IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 52 of 2021

Gunadhar Singh, aged about 45 years, son of Late Bhola Nath Singh, resident of Village-Phutabandh, P.O. and P.S. Bindapathar, District-Jamtara, Jharkhand.

… … Appellant/Respondent

Versus

1. Dhonibala Singh, wife of Gunadhar Singh, Daughter of Babulal Singh, resident of Village-Phutabandh, P.O. and P.S. Bindapathar, District-Jamtara, Jharkhand at presently residing at village Punasia, P.O. & P.S. Bindapathar, District-Jamtara, Jharkhand.

… … Respondent/Petitioner

2. Shantibala Singh, wife of Bijen Singh, resident of village Phutabandh, P.O. & P.S. Bindapathar, District-Jamtara, Jharkhand.

… … Respondent/Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. Lalit Yadav, Advocate
For the Respondent : Mr. Aniket Jaiswal, AC to Mrs. J. Mazumdar, Adv.

CAV/Reserved on 25.06.2026 **Pronounced on: 07.07.2026**

Per Sujit Narayan Prasad, J.

1. The instant appeal under Section 19 of the Family Courts Act, 1984 is directed against the order/judgment dated 28.06.2021 and decree signed on 09.07.2021 passed by the learned Principal Judge, Family court, Jamtara in Original Suit No. 29 of 2026, whereby and whereunder, the learned court has allowed the suit filed under Section 9 of the Hindu Marriage Act, 1955 by petitioner(respondent wife herein) for restitution of conjugal rights against her husband (appellant herein) and her *gotni* Shantibala Singh (respondent no.2 herein).

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 case of the petitioner (respondent no.1 herein) as pleaded in the plaint is that the appellant and respondent no.1 are husband and wife and

respondent no. 2 is elder *gotni*. The respondent no.1 was married with the appellant Gunadhar Singh about 18 years ago as per Hindu rites and customs with dowry in the presence of members of both the parties, Brahamin, Barber and Priest etc at the residence of respondent no.1's (wife) parents in village Punishia with observance of the Hindu rites and customs of *kanyadaan, sindurdaan* and *saptpadi*. After the marriage the respondent no.1 stayed at the house of her parents up to three years because of there not being second marriage (dwiragaman).

4. It has further been pleaded that the parents of the respondent no.1 had given Rs. 51,000/- cash and golden ring, golden chain, wrist watch, clothes etc, to the appellant. The ritual of dwıragaman was solemnized three years after the marriage in which the parents of the respondent no.1 had gifted almirah, two big boxes full of things, golden bracelet, golden ring, ear ring, nose ring and payal, sarees and other clothes as well as the other house hold utensils, like bed, table, chair, dressing table etc. total amounting to Rs. 3,33,500/- and the respondent no.1 came to her matrimonial home and started leading her conjugal and worldly life happily with her parents-in-law, bhaisur, gotni and husband. The husband of the respondent no.1 gradually got entangled in illicit relationship with the respondent no.2. The respondent no.1 and her parents used to give instruction to keep distance from such relation but all went in vain and both of them continued the illicit relationship as the husband of the respondent no. 2 works outside.

5. In these circumstances, the respondent no.1 spent her life anyhow under assault and abuse. The panchayat was also held several times but to no avail. Meanwhile on 15.05.2015, the appellant herein and respondent no.2 tortured the respondent no.1 physically, mentally and economically and drove her out of her matrimonial home and therefore, being compelled with the same the respondent no.1 lodged a complaint case no. 98/15 corresponding to G.R case No. 767/15 which was pending before the Court of C.J.M Jamtara and in that case the respondent no. 2 was arrested by the police and produced before the Court and the anticipatory bail petition of the appellant was rejected up to the Hon'ble High Court of Jharkhand, Ranchi.

6. The respondent no.1 had also lodged another case being D.V case no. 06/15 under the Domestic Violence Act 2005 before the Court of C.J.M Jamtara. It has further been pleaded that the appellant who is a government teacher in primary school Gourisol, District-Jamshedpur and is earning about Rs.50,000/- per month and has also much movable and immovable properties in his share, big house in village Phutaband and about 10 acres landed property in his share and also a house in New Town Jamtara which has been captured by the respondent no. 2 because of illicit relationship. The respondent no.1 cannot remarry and therefore, tolerating all the pains she has filed the original suit for restitution of conjugal rights before the learned Family Court.

