed on contractual basis in Jharcraft till February, 2025 from where she was getting salary to the tune of Rs.17,064/- per month but her contract period has already ended in April, 2025,

therefore, presently she is not getting any salary from Jharcraft.

27. Submission has been made that the respondent-wife is living separately since August, 2019 and after separation, the appellant-husband has filed one or the other case causing mental agony to the respondent as also financial burden in order to meet the expenses towards legal advice.

28. Learned counsel for the respondent has further submitted that in the year 2019, the appellant fell in love with another lady, therefore, the respondent was forcibly ousted by the appellant-husband and after she was ousted and the appellant has solemnized second marriage in the year 2019 flouting the order of the Court whereby appellant was directed to stay together with the respondent and his son.

29. After being ousted, she admitted her son in DPS, Bhagalpur in Class One for which admittedly the appellant paid fees for six months but thereafter the appellant discontinued to make payment towards school fees as such he got her admitted in DAV, Hehal, Ranchi in the year 2020 for which all expenses, the respondent somehow managed to pay the school fees etc.

30. Learned counsel for the respondent-wife has further submitted that due to family dispute and strained marital relation, the respondent got their son admitted in the

residential school, namely, Vikas Vidyalaya, where the respondent had to give Rs. 40,000/- as admission charge and Rs. 25,000/- as monthly fees for hostel fees and besides that other expenses she incurred on her son and also managed for survival of her life with the help of her father and brother and at present the respondent is not working and is home maker and dependent on her 74 years old father, who is suffering from grave health issues including brain hemorrhage.

31. Learned counsel for the respondent has further submitted that despite all financial crisis, she continued the study of the son in Vikas Vidyalaya [residential school] but due to financial crunch, she withdrew her son from residential school and got her son admitted in Ayappa Public School, Bokaro.

32. Submission has been made that though education and upbringing of the son is responsibility of both the parents but after second marriage without taking divorce from first wife, the appellant-husband is not meeting out the responsibility as a father.

33. Further submission has been made that the appellant is at present posted as Deputy Manager in State Bank of India, Godda Branch having salary of Rs. 1,50,000/- per month, however, purposely in order to give lower amount of

maintenance he has made so many deductions creating future asset creation and deduction against housing loan, which is not at all burden rather it is in the form of asset creation.

34. It has been submitted that the father of the appellant is pensioner, therefore, it cannot be said that his father has dependency on him. Furthermore, the appellant has ancestral property in Siwan, Bihar and even after second marriage he has acquired various properties like land, flat, car etc., for which some amount of loan he has taken.

35. Therefore, submission has been made that considerable amount of maintenance be directed to be paid to the son as also the respondent-wife so that they can live in reasonable comfort considering the status and mode of life they were used to live when they lived with appellant-husband.

Analysis:

36. We have heard learned counsel for the parties and gone through the pleading available on record as also the finding recorded by learned Single Judge and other materials available on record.

37. This Court before proceeding further needs to refer herein the factual aspect of the matter.

- 38.** The marriage of the appellant and respondent was solemnized on 14.02.2011. Out of their wedlock, the couple was blessed with baby boy on 19.02.2012.
- 39.** It is the case of the appellant-husband that the respondent is a hot tempered and quarrelsome lady and she subjected him and his family members with cruelty and torture. He tolerated all such cruelties and torture with a view to preserve their conjugal life and with the hope that she should mend in her bahaviour, but all in vain. Lastly, in the month of March 2014, she withdrawn herself from his society without any rhyme and reason and abandoned him to fulfill her luxurious desire. However, he filed Title (Matrimonial) Suit No. 412 of 2014 u/S. 9 of Hindu Marriage Act, 1955 for restitution of conjugal rights which was decreed in his favour vide judgment dated 07.09.2017. In spite of direction of the court, she did not bother to join his company. In contrary, she filed Maintenance Case No. 96 of 2017 in the court of learned Principal Judge, Family Court, Banka and as per order of the learned court, he is paying Rs.7,000/- per month to the respondent of this case since November 2019. She had also filed a case being Mahila P.S. of Banka (Bihar) Case No. 49 of 2017 against him and his family members u/Ss. 498A, 341, 323, 504, 506 IPC. But the said case was compromised between them.

