

IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 233 of 2025

Rahul Kumar, aged about 35 years, s/o Late Rambhaju Saw, R/o 5/A Kamla Apartment, Near Goal Building, P.O.-K.G. Ashram, P.S.-Saraidhela, District-Dhanbad, Jharkhand.

... .. Appellant/Defendant

Versus

Deepika Gupta, aged about 28 years, w/o Rahul Kumar, D/o Sri Arun Kumar Gupta, R/o Steel Gate, Main Road, P.O. & P.S.-Saraidhela, District-Dhanbad, Jharkhand.

... .. Respondent/Plaintiff

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Md. Shadab Ansari, Advocate
For the Respondent : Mr. Fahad Allam, Advocate
Md. Shadab Alam, Advocate
Mr. S. Tabej, Advocate

CAV/Reserved on 27.04.2025

Pronounced on : 04.05.2026

Per Sujit Narayan Prasad, J.

1. The instant appeal under Section 19(1) of the Family Courts Act, 1984 is directed against the order/judgment dated 04.04.2025 and decree signed on 17.04.2025 passed by the learned Principal Judge, Family court, Dhanbad in Original Suit No. 738 of 2024, whereby and whereunder, the learned court has allowed the suit in the light of Section 13(1)(i-a) of the Hindu Marriage Act, 1955 by dissolving the marriage solemnized in between the parties with a direction upon the appellant/defendant to pay a sum of Rs.6 lakh to the respondent/plaintiff as alimony.

Factual Matrix

2. The brief facts of the case as per the original matrimonial suit needs to be referred herein which is as under.
3. The respondent/plaintiff Deepika Gupta has filed the suit by stating therein that she was married to the appellant/defendant Rahul Kumar, as per Hindu Rites and Customs on 23.04.2021. At the time of her marriage, her parents paid a sum of Rs. 8 lacs in cash and jewellery, furniture and house hold

articles in kind of Rs. 10 lacs to the appellant/defendant and his family members.

4. After marriage, she went to her Sasural and lived happily only for a week, after which, the appellant/defendant and his family members treated her like a maid servant and subjected her to mental and physical cruelty. The appellant/defendant on the instigation of his sisters Soni Devi and Putul Devi, advanced a demand of four-wheeler and on 25.05.2021 and on 28.07.2021 they confined her inside a room, reviled her with abusive languages and assaulted her, because on that day she had witnessed the appellant/defendant in compromising position with his Bhabhi Anita Devi and she had objected to their illicit relation.
5. She has further asserted that when she was finally ousted from her matrimonial house, she started teaching in a private school, but due to threatening of the appellant/defendant, she left going to school and filed C.P. Case No. 7375/2022 in the court of learned JMFC, Dhanbad.
6. In the said case, the appellant/defendant has been granted bail on 25.08.2023 on the ground of compromise, wherein, the appellant/defendant had agreed not to abuse and assault her in the days to come. He had also undertaken not to send any filthy message in WhatsApp of his plaintiff/wife and had also agreed to give consent to divorce each other by mutual consent and in this way on the same day she went to her Sasural, but again, the appellant/defendant started torturing her but anyhow she lived there for a period of six months, during which she conceived but due to merciless assault on her, pregnancy of plaintiff/wife was terminated and finally, the appellant/defendant banished her from his house.
7. She has further asserted that she was brutally assaulted on 26.11.2021 also by the appellant/defendant in Bayore Hotel in Deoghar. She has also asserted that the appellant/defendant is a cruel man, habitual drunker and a money -lender. He has been of the habit of going out of the house in the morning and to come back at 12:00 AM in the night and in the night also he sleeps with his Bhabhi Anita Devi. She has lastly asserted that there is no chance of their reunion, because, the appellant/defendant is a cruel man, so she cannot live happily with him anymore.

