

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO..... OF 2025
(@ Special Leave Petition (Civil) No. 13336 of 2025)

SANDHYA SAHU

... APPELLANT(S)

Versus

DHARMENDRA SAHU

...RESPONDENT(S)

ORDER

Leave Granted.

2. This appeal is at the instance of the wife, aggrieved by final judgment and order dated 28th January 2025, passed by the High Court of Chhattisgarh in FA (MAT) No.257 of 2023, whereby the husband's petition for divorce, although originally disallowed by the Family Court in HM Case No.55A of 2022 in terms of order dated 17th August 2023, was allowed. This Court had endeavored to have the matter amicably resolved, despite best efforts of the Court; and the learned counsel, parties could not arrive at any settlement.

3. The parties to the present *lis* were married on 29th April 2009 as per Hindu rites and rituals at Dhamtari, Chhattisgarh and they have been blessed with two daughters.

A few years after the marriage, relations soured to a point where the appellant lodged an FIR dated 10th April 2017 against the respondent and his family member u/s 498A, Indian Penal Code, 1860. The proceedings in this FIR eventually led to the acquittal of the respondent.

4. The divorce petition subject matter of these proceedings was filed by the Respondent on the grounds of cruelty and desertion. The Family Court rejected the same holding that it is not cruelty on part of the Appellant herein but in fact the Respondent that has been established by evidence, pushing the appellant to attempt suicide as well. It has also been observed that divorce has been sought to be taken by falsely accusing the appellant of desertion and that she had justifiable reasons for wanting to reside at her maternal home at the relevant point in time.

5. The High Court took the opposite view and observed that the appellant herein had been living separately since 2017. According to the Court cruelty on part of the appellant stood proved in the following terms:

“Before the learned Trial Court, the husband examined himself and one witness Padmini Dewangan and wife examined herself and his uncle Vijay Kumar Sahu. The appellant husband filed various documents from Ex-P/1 to Ex-P/13 and stated that the wife lodged FIR against him under Section 498-A of IPC. The respondent wife also admitted this fact that she lodged FIR against the husband and she also admitted that her father-in-law is aged about 75 years and mother-in-law aged about 70 years, and their elder daughter is living with the appellant husband. She also admitted that it is true that treatment of elder daughter was done by the appellant husband. She also admitted that in Criminal Case No.460/2017 under Section 498-A of IPC, the learned Trial Court acquitted that she fled appeal against that order, which was also dismissed by the learned Session Court. The uncle of respondent Vijay Kumar Sahu admitted this fact that for the last 5 years, she is living separately from her husband

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10. In view of the above, it is clear that the respondent wife lodged FIR against the appellant husband and his family members. They were acquitted by the learned Trial Court and wife also preferred appeal against acquittal. It is also an admitted position that they are living separately since long, as such looking to the facts and

circumstances of the case, it is evident that the appellant wife not only deserted her husband since long but she also committed mental cruelty upon her husband, as has been observed by the Hon'ble Apex Court as well as this Court in the aforesaid judgments, as such finding recorded by the learned Family Court is not sustainable.”

To substantiate the conclusions arrived at Para 10, reference is made to this Court in ***Rani Narasimha Sastry v. Rani Suneela Rani* (2020) 18 SCC 247** on the aspect of acquittal under Section 498A IPC and a judgment of the High Court itself being ***Satpal Singh v. Preeti Pahuja* 2024 SCC OnLine Chh 4740** dealing with irretrievable breakdown of marriage on the count of living separately for long time. In other words, no discussion whatsoever has been made on the grounds that have been proffered by the husband for seeking divorce at the first instance and challenging its rejection. This approach has to be deprecated for relief as prayed for has been granted without appreciating in the facts and circumstances of the case whether the requirements in law are met or not. To put it differently, without discussion on the merits of the matter, a root foreign to well established principles of law has been taken to reach the end result.

6. That apart it may only be observed that in view of ***Shilpa Shailesh v Varun Sreenivasan* (2023)14 SCC 231** the power to grant divorce on the ground of irretrievable breakdown rests only with this Court as it is germane from Article 142 of the Constitution of India.

7. In that view of the matter, the impugned judgment in FA(MAT) No.257 of 2023 is set aside and the matter is restored to the file of the High Court for consideration afresh taking into account the merits of the matter.

8. The appeal is allowed to the extent as aforesaid. Let the parties appear before

the High Court on 11th December 2025.

Pending application(s), if any, shall stand disposed of.

.....J.
SANJAY KAROL

.....J.
NONGMEIKAPAM KOTISWAR SINGH

New Delhi
October 17, 2025

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 13336/2025

[Arising out of impugned final judgment and order dated 28-01-2025 in FA(MAT) No. 257/2023 passed by the High Court of Chhatisgarh at Bilaspur]

SANDHYA SAHU

Petitioner(s)

VERSUS

DHARMENDRA SAHU

Respondent(s)

FOR ADMISSION and I.R.

IA No. 118698/2025 - EXEMPTION FROM FILING O.T.

Date : 17-10-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KAROL

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) : Mr. Ashutosh Dubey, AOR

For Respondent(s) : Mr. Kaustubh Shukla, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave Granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NEETU SACHDEVA)
ASTT. REGISTRAR-cum-PS

(ANU BHALLA)
COURT MASTER (NSH)

(signed order is placed on the file)