- 40.** In the aforesaid background, the appellant filed the suit making prayer to pass a decree for dissolution of marriage in favour of the appellant-husband.
- 41.** Before the family court, the respondent appeared and denied the allegations of the appellant and contended that it is the appellant and his family members who subjected her with cruelty and torture for demand of dowry. Further ground has been taken that the appellant assaulted and ousted her from his house of Banka.
- 42.** The respondent-wife has further made allegation that the appellant is an alcoholic and used to torture her mentally and physically. His only intention is to solemnize another marriage and accordingly, he contracted second marriage in the year 2019. He has no love and affection with her and their child. He has abandoned them. He also refused to pay School fees of their son and now they are on the verge of starvation. He always deceived her and their son.
- 43.** The learned Principal Judge, considering the submissions advanced by the parties dismissed the suit being Original Suit No. 83 of 2021 vide order/judgment dated 22.02.2023 and decree dated 28.02.2023 whereby and whereunder the suit filed by the appellant under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955 for divorce has been dismissed,

against which the instant appeal has been preferred by the appellant-husband.

44. On being noticed, the respondent-wife has appeared and the matter was adjourned on the instance of the parties for seeking instruction on the issue of settlement either in terms of re-union or the permanent alimony, which is to be paid by the husband in favour of the wife.

45. Furthermore, the respondent-wife has submitted before the Court on 19.09.2025 that since the appellant-husband has solemnized second marriage, as such there is no chance of restitution of conjugal right now. Therefore, the respondent-wife is ready for dissolution of marriage but subject to payment of permanent alimony, which the appellant-husband did not make any objection.

46. It requires to refer herein that since appellate jurisdiction has been invoked herein, therefore, before entering into merit of the case, at this juncture it would be purposeful to discuss the appellate jurisdiction of the High Court.

47. It needs to refer herein that under section 7 of the Family Courts Act, the Family Court shall have and exercise all the jurisdiction exercisable by any District Court or any Subordinate Civil Court under any law for the time being in force in respect of suits and proceedings of the nature which are described in the explanation to section 7(1).

48. Sub-section (1) to section 19 of the Family Courts Act provides that an appeal shall lie from every judgment or order not being an interlocutory order of a Family Court to the High Court “both on facts and on law”. Therefore, section 19 of the Family Courts Act is parallel to section 96 of the Code of Civil Procedure, the scope of which has been dealt with by the Hon'ble Apex Court in series of judgments.

49. The law is well settled that the High Court in a First Appeal can examine every question of law and fact which arises in the facts of the case and has powers to affirm, reverse or modify the judgment under question. In “**Jagdish Singh v. Madhuri Devi**” (2008) 10 SCC 497 the Hon'ble Supreme Court observed that it is lawful for the High Court acting as the First Appellate Court to enter into not only questions of law but questions of fact as well and the appellate Court therefore can reappraise, reappreciate and review the entire evidence and can come to its own conclusion. For ready reference the relevant paragraph of the said judgment is being quoted as under:

It is no doubt true that the High Court was exercising power as the first appellate court and hence it was open to the Court to enter into not only questions of law but questions of fact as well. It is settled law that an appeal is a continuation of suit. An appeal thus is a rehearing of the main matter and the appellate court can reappraise, reappreciate and review the entire evidence—oral as well as documentary—and can come to its own conclusion.

50. Now this Court is adverting to the contention of the learned counsel for the parties.

51. It is evident from order dated 19.09.2025 passed by this Court that this Court, after taking into consideration the submissions of the parties and on the issue of permanent alimony to be given the respondent-wife, parties, directed the parties to file affidavit in terms of the law laid down by Hon'ble Apex Court in the case of ***Rajnesh Vs. Neha & Anr. reported in (Supra).***

52. In compliance of the aforesaid order, affidavits have been filed by the parties, i.e., appellant-husband and respondent-wife.

53. On the issue of permanent alimony to be given in favour of respondent-wife and the son, learned counsel for the appellant-husband has submitted that the respondent-wife is not entitled for permanent alimony, as she is a working lady working in Jharkhand Silk Textile and Handicraft Development Corporation Limited since 2017 and withdrawing salary of Rs.20,000/- per month. It has further been submitted that she has deposits in the form of National Saving Certificate in the GPO Post Office, Bokaro as also she is having Saving Bank Account in State Bank of India and bank accounts in Punjab National Bank.