8. On the basis of the aforesaid the respondent/plaintiff/wife had filed suit for dissolution of marriage before the family Court under Section 13 (1) (i-a) of the Hindu Marriage Act 1955.
9. Upon notice the appellant/defendant appeared in the Court and filed his written statement stating therein that for the first time he confronted with the respondent/plaintiff in a marriage ceremony on 21.11.2019 and their first meeting converted into love and affection and they became agreed to marry each other. He has asserted that due to the fact that their marriage was love marriage, there was no exchange of any illegal dowry and the bills of Sonotel Garden Hotel was paid by him and it is completely false that jewellery and house hold articles worth Rs.10 lac in kind was given to him.
10. After marriage, the respondent/plaintiff started living in his house and the respondent/plaintiff started pressurizing him to give his entire income. She also pressurized him to sever all sorts of ties with his family members and has also denied any cruel behaviour. He has further asserted that during her stay in his house, his wife became pregnant on which he took her to her Maika, but she did not return and she terminated her pregnancy without his knowledge. Their relation deteriorated, but once good sense prevailed between them and on the request of the respondent/plaintiff, he took her to his house. After some days, respondent/plaintiff's brothers started frequenting to his house and started demanding a sum of Rs. 5 lacs from him and on his denial to pay the said amount they misbehaved with him.
11. On her pregnancy, she had come to her Maika on 22.05.2024 and when he went to take her Bidagri they denied to give her Bidagri and the respondent/plaintiff 's relatives scolded him and snatched his chain and a sum of Rs. 20,000/- from him and they also started threatening him to put him to death and after his return, he came to know that his wife terminated her pregnancy. He has lastly asserted that the suit has been filed against him only for extortion of money from him and in reality, he has a deep sense of love and affection for the respondent/plaintiff and still he is willing to lead his conjugal life with her. But the relation has become strained and his wife has also filed a. C.P 18905/2024 with false allegations.

12. It is evident from the factual aspect as referred hereinabove which led to filing of the present appeal that, as per the Original Matrimonial Suit, the respondent/plaintiff Deepika Gupta married to the appellant/defendant Rahul Kumar as per Hindu Rites and Customs on 23.04.2021. It has been stated that that at the time of the marriage, the parents of respondent/plaintiff paid a sum of Rs. 8 lacs in cash and jewellery, furniture and house hold articles in kind of Rs. 10 lacs to the appellant/defendant and his family members. After sometime of the marriage, the appellant/defendant and his family members treated her with cruelty and on the instigation of his sisters Soni Devi and Putul Devi, the appellant/defendant demand four-wheeler and on 25.05.2021 and on 28.07.2021 they confined her inside a room, reviled her with vituperative languages and assaulted her, because on that day she had witnessed the appellant/defendant in compromising position with his Bhabhi Anita Devi.
13. She has further asserted that when she was finally ousted from her matrimonial house, she started teaching in a private school, but due to threatening of the appellant/defendant, she left going to school and filed C.P. Case No. 7375/2022 in the court learned JMFC, Dhanbad. In that case, the appellant/defendant has been granted bail on 25.08.2023 on the ground of compromise, wherein, the appellant/defendant had agreed not to abuse and assault her in the days to come. He had also undertaken not to send any filthy message in WhatsApp of his wife and had also agreed to give consent to divorce each other by mutual consent and in this way on the same day she went to her Sasural, but again, the appellant/defendant started torturing her but anyhow she lived there for a period of six months, during which she conceived but due to merciless assault on her, her pregnancy was terminated and finally on 21.05.2024, the appellant/defendant banished her from his house. She has further asserted that she was brutally assaulted on 26.11.2021 also by the appellant/defendant in Bayore Hotel in Deoghar.
14. It is also evident that the appellant/defendant appeared and filed written statement stating therein that for the first time he confronted with the respondent/plaintiff in a marriage ceremony on 21.11.2019 and their first meeting converted into love and affection and they became agreed to marry

each other. He has asserted that due to the fact that their marriage was love marriage, there was no exchange of any illegal dowry and it is completely false that jewellery and house hold articles worth Rs.10 lac in kind was given to him.

15. After marriage, the respondent/plaintiff started living in his house and the respondent/plaintiff started pressurizing him to give his entire income. She also pressurized him to sever all sorts of ties with his family members and has also denied any cruel behaviour.
16. He has further asserted that during her stay in his house, his wife became pregnant on which he took her to her Maika, but she did not return and she terminated her pregnancy without his knowledge. After some days, respondent/plaintiff 's brothers started frequenting to his house and started demanding a sum of Rs. 5 lacs from him and on his denial to pay the said amount they misbehaved with him. On her pregnancy, she had come to her Maika on 22.05.2024 and when he went to take her Bidagri they denied to give her Bidagri and the respondent/plaintiff 's relatives scolded him and snatched his chain and a sum of Rs. 20,000/- from him and they also started threatening him to put him to death and after his return, he came to know that his wife terminated her pregnancy. He has lastly asserted that the suit has been filed against him only for extortion of money from him and still he is willing to lead his conjugal life with her.
17. It is evident from the factual aspect that the respondent/plaintiff had a motion by filing a petition under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 for decree of divorce.
18. The learned Family Judge has called upon the appellant-husband. The appellant-husband had filed written statement and altogether four issues have been framed by the learned Family Court which are as follows:
 - (i) Whether the plaintiff has valid cause of action for filing this suit against defendant/respondent?
 - (ii) Whether the suit filed by the plaintiff is maintainable or not?
 - (iii) Whether the plaintiff is entitled to a decree of divorce u/s 13 (1)(1-a) of Hindu Marriage Act on the ground of cruelty?

(iv) Whether the plaintiff is entitled for any other relief/reliefs?

19. The evidences have been made on behalf of both the parties. Thereafter, the judgment has been passed allowing the suit by holding that cruelty from both the sides have surfaced on the record and due to continuous separation and long gap of carnal relation between the couple, accordingly, dissolved the marriage in between the parties with a direction upon the appellant-husband to pay a sum of Rs.6 lakh to the respondent-plaintiff, which is the subject matter of the present appeal.

Submission of the learned counsel for the appellant/defendant:

20. It has been contended on behalf of the appellant/plaintiff that the factual aspect which was available before the learned court supported by the evidences adduced on behalf of the appellant/defendant has not properly been considered and as such, the judgment impugned is perverse, hence, not sustainable in the eyes of law.
21. It has been submitted that the learned family court has not tried to reconcile the matter as the appellant/defendant was willing to reconcile which was disregarded contrary to the spirit of Section 23(2) of the Hindu Marriage Act.
22. It has also been submitted that while granting the alimony of Rs.6 lakhs the learned Family Court has not taken into consideration the financial independency of the respondent/plaintiff and her income as has been admitted by her that she is working as a teacher.
23. Learned counsel for the appellant/defendant, based upon the aforesaid grounds, has submitted that the judgment impugned suffers from perversity, as such, not sustainable in the eyes of law.

Submission of the learned counsel for the respondent/plaintiff:

24. *Per contra*, learned counsel for the respondent/plaintiff, while defending the impugned judgment, has submitted that there is no error in the impugned judgement. The learned Family Judge has considered the issue of cruelty and having come to the conclusion that the appellant/defendant and his family members have committed cruelty upon her, has rightly allowed the suit.

25. So far as the issue of cruelty is concerned, the learned counsel for the respondent/plaintiff has submitted that there is no such act of cruelty on behalf of the respondent/plaintiff, rather it is the respondent/plaintiff who has been subjected to cruelty since after some days of the marriage, the respondent/plaintiff was subjected to cruelty and was treated like a servant and there was also a demand of four wheeler from her parents which not being fulfilled, she was tortured.
26. It has also been submitted that when she witnessed that her husband, the appellant/defendant herein, with his Bhabhi in a compromising position establishing illicit relation, she was confined inside a room and finally was ousted from her matrimonial house.
27. It has also been submitted that after compromise in a case being C.P. Case No. 7375 of 2022, the respondent/plaintiff conceived pregnancy but due to torture and assault, her pregnancy was terminated and after which, on 21.05.2024, she was ousted from her matrimonial house finally.
28. Learned counsel, based upon the aforesaid ground, has submitted that if on that pretext, the factum of cruelty has been found to be established, based upon which the decree of divorce has been granted, the impugned judgment cannot be said to suffer from an error, as such, the present appeal is fit to be dismissed.

Analysis:

29. This Court has heard the learned counsel for the parties and gone through the finding recorded by the learned Family Judge in the impugned judgment.
30. The case has been heard at length. The admitted fact herein is that the suit for divorce has been filed on the ground of cruelty, i.e., by filing an application under Section 13(1) (i-a) of the Hindu Marriage Act, 1955 and accordingly, issues have been framed by the learned Family Court wherein primarily issue no.(iii) pertains to cruelty.
31. It needs to refer herein that it has been submitted by the learned counsel for respondent wife that after getting divorce and after expiry of limitation period to file appeal, the respondent/plaintiff/wife solemnized second

marriage. He has further submitted that the respondent has now advanced stage of pregnancy of about 6-7 months. The aforesaid fact has also been taken note by this Court in its order dated 17.04.2026. For ready reference the aforesaid judgment is being quoted as under:

“Order No. 07: Dated 17th April, 2026

1. Perused the explanation furnished by the learned Principal Judge, Family Court, Dhanbad sent vide letter dated 15.04.2026, being placed though the Principal District and Sessions Judge, Dhanbad.