- 54.** Learned counsel for the appellant-husband has submitted that at present he is withdrawing salary of Rs. 65,536/- only and he has taken loan in total to the tune of Rs.63,29,000/-.
- 55.** However, in course of hearing, on instruction, learned counsel for the appellant-husband has submitted that appellant he is ready and willing to shoulder responsibility of his son towards his education and higher education etc.
- 56.** Whereas, learned counsel appearing for the respondent-wife has admitted that she was employed on contractual basis in Jharcraft till February, 2025 from where she was getting salary to the tune of Rs.17,064/- per month only and her contract period has already ended in April, 2025, therefore right now she is not getting any fixed remuneration and as such she is facing great financial hardship.
- 57.** Learned counsel for the respondent has further submitted that after being forcibly ousted by her husband in the year 2019, the appellant has solemnized second marriage in the year 2019 and after that she shouldered all responsibility of study of their son. However, for the first few months only the appellant-husband has given expenses towards the study of the son.
- 58.** But, she has to dis-continue the study of the son in Vikas Vidyalalya [residential school] due to financial crunch, and got her son admitted in Ayappa Public School, Bokaro,

therefore, prayer has been made that considerable amount of maintenance be directed to be paid to the son as also the respondent- wife so that they can live in reasonable comfort considering the status and mode of life they were used to live when they lived with appellant.

59. It has been submitted that the appellant is at present posted as Deputy Manager in State Bank of India, Godda Branch having salary of Rs. 1,50,000/- per month, besides other facilities and perks, however, purposely in order to give lower amount of maintenance he has made so many deductions creating future asset creation and deduction against housing loan, which is not at all burden rather it is in the form of asset creation.

60. This Court in the aforesaid backdrop facts and submission requires to consider as to: *“what would be the quantum of permanent alimony to meet the needs of son and the wife on the basis of pleadings available on record and as per the standard of life they would have enjoyed if they would have been living with the appellant?”*

61. This Court, before considering the aforesaid issue, needs to refer herein the provision of law as contained under Section 25 of the Hindu Marriage Act, 1955, wherein it has been provided that any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time

subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant, it may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent. For ready reference, Section 25 of the Act, 1955 is quoted as under:

“25. Permanent alimony and maintenance.—(1) Any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall 6* * * pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant 1 [the conduct of the parties and other circumstances of the case], it may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.

(2) If the court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the court may deem just.

(3) If the court is satisfied that the party in whose favour an order has been made under this section has re-married or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he has had sexual intercourse with any woman outside wedlock, 2 [it may at the instance of the other party vary, modify or rescind any such order in such manner as the court may deem just].”

62. It is evident from the aforesaid provision that concept of permanent alimony as provided under Section 25 have been enacted with the object of removing the hardship of the wife or the husband with no independent income sufficient for living or meeting litigant expenses; such a leave can be granted as well who may also be deprived of the same on proof of having sexual intercourse outside the wedlock. It is also settled position of law that the Court may grant permanent alimony to the party while disposing of the main application even if application has been moved; meaning thereby the intent of the Act is to remove the handicap/hardship of a wife of husband by passing an appropriate order at the appropriate stage either under Section 24 or 25 of the Hindu Marriage Act, 1955. The basic behind this is to sustain the live of husband or wife, if having no sufficient source of income.

63. The Hon’ble Apex Court has also considered the intent of Section 25 of Hindu Marriage Act in catena of Judgments wherein it has been observed that Section 25 of Act 1955 is an enabling provision. It empowers the court in a

matrimonial case to consider facts and circumstances of the spouse applying and deciding whether or not to grant permanent alimony. Sub-section (1) of Section 25 provides that a matrimonial Court exercising the jurisdiction under the Hindu Marriage Act may at the time of passing a decree or at any time subsequent thereto on an Application made to it, order to pay maintenance.

64. Thus, a power is conferred on the Matrimonial Court to grant permanent alimony or maintenance on the basis of a decree of divorce passed under the Hindu Marriage Act even subsequent to the date of passing of the decree on the basis of an application made in that behalf. Sub-section (2) of Section 25 confers a power on the Court to vary, modify or rescind the order made under Sub-section (1) of Section 25 in case of change in circumstances. The power under Sub-section (3) of Section 25 is an independent power. The said power can be exercised if the Court is satisfied that the wife in whose favour an order under Subsection (1) of Section 25 of the Hindu Marriage Act is made has not remained chaste. In such event, at the instance of the other party, the Court may vary, modify or rescind the order under Sub-section (1) of Section 25 of the Hindu Marriage Act.

65. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of **Kalyan**

Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy,
(2017) 14 SCC 200. For ready reference, paragraph 14 of the judgment is quoted as under:

“14. Section 25 of the Hindu Marriage Act, 1955 confers power upon the court to grant a permanent alimony to either spouse who claims the same by making an application. Sub-section (2) of Section 25 of the Hindu Marriage Act confers ample power on the court to vary, modify or discharge any order for permanent alimony or permanent maintenance that may have been made in any proceeding under the Act under the provisions contained in sub-section (1) of Section 25. In exercising the power under Section 25(2), the court would have regard to the “change in the circumstances of the parties”. There must be some change in the circumstances of either party which may have to be taken into account when an application is made under sub-section (2) of Section 25 for variation, modification or rescission of the order as the court may deem just.”

66. We may note here that an amendment has been brought to Sub-section (3) of Section 25 of the Hindu Marriage Act by the Act No. 68 of 1976 with effect from 27th May 1996. Earlier, it was provided under Sub-section (3) of Section 25 that if the Court was satisfied that the party in whose favour an order has been made has not remained chaste, it shall rescind the order. The words “it shall rescind the order” appearing in Sub-section (3) of Section 25 were replaced by the said amendment by the words “it may at the instance of the other party vary, modify or rescind any such order”. The legislature in its wisdom by the said amendment has provided that after the facts stated in Sub-section (3) of Section 25 of

the Hindu Marriage Act are established, the Court may vary, modify or rescind any such order under Sub-section (1) of Section 25 of the Hindu Marriage Act. Thus, after 1976, there is a discretion conferred on the Court by Sub-section (3) of Section 25 of the Hindu Marriage Act of declining to rescind, vary or modify the order under Sub-section (1) of Section 25 thereof, even if on an Application made by the husband, it is established that the wife has not remained chaste after the decree of maintenance is passed under Sub-section (1) of Section 25.

67. The Hon'ble Apex Court in the case of ***Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112*** while appreciating the core of Section 25 of the Act 1955 has observed that for permanent alimony and maintenance of either spouse, the respondent's own income and other property, and the income and other property of the applicant are all relevant material in addition to the conduct of the parties and other circumstances of the case, for ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

12. As per Section 25, while considering the claim for permanent alimony and maintenance of either spouse, the respondent's own income and other property, and the income and other property of the applicant are all relevant material in addition to the conduct of the parties and other circumstances of the case. It is further seen that the court considering such claim has to consider all the above relevant materials and determine the amount which is to

be just for living standard. No fixed formula can be laid for fixing the amount of maintenance. It has to be in the nature of things which depend on various facts and circumstances of each case. The court has to consider the status of the parties, their respective needs, the capacity of the husband to pay, having regard to reasonable expenses for his own maintenance and others whom he is obliged to maintain under the law and statute. The courts also have to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and mode of life she was used to live when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party. These are all the broad principles courts have to be kept (sic keep) in mind while determining maintenance or permanent alimony.

68. It needs to refer herein that no arithmetic formula can be adopted for grant of permanent alimony to wife. However, status of parties, their respective social needs, financial capacity of husband and other obligations must be taken into account. The Hon'ble Apex Court in the case of ***U. Sree v. U. Srinivas, (2013) 2 SCC 114*** has observed that while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the status of the parties, their respective social needs, the financial capacity of the husband and other obligations. For ready reference the relevant paragraph is being quoted as under:

33. *We have reproduced the aforesaid orders to highlight that the husband had agreed to buy a flat at Hyderabad. However, when the matter was listed thereafter, there was disagreement with regard to the locality of the flat arranged by the husband*

and, therefore, the matter was heard on merits. We have already opined that the husband has made out a case for divorce by proving mental cruelty. As a decree is passed, the wife is entitled to permanent alimony for her sustenance. Be it stated, while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the status of the parties, their respective social needs, the financial capacity of the husband and other obligations. In Vinny Parmvir Parmar v. Parmvir Parmar [(2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290] (SCC p. 116, para 12) while dealing with the concept of permanent alimony, this Court has observed that while granting permanent alimony, the court is required to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party.