2. This Court, after going through the explanation furnished has found that unconditional apology has been tendered for the mistake, as pointed out by this Court vide order dated 2nd April, 2026.

3. Considering the same, the explanation is accepted.

4. In course of hearing, learned counsel for the respondent-wife has submitted that after getting divorce that too after expiry of limitation period to file appeal, the respondent solemnized second marriage. He has further submitted that the respondent has now pregnancy of about 6.-7 months.

5. In view thereof, let an affidavit to that effect be filed by the next date of hearing.

6. As prayed for, list this case on 27.04.2026.”

32. Now adverting to the factual aspect of the case.

33. It is evident that the evidences have been led on behalf of both the parties before the Family Court. For better appreciation, the evidences led on behalf of the respondent/plaintiff are being referred as under:

- (i) P.W-1, Deepika Gupta, has stated in examination-in-chief that she was married to the respondent on 23.04.2021 in Sonotel Garden Hotel, Saraidhela, Dhanbad as per Hindu Rites and Customs and she went to her Sasural. After a week in her Sasural being tortured by her husband and his relatives, she filed a complaint case on 21.05.2024 and left her Sasural and she has been living there. She has also asserted that she has no issue and during her stay in her Maika, the respondent Rahul Kumar never came to see her and he did not make any payment to her for her maintenance. She has lastly testified that she has become disgusted with the cruelty of her husband, therefore, she has filed the suit for her divorce on the basis of cruelty.
- (ii) During her cross-examination, she has denied that in the month of November, she had pregnancy of 2 to 2½ months and she terminated her pregnancy in her Maika by taking medicine. She has also denied

that her parents and brothers used to demand money from her husband and on his failure to fulfil their demand, she filed C.P Case No.7375/2022 on 26.07.2022 against her husband, she has admitted to have compromised that case. She has admitted that in the month of March 2024 again she became pregnant. She has denied that after her pregnancy, she came to her Maika voluntarily and has also denied that during stay at her Maika, the respondent tried to take her Bidagri, but she and her relatives reviled the respondent and drove him away. She has admitted that she had done Whats-app chatting only for one day. She has denied to have to gone to her husband. She has denied to have given false evidence in this case.

- (iii) PW 2, Beby Devi, mother of the respondent/plaintiff has stated in her evidence simply reproducing the evidence that has been given by the PW 1.

34. The evidences led on behalf of the appellant/defendant are being referred as under:

- (i) D.W.-1, Rahul Kumar, has stated in his examination-in-chief admitting therein that his marriage was solemnized with the plaintiff on 23.04.2021 at Sonotel Garden Hotel, Kolakusma, Saraidhela, Dhanbad as per Hindu Rites and Customs. He has further asserted that he has not taken even a single rupee in the form of dowry and it is he who had spent Rs. 26,20,625/- as the cost of their marriage out which jewellery, I-Phone, Lahnga etc. of Rs.17,20,625, in kind given to the respondent/plaintiff. He also paid a bill of Rs. 1.5 lac to owner of Sonotel Garden Hotel and also paid a sum of Rs. 7.5 lac for decoration and lunch of the guest. He has filed a copy of bill of about Rs. 26,20,625 marked as "Y". He has further disclosed that on 21.11.2019 he met the petitioner on the occasion of marriage ceremony of their relatives and they fell in love and later on they married each other. After marriage his father-in-law Arun Kumar Gupta and his mother-in-law Beby Gupta always used to demand money from him, but due to lock down his various projects of building construction were stopped, as a result of which he failed to

fulfil their demand. Subsequently, due to his failure to fulfil their demand, his wife filed C.P Case No.18905/2024, but after some negotiation, the case was compromised. After compromise, the respondent/plaintiff again started playing drama due to his denial to make payment of money to the respondent/plaintiff and during their stay after compromise, the respondent/plaintiff herself had disclosed that her parents were not willing to continue her relation with him. He has filed a detailed WhatsApp chat between mobile No. xxxxxx7765 and xxxxxx5974 vide 'Y/1'. He has further asserted that his wife became pregnant, but her pregnancy was terminated without his consent. For the second time his wife again became pregnant, but on 22.05.2024 she came to her Maika and terminated her pregnancy again. Lastly, he has testified that still he is loving his wife very much and he wants to lead happy conjugal live with her and by the date he was in position to give financial assistance to his in-laws, his conjugal relation was running well but the moment he stopped making payment money to his in-laws, the alleged strife between them ensued.