69. In the case of ***Rajnish v. Neha & Anr., (2021) 2 SCC 324*** the Hon'ble Apex Court has extensively dealt with the issue of granting interim/permanent alimony and has categorically held that the objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded. The Hon'ble Apex Court further held that the Court while considering the issue of maintenance, should consider the factors like the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally

qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage, for ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

77. *The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.*

78. *The factors which would weigh with the court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. [Refer to Jasbir Kaur Sehgal v. District Judge, Dehradun, (1997) 7 SCC 7; Refer to Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290]*

79. *In Manish Jain v. Akanksha Jain [Manish Jain v. Akanksha Jain, (2017) 15 SCC 801 : (2018) 2 SCC (Civ) 712] this Court held that the financial position of the parents of the applicant wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of*

maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the court should mould the claim for maintenance based on various factors brought before it.

80. *On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able-bodied and has educational qualifications. [Reema Salkan v. Sumer Singh Salkan, (2019) 12 SCC 303 : (2018) 5 SCC (Civ) 596 : (2019) 4 SCC (Cri) 339]*

81. *A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.*

70. Recently, the Hon'ble Apex Court in the case of **Rakhi Sadhukhan Vs. Raja Sadhukhan [2025 SCC OnLine SC1259]** has enhanced the amount of alimony subject to increase of alimony on every two years.

71. This Court has considered the factual aspect of the said case and on perusal of the fact, referred therein, it is evident that the appellant-wife and respondent-husband were married on

18.06.1997. A son was born to them on 05.08.1998. In July 2008, the respondent-husband filed Matrimonial Suit No. 430 of 2008 under Section 27 of the Special Marriage Act, 1954 seeking dissolution of marriage on the ground of cruelty allegedly inflicted by the appellant-wife. Subsequently, the appellant-wife filed Misc. Case No. 155 of 2008 in the same suit under Section 24 of the Hindu Marriage Act, 1955, seeking interim maintenance for herself and the minor son. The Trial Court, by order dated 14.01.2010, awarded interim maintenance of Rs. 8,000/- per month to the appellant-wife and Rs. 10,000/- towards litigation expenses. The appellant-wife then instituted Misc. Case No. 116 of 2010 under Section 125 of the Criminal Procedure Code, 1973. The Trial Court, *vide* order dated 28.03.2014, directed the respondent-husband to pay maintenance of Rs. 8,000/- per month to the appellant-wife and Rs. 6,000/- per month to the minor son, along with Rs. 5,000/- towards litigation costs. The Trial Court, *vide* order dated 10.01.2016, dismissed the matrimonial suit, finding that the respondent-husband had failed to prove cruelty. Aggrieved, the respondent filed FAT No. 122 of 2015 before the High Court of Calcutta. During the pendency of the appeal, the appellant-wife filed CAN No. 4505 of 2025 seeking interim maintenance of Rs. 30,000/- for herself and Rs. 20,000/- for the son, along with Rs. 50,000/- towards

litigation expenses. The High Court, by order dated 14.05.2015, directed the respondent-husband to pay interim maintenance of Rs. 15,000/- per month. Subsequently, by order dated 14.07.2016, the High Court noted that the respondent-husband was drawing a net monthly salary of Rs. 69,000/- and enhanced the interim maintenance to Rs. 20,000/- per month. Finally, the High Court, by the impugned order dated 25.06.2019, allowed the respondent's appeal, granted a decree of divorce on the ground of mental cruelty and irretrievable breakdown of marriage, and directed the respondent-husband to redeem the mortgage on the flat where the appellant-wife was residing and transfer the title deed to her name by 31.08.2019; allow the appellant-wife and their son to continue residing in the said flat; and continue to pay permanent alimony of Rs. 20,000/- per month to the appellant-wife, subject to a 5% increase every three years. Additionally, the High Court directed payment of educational expenses for the son's university education and Rs. 5,000/- per month for private tuition.

72. Aggrieved by the quantum of alimony awarded, the appellant-wife is approached the Hon'ble Apex Court.

73. The Hon'ble Apex Court, by interim order dated 07.11.2023, noting the absence of representation on behalf of the respondent-husband despite proof of service, enhanced the monthly maintenance to Rs. 75,000/- with effect from

01.11.2023. The respondent-husband subsequently entered appearance and filed an application seeking vacation of the said interim order.

74. The appellant-wife contends that the amount of Rs. 20,000/- per month, which the High Court made final, was originally awarded as interim maintenance. She submits that the respondent-husband has a monthly income of approximately Rs. 4,00,000/- and the quantum of alimony awarded is not commensurate with the standard of living maintained by the parties during the marriage.

75. In response, the respondent-husband submits that his current net monthly income is Rs. 1,64,039/-, earned from his employment at the Institute of Hotel Management, Taratala, Kolkata. He has placed on record salary slips, bank statements, and income tax returns for the year 2023-2024. It is further stated that he was earlier employed with the Taj Hotel, drawing a gross annual salary of Rs. 21,92,525/-. He also submits that his monthly household expenses total Rs. 1,72,088/-, and that he has remarried, has a dependent family, and aged parents. The respondent-husband contends that their son, now 26 years of age, is no longer financially dependent.

76. The Hon'ble Apex Court taking note of the quantum of permanent alimony fixed by the High Court has come to the conclusion that it requires revision. The said revision is on

the basis of the respondent-husband's income, financial disclosures, and past earnings which establish that he is in a position to pay a higher amount. The Hon'ble Apex Court has observed that the appellant-wife, who has remained unmarried and is living independently, is entitled to a level of maintenance that is reflective of the standard of living she enjoyed during the marriage and which reasonably secures her future. It has also been observed, the inflationary cost of living and her continued reliance on maintenance as the sole means of financial support necessitate a reassessment of the amount.

77. Therefore, Hon'ble Apex Court has held that, a sum of Rs. 50,000/- per month would be just, fair and reasonable to ensure financial stability for the appellant-wife. The said amount shall be subject to an enhancement of 5% every two years. As regards the son, now aged 26, the Hon'ble Apex Court has expressed its view that the Court is not inclined to direct any further mandatory financial support. However, it is open to the respondent-husband to voluntarily assist him with educational or other reasonable expenses. It has been clarified that that the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

78. Accordingly, the appeal was allowed and the order of the High Court was modified to the extent that the permanent

alimony payable to the appellant-wife shall be Rs. 50,000/- per month, subject to a 5% increase every two years, for ready reference the relevant paragraph of the said order is being quoted as under:

“7. Having considered the submissions and materials on record, we are of the view that the quantum of permanent alimony fixed by the High Court requires revision. The respondent-husband's income, financial disclosures, and past earnings establish that he is in a position to pay a higher amount. The appellant-wife, who has remained unmarried and is living independently, is entitled to a level of maintenance that is reflective of the standard of living she enjoyed during the marriage and which reasonably secures her future. Furthermore, the inflationary cost of living and her continued reliance on maintenance as the sole means of financial support necessitate a reassessment of the amount.

8. In our considered opinion, a sum of Rs. 50,000/- per month would be just, fair and reasonable to ensure financial stability for the appellant-wife. This amount shall be subject to an enhancement of 5% every two years. As regards the son, now aged 26, we are not inclined to direct any further mandatory financial support. However, it is open to the respondent-husband to voluntarily assist him with educational or other reasonable expenses. We clarify that the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

9. In view of the above, the appeal is allowed. The impugned order of the High Court is modified to the extent that the permanent alimony payable to the appellant-wife shall be Rs. 50,000/- per month, subject to a 5% increase every two years, as noted above.”

79. Adverting to the facts of the present case, this Court vide order dated 30th June, 2025 directed the parties to file affidavit in terms of judgment passed by Hon’ble Supreme Court in the case of **Rajnish Vrs. Neha & Anr. (supra)**. Pursuant thereto, affidavits have been filed by the parties but this Court found that in the affidavit filed by the

appellant-husband the details regarding the movable/immovable property have not been disclosed, therefore, this Court vide order dated 19.09.2025 directed to file fresh affidavit giving details of salary slip as also details regarding the movable/immovable property but in spite of time having been granted the required affidavit was not filed. Again this Court vide order dated 24th September, 2025 passed order that if the affidavit is not filed by the next date of hearing this Court will proceed to hear the matter on merit and on that count adverse inference will be drawn against the appellant-husband.