- (ii) During his cross-examination, he has denied that jewellery shown in the receipt were not given to his wife rather, the same were given to his Bhabhi and has admitted that prior to 21.11.2020 also, he had purchased some jewellery in his own name. On 17.08.2018, he purchased a chain in his own name. In paragraph 22 he has admitted that he purchased jewellery on 23.04.2022 from PC jewelleries in his own name and has asserted that he can show receipts of Rs. 26,20,625/- as his expenditure. He has denied to have any date in his memory on which his in-laws have been alleged to have demanded money from him. In paragraph 39 he has admitted that he had been under treatment for depression and he can show prescription regarding his depression. In paragraph 40 he has denied that his in-laws gave him Rs. 8 lac as dowry to him. He has also denied to have tortured his wife. He has denied that on many occasions he was caught red handed with his Bhabhi while he was making illicit relation with him by his wife. He has also admitted that he cannot

show any document regarding termination of pregnancy of his wife and has also admitted that by this date he has not filed any suit restitution of conjugal rights.

(iii) The D.W.-2 Sanjiv Kumar, D.W.-3 Mahendra Kumar Mahato and D.W.-4 Barun Sah (Brother of the appellant/defendant) have also completely supported the assertions and averments made by the appellant/defendant in their evidence before the court.

35. The learned Family Judge has appreciated the evidences led on behalf of the parties as also the submission made in the pleading, i.e., plaint and written statement, and has found that the element of cruelty being established, as such, has allowed the suit by dissolving the marriage in between the parties.

36. The learned counsel for the appellant/defendant has argued that the evidence of cruelty has not properly been considered and as such, the judgment suffers from perversity, hence, not sustainable in the eyes of law.

37. While on the other hand, argument has been advanced on behalf of the respondent/plaintiff that the judgment is well considered one and merely by committing fraud, the suit for divorce was filed.

38. This Court while appreciating the argument advanced on behalf of the parties on the issue of perversity needs to refer herein the interpretation of the word “perverse” as has been interpreted by the Hon'ble Apex Court which means that there is no evidence or erroneous consideration of the evidence. The Hon'ble Apex Court in *Arulvelu and Anr. vs. State [Represented by the Public Prosecutor] and Anr., (2009) 10 SCC 206* while elaborately discussing the word perverse has held that it is, no doubt, true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law. Relevant paragraphs, i.e., paras-24, 25, 26 and 27 of the said judgment reads as under:

“24. The expression “perverse” has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court

observed that the expression “perverse” means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.

25. In *Parry's (Calcutta) Employees' Union v. Parry & Co. Ltd.* [AIR 1966 Cal 31] the Court observed that “perverse finding” means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In *Triveni Rubber & Plastics v. CCE* [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.

26. In *M.S. Narayanagouda v. Girijamma* [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In *Moffett v. Gough* [(1878) 1 LR 1r 331] the Court observed that a “perverse verdict” may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In *Godfrey v. Godfrey* [106 NW 814] the Court defined “perverse” as turned the wrong way, not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.

27. The expression “perverse” has been defined by various dictionaries in the following manner:

1. *Oxford Advanced Learner's Dictionary of Current English, 6th Edn.*

“Perverse.—Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable.”

2. *Longman Dictionary of Contemporary English, International Edn.*

Perverse.—Deliberately departing from what is normal and reasonable.

3. *The New Oxford Dictionary of English, 1998 Edn.*

Perverse.—Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.

4. *The New Lexicon Webster's Dictionary of the English Language (Deluxe Encyclopedic Edn.)*

Perverse.—Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.

5. *Stroud's Judicial Dictionary of Words & Phrases, 4th Edn.*

“Perverse.—A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.””