80. Consequent thereupon, the affidavit has been filed by the appellant-husband.

81. We have perused the affidavit filed by the respondent-husband and found therefrom that the appellant-husband is working in State Bank of India on the post of 'Manager (S)', as per salary slip of September, 2025 attached with the supplementary affidavit dated 06.10.2025 filed by the appellant-husband. From perusal of salary slip of September, 2025, it is evident that the appellant is having gross income of Rs. 1,49,753/- per month. The gross salary income of the appellant includes, Basic: Rs. 93,960/-; Dearness Allowance: 25,651/-; Special Allowance: Rs. 26,590/-; Location Allowance: Rs. 1200/-; Closing Allowance: 1500/-. It is worth to mention here that in the

gross salary of the appellant there is no mention about 'House Rent Allowance', which implies that the appellant is either living in the official accommodation of Bank or as per Rent Agreement, the HRA is directly credited to the account of landlord. It is further worth to mention herein that out of gross income of Rs. 1,49,735/- as per salary slip of 'September, 2025', the income tax deduction is Rs. 12,543/- per month.

82. Besides that the appellant-husband has ancestral property at his village. The Bank statement has been furnished by the appellant but that does not show his savings rather he has attached the bank statement showing his borrowing in order to show that he has taken large amount of loan from the bank, though being a banker he has been given loan at very low rate of interest. But he did not disclose that where such amount has been invested by him. This Court though has time and again directed to file affidavit disclosing the immovable/moveable property but the appellant evaded to give complete picture before this Court. Even he has shown his home take salary to the tune of Rs. 69,193/- only in order to show that he is having low take home salary.

83. Though for deciding the issue of permanent alimony, the conduct of the parties is of least importance but herein since allegation and counter-allegation are there, therefore, this

Court besides delving into factual aspect is also going into the allegation and counter-allegation made by the parties.

84. It is the allegation of the respondent-wife that in the year 2019, the appellant fell in love with another lady, therefore, the respondent was forcibly ousted by the appellant-husband and after she was ousted, the appellant has solemnized second marriage in the year 2019 flouting the order of the Court concerned whereby he had affirmed to stay together with the respondent and his son. Submission has been made that the appellant-husband during pendency of the application for divorce has contracted marriage and thereby invited criminal liability. However, since he has solemnized second marriage and as such she is ready for divorce but the sufficient amount of permanent alimony may be granted considering the standard of living enjoyed by her during subsistence of the marriage as per income and status of his father, the appellant herein. Further, it is alleged that though the appellant has salary of Rs. 1,50,000/- [one and half lakhs approx.] but purposely he is showing lesser amount as his salary of Rs. 69,193/- only even though he is working in the bank on high position i.e., on the post of Manager.

85. While on the other hand, the appellant-husband has alleged that the respondent-wife has income from salary to the tune of Rs.20,000/- [twenty thousand]. The respondent-wife has

also admitted that on contract basis she was working in Jharcraft till February, 2025 but not her contract has ended as such she has no source of income, to which, the appellant has not disputed by way of pleading.

86. Further, the appellant-husband has also annexed the statement of Post Office showing some amount of fix deposit in the name of respondent-wife and her bank account. While the respondent-wife has annexed the copy of receipts showing schools fees which she paid for education of the son. In boarding school, namely, Vikas Vidyalaya she was paying Rs. 25,000/- per month as school fee besides paid annual charge. She has also paid huge amount on the education of the son.

87. This Court has considered the factual aspect of the judgment rendered in the case of **Rakhi Sadhukhan Vs. Raja Sadhukhan (supra)** wherein the Hon'ble Apex Court by taking into consideration the monthly income of the husband to be Rs. 1,64,039/- has modified the order passed by the High Court to the extent that the permanent alimony payable to the appellant-wife shall be Rs.50,000/- per month, subject to a 5% increase every two years in order to meet out the effect of inflation. The son, who has attained the age of 26 years and as such no order was passed for permanent alimony in his favour.

88. This Court considering the factual aspect of the instant case is of the view that the facts of the instant case is on almost similar or even on better footing to that of the case of ***Rakhi Sadhukhan Vs. Raja Sadhukhan (supra)*** for the following reasons:

I. In the present case, the appellant-husband is working in a nationalized bank on post of Deputy Manager, having monthly take home salary is Rs. 1,49,753/- whereas the respondent-husband in *Rakhi Sadhukhan Vs. Raja Sadhukhan* case, was having net monthly income of Rs. 1,64,039/-.

II. The respondent-wife, who is aged about 44 years, is now having no source of income and it is the mother [respondent herein], who is taking all care of son, who is aged about only 13 years, for his education, food, clothing etc., whereas in the case of ***Rakhi Sadhukhan Vs. Raja Sadhukhan***, the son was major and aged about 24 years.

III. In the instant case, the appellant-husband is residing either in the official accommodation or on the rent being paid by the bank, besides the husband has other immovable property also.

89. In the aforesaid case i.e. ***Rakhi Sadhukhan Vs. Raja Sadhukhan (supra)*** the Hon'ble Apex Court by taking into consideration the monthly income of the husband to be Rs.

1,64,039/- has modified the order passed by the High Court to the extent that the permanent alimony payable to the appellant-wife shall be Rs.50,000/- per month, subject to a 5% increase every two years in order to meet out the effect of inflation.

90. Therefore, this Court is of the view that monthly alimony would be just and proper, as per law laid down in the case of ***Rakhi Sadhukhan Vs. Raja Sadhukhan (supra)***, for the reason that it is the appellant-husband who has submitted that he is a salaried person having monthly gross salary of Rs.1,49,753/-; and further he has expressed his willingness of taking care of his son stating that he has all compassion for his son and is duty bound to discharge his duty as a father towards his son.

91. Therefore, this Court is of the considered view permanent alimony is required to be ordered to be paid on month-to-month basis.

92. For the reasons aforesaid, this Court thought it proper that a sum of Rs. 35,000/- [thirty five thousand] per month would be just, fair and reasonable, for sustenance of the respondent-wife, who has no other source of income than the alimony so received by the appellant-husband. Further, a sum of Rs. 25,000/- [twenty five thousand] per month would be proper to ensure financial stability of the son and for his livelihood, sustenance and study. Both the

permanent alimony awarded to the respondent-wife and son would be subject to enhancement of 5% on every two years, taking into consideration the inflation etc.

93. Accordingly, the appellant-husband is directed to pay in total a sum of Rs. 60,000/- [sixty thousand] in the bank account of the respondent-wife positively by 10th of each month.

94. It is made clear that so far the amount to be paid in favour of son to the tune of Rs. 25,000/- which has been directed to be paid for his education etc., that is mandatorily to be paid till the son pursues his education/higher education. However, it is open to the respondent-husband to voluntarily assist his son with other reasonable expenses besides the amount which has been directed to be paid in favour of son. It is further clarified that the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

95. It is made clear that so far visiting/contact right under joint parentage of their son is concerned, the appellant-husband shall have right to visit his son on every second Saturday and last Sunday of each English Calendar month, as fixed by the learned family court.

96. This Court, considering the factual aspect involved in the case and particularly the fact that due to financial crunch the study of the child may not get disturbed, grants liberty

to the respondent-wife that if the amount would not be paid by 10th of each month then the respondent-wife will be at liberty to communicate by way of an application containing the details of the bank accounts regarding such discontinuation of alimony to the employer of the appellant husband along with copy of this order for disbursement of the said amount directly in her bank account.

97. If in such situation the employer will receive information of non-disbursement of the amount, as directed above, the amount of permanent alimony as granted by this Court in favour of respondent-wife and son to the appellant-wife, shall directly be transmitted to the account of the respondent-wife.

98. This Court hopes and trusts that in such circumstances the employer will respond positively.

99. This Court further hope and trust that the appellant-husband will not invite such situation and will abide by the direction so passed by this Court for permanent alimony in favour of respondent-wife and the son, who is studying in primary class.

100. Accordingly, the impugned order/judgment dated 22.02.2023 and decree dated 28.02.2023 passed by the learned Principal Judge, Family Court, Bokaro in Original Suit No. 83 of 2021 is hereby quashed and set aside.

101. With the aforesaid the directions and observations, as made hereinabove, the instant appeal stands allowed and decreed in the above terms.

102. Pending Interlocutory Application, if any, stands disposed of.

I agree

(Sujit Narayan Prasad, J.)

(Rajesh Kumar, J.)

(Rajesh Kumar, J.)

14th October, 2025

Alankar/A.F.R.

Uploaded on 15th October, 2025