Issue of cruelty

39. In the background of aforesaid factual aspect this Court is adverting to appreciate the issue of cruelty.

40. The “cruelty” has been interpreted by the Hon’ble Apex Court in the case of *Dr. N.G. Dastane vs. Mrs. S. Dastana, (1975) 2 SCC 326* wherein it has been laid down that the Court has to enquire, as to whether, the conduct

charge as cruelty, is of such a character, as to cause in the mind of the petitioner, a reasonable apprehension that, it will be harmful or injurious for him to live with the respondent.

41. This Court deems it fit and proper to take into consideration the meaning of ‘cruelty’ as has been held by the Hon’ble Apex Court in *Shobha Rani v. Madhukar Reddi, (1988)1 SCC 105* wherein the wife alleged that the husband and his parents demanded dowry. The Hon’ble Apex Court emphasized that “cruelty” can have no fixed definition.
42. According to the Hon’ble Apex Court, “cruelty” is the “conduct in relation to or in respect of matrimonial conduct in respect of matrimonial obligations”. It is the conduct which adversely affects the spouse. Such cruelty can be either “mental” or “physical”, intentional or unintentional. For example, unintentionally waking your spouse up in the middle of the night may be mental cruelty; intention is not an essential element of cruelty but it may be present. Physical cruelty is less ambiguous and more “a question of fact and degree.”
43. The Hon’ble Apex Court has further observed therein that while dealing with such complaints of cruelty it is important for the court to not search for a standard in life, since cruelty in one case may not be cruelty in another case. What must be considered include the kind of life the parties are used to, “their economic and social conditions”, and the “culture and human values to which they attach importance.”
44. The nature of allegations need not only be illegal conduct such as asking for dowry. Making allegations against the spouse in the written statement filed before the court in judicial proceedings may also be held to constitute cruelty.
45. In *V. Bhagat vs. D. Bhagat (Mrs.), (1994)1 SCC 337*, the wife alleged in her written statement that her husband was suffering from “mental problems and paranoid disorder”. The wife’s lawyer also levelled allegations of “lunacy” and “insanity” against the husband and his family while he was conducting a cross-examination. The Hon’ble Apex Court held these allegations against the husband to constitute “cruelty”.

46. In *Vijaykumar Ramchandra Bhate v. Neela Vijay Kumar Bhate, (2003)6 SCC 334* the Hon'ble Apex Court has observed by taking into consideration the allegations levelled by the husband in his written statement that his wife was "unchaste" and had indecent familiarity with a person outside wedlock and that his wife was having an extramarital affair. These allegations, given the context of an educated Indian woman, were held to constitute "cruelty" itself.
47. The Hon'ble Apex Court in *Joydeep Majumdar v. Bharti Jaiswal Majumdar, (2021) 3 SCC 742*, has been pleased to observe that while judging whether the conduct is cruel or not, what has to be seen is whether that conduct, which is sustained over a period of time, renders the life of the spouse so miserable as to make it unreasonable to make one live with the other. The conduct may take the form of abusive or humiliating treatment, causing mental pain and anguish, torturing the spouse, etc. The conduct complained of must be "grave" and "weighty" and trivial irritations and normal wear and tear of marriage would not constitute mental cruelty as a ground for divorce.
48. The Hon'ble Apex Court in the case of *Vidhya Viswanathan v. Kartik Balakrishnan, (2014) 15 SCC 21* has specifically held that cruelty is to be determined on whole facts of the case and the matrimonial relations between the spouses and the word 'cruelty' has not been defined and it has been used in relation to human conduct or human behaviour. It is the conduct in relation to or in respect of matrimonial duties and obligations. It is a course of conduct and one which is adversely affecting the other.
49. Now reverting to the fact of the case wherein it has been alleged by the appellant/husband that after marriage, the respondent/plaintiff started living in his house and the respondent/plaintiff started pressurizing him to give his entire income. She also pressurized him to sever all sorts of ties with his family members and has also denied any cruel behaviour. He has further asserted that during her stay in his house, his wife became pregnant on which he took her to her Maika, but she did not return and she terminated her pregnancy without his knowledge. After some days, respondent/plaintiff's brothers started frequenting to his house and started

demanding a sum of Rs. 5 lacs from him and on his denial to pay the said amount they misbehaved with him. On her pregnancy, she had come to her Maika on 22.05.2024 and when he went to take her Bidagri they denied to give her Bidagri and the respondent/plaintiff 's relatives scolded him and snatched his chain and a sum of Rs. 20,000/- from him and they also started threatening him to put him to death and after his return, he came to know that his wife terminated her pregnancy.

50. Per contra, the respondent-wife, in her deposition before the learned Family Court, asserted that at the time of marriage her parents had paid a sum of ₹8,00,000 in cash along with jewellery, furniture, and household articles worth approximately ₹10,00,000 to the appellant-husband and his family members. She stated that after marriage she went to her matrimonial home and lived peacefully only for about a week, thereafter being treated like a maid servant and subjected to mental and physical cruelty. On the instigation of the appellant's sisters, namely Soni Devi and Putul Devi, the appellant raised a demand for a four-wheeler. She further alleged that on 25.05.2021 and again on 28.07.2021 she was confined in a room, abused in vituperative language, and assaulted, as she had objected to the appellant's illicit relationship with his sister-in-law Anita Devi, which she had witnessed.
51. She deposed that upon being ousted from her matrimonial home, she took up employment as a teacher in a private school, but was compelled to leave due to threats from the appellant. Consequently, she filed C.P. Case No. 7375/2022 before the learned JMFC, Dhanbad. In that proceeding, the appellant was granted bail on 25.08.2023 on the basis of a compromise, wherein he undertook not to abuse or assault her, not to send obscene messages on WhatsApp, and to consent to divorce by mutual agreement. Despite this, when she returned to her matrimonial home, the appellant resumed his acts of cruelty. She remained there for six months, during which she conceived, but owing to merciless assaults her pregnancy was terminated. Ultimately, on 21.05.2024, she was banished from the matrimonial house.

52. She further alleged that she was brutally assaulted on 26.11.2021 at Bayore Hotel, Deoghar. According to her testimony, the appellant is a cruel man, a habitual drunkard, and a money-lender, who leaves home in the morning and returns only at midnight, and habitually cohabits with his sister-in-law Anita Devi. She categorically stated that there is no possibility of reunion, as the appellant is a cruel man with whom she cannot live happily any longer.
53. Based upon aforesaid discussions on the issue of cruelty and as per evidence it appears to this Court that the appellant and respondent are legally wedded husband and wife, whose marriage was solemnized in year 2021. As per evidence respondent-wife had filed petition for divorce on the ground of cruelty before the Family Court.
54. It is evident from the impugned judgment and material available on record that the testimony of the respondent-plaintiff-wife is consistent and detailed, narrating specific incidents of cruelty, confinement and assault. The allegations of illicit relationship, physical violence, and termination of pregnancy owing to assault are grave in nature. The compromise entered into before the learned JMFC, Dhanbad, and the appellant's subsequent conduct in resuming cruelty, further corroborates her assertion that the matrimonial bond has broken down. Further the appellant has merely denied the allegations without producing cogent evidence to dislodge the respondent's testimony.
55. In view of the foregoing, this Court finds that the respondent-wife has successfully established her case of cruelty and dowry demand against the appellant-husband. The compromise entered into earlier has failed to restore peace, and the subsequent conduct of the appellant demonstrates continued cruelty.
56. This Court, based upon the aforesaid discussions on the issue of cruelty, is of considered view that the issue of cruelty as has been alleged by the respondent/wife against the appellant-husband has been proved satisfactorily and further since, the learned Family Judge after appreciating the entire evidence had recorded its finding, therefore, it is considered view

of this Court that the appellant/petitioner has failed to establish the element of perversity in the aforesaid finding of the learned Family Court.

57. Thus, as per the discussions made hereinabove and law laid down by Hon'ble Apex Court which has also been referred herein above this Court has no reason to take different view that has been taken by the learned Family Court proving the ground of cruelty, accordingly the finding of learned Family Court on the point of cruelty requires no interference by this Court.

Issue of Alimony

58. The learned counsel for the petitioner contended that the award of Rs.6 lakh as alimony is unjustified as the Respondent is financially independent (admitted to working as a teacher) and the appellant's income was not assessed, and no evidence of his financial capacity was led.
59. So far the issue of alimony is concerned, it requires 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 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].”

60. 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 or 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 life of husband or wife, if having no sufficient source of income.
61. 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.
62. 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 on 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 Sub section (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.

63. 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.”

64. We may note here that a substitution has been brought to Sub-section (3) of Section 25 of the Hindu Marriage Act with effect from 27th May 1997. 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 substitution 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/wife, it is established that the husband/wife has not remained chaste after the decree of maintenance is passed under Sub-section (1) of Section 25.

65. 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.”

66. 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.”

67. In the backdrop of the aforesaid settled portion of law this Court has gone through the impugned judgment wherefrom it is evident that while deciding the issue of alimony learned family court has taken into consideration the entire material available in record. It is further evident from impugned judgment that the learned Family Court has taken into consideration the entire pleading and also taking into consideration that the purchase receipt of the dowry articles has not been submitted by the plaintiff/wife, has fixed Rs.6 lacs as amount of alimony.
68. So far as the self-employment of the respondent/plaintiff/wife is concerned, it is a generally accepted legal principle that a wife's income or employment does not automatically disqualify her from receiving alimony, it is not an absolute rule. Courts determine maintenance based on the wife's actual need compared to the lifestyle she enjoyed in her matrimonial home.
69. In ***Shailja v. Khobbanna, (2018) 12 SCC 199*** the Hon'ble Apex Court held that merely because the wife is capable of earning, it would not be a sufficient ground to reduce the maintenance awarded by the Family Court. The Court has to determine whether the income of the wife is sufficient to enable her to maintain herself, in accordance with the lifestyle of her

husband in the matrimonial home. Sustenance does not mean, and cannot be allowed to mean mere survival.

70. In ***Sunita Kachwaha and Ors. v. Anil Kachwaha (2014) 16 SCC 715*** the wife had a postgraduate degree, and was employed as a teacher in Jabalpur. The husband raised a contention that since the wife had sufficient income, she would not require financial assistance from the husband. The Supreme Court repelled this contention, and held that merely because the wife was earning some income, it could not be a ground to reject her claim for maintenance.
71. The Hon'ble Apex Court in the case of ***Kiran Jyot Maini v. Anish Pramod Patel, (2024) 13 SCC 66*** has reiterated the same view merely because the wife was earning some income, it could not be a ground to reject her claim for maintenance, for ready reference the relevant paragraph of the aforesaid order is being quoted as under:

“27. Additionally, the judgment in Rajnesh case [Rajnesh v. Neha, (2021) 2 SCC 324 : (2021) 2 SCC (Civ) 220 : (2021) 1 SCC (Cri) 749] addresses specific scenarios such as the right of residence under the PWDV Act, the impact of the wife's income on maintenance, and the needs of minor children. Even if the wife is earning, it does not bar her from receiving maintenance; the Court should assess whether her income suffices to maintain a lifestyle similar to that in the matrimonial home. The judgment also considers the expenses associated with the care of minor children, including educational expenses and reasonable amounts for extracurricular activities. Serious disability or illness of a spouse, child, or dependant family member, requiring constant care and recurrent expenditure, is also a significant consideration. Key precedents cited to reach this broad framework include Manish Jain v. Akanksha Jain [Manish Jain v. Akanksha Jain, (2017) 15 SCC 801 : (2018) 2 SCC (Civ) 712], Shailja v. Khobbanna [Shailja v. Khobbanna, (2018) 12 SCC 199 : (2018) 5 SCC (Civ) 308] and Sunita Kachwaha v. Anil Kachwaha [Sunita Kachwaha v. Anil Kachwaha, (2014) 16 SCC 715 : (2015) 3 SCC (Civ) 753 : (2015) 3 SCC (Cri) 589], which reinforce these principles and provide a sound, reasonable and fair basis for determining maintenance in subsequent cases”.

72. Thus, it is settled position of law that mere earning of some income by the wife cannot, by itself, be a ground to reject or reduce her claim for maintenance.
73. This Court, on the basis of discussions made hereinabove, is of the view that the dated 04.04.2025 and decree signed on 17.04.2025 passed by the learned Principal Judge, Family Court, Dhanbad in Original Suit No. 738 of 2024, whereby and whereunder, the learned court has allowed the suit in

the light of Section 13(1)(i-a) of the Hindu Marriage Act, 1955 by dissolving the marriage solemnized in between the parties with a direction upon the appellant/defendant to pay a sum of Rs.6 lakh to the respondent/plaintiff as alimony, requires no interference by this Court.

74. Accordingly, the instant appeal fails and is dismissed.

75. Pending interlocutory application(s), if any, also stands disposed of.

I agree

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

(Sanjay Prasad, J.)

04th May, 2026

Saurabh/A.F.R.

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