7. It has been pleaded before the learned Family Court that the cause of action for the suit arose on 10.04.2016 on Sunday, when the respondent no.1 and her relatives, brother and members of the society requested the appellant/husband to keep the petitioner/wife with him and lead conjugal life by compromising the above two cases but both the appellant and respondent no.2 and the husband of the respondent no.2, replied that they would not keep the respondent no.1 at their house at any cost nor she will get the status of wife and then all of them decided for the institution of the suit to get the right.

8. On the basis of the aforesaid, the respondent no.1/petitioner/wife had filed suit for restitution of conjugal rights before the learned family Court under Section 9 of the Hindu Marriage Act 1955.

9. The respondent no. 2 did not appear before the Court but the appellant who is the main contestant being husband of the respondent no.1 herein-wife appeared before the Court and filed his written statement pleading therein that the case filed by the petitioner/respondent no.1 is all false and motivated and not maintainable in law and so fit to be dismissed.

10. It has been stated that the petitioner/respondent no.1/wife is about 10 years older than this appellant and she is women of questionable character and she has been set up by some interested persons to rope this appellant for extorting money from him. The malafide object behind this false case will be apparent from the mysterious impleadement of respondent no. 2 Smt.

Shantibala Singh who happens to be a lady aged about 50 years and the mother of the two adult sons aged about 30 years and 25 years and her împleadement in this case u/s 9 of Hindu Marriage Act is beyond understanding.

11. It has further been pleaded that the respondent no.1 Dhonibala Singh is not the wife of this appellant and they were never married with each other. No marriage ceremony according to law and custom was ever performed between the appellant and the respondent no.1 at any time and up till now she never lived with this appellant anywhere at anytime. So far the allegation of paragraphs 14 and 15 of the plaint are concerned, the appellant submits that it is true that the respondent no.1/wife had filed a case u/s 498A of I.P.C against the appellant/husband in which he was in custody for some time and in spite of allegation of torture committed upon her by the appellant she did not file any case against him for a long period of about 18 years but just when the appellant got a government job, the case and two other cases were filed against him simultaneously only with malafide object of pressurizing him and extorting money from him and she was set up to file this case by someone of locality connected with the Court work. The actual fact is that the respondent no.1 when became young, fell in love with next door neighbour Bhola Singh and continued her illicit relationship with him although he was married and such illicit relationship caused family feud in Bhola's family which is known to everyone in the locality. Due to such illicit relationship, she could not be married with anybody and is still living in her father's house.

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 appellant and respondent no.1 are husband and wife and respondent no. 2 is elder *gotni*. The respondent no.1 was married with the appellant Gunadhar Singh about 18 years ago as per Hindu rites and customs. After the marriage the respondent no.1 stayed at the house of her parents up to three years because of there not being second marriage (dwiragaman). It has further been pleaded that the parents of the respondent no.1 had given Rs. 51,000/- cash and golden ring, golden chain, wrist watch, clothes etc, to the appellant. The ritual of dwıragaman was solemnized three years after

the marriage in which the parents of the respondent no.1 had gifted almirah, two big boxes full of things, golden bracelet, golden ring, ear ring, nose ring and payal, sarees and other clothes as well as the other house hold utensils, like bed, table, chair, dressing table etc. total amounting to Rs. 3,33,500/- and the respondent no.1 came to her matrimonial home and started leading her conjugal and worldly life happily with her parents-in-law, bhaisur, gotni and husband. It has been alleged that the husband of the respondent no.1 gradually got entangled in illicit relationship with the respondent no.2. The respondent no.1 and her parents used to give instruction to keep distance from such relation but all went in vain and both of them continued the illicit relationship as the husband of the respondent no. 2 works outside.

13. The panchayat was also held several times but to no avail. Meanwhile on 15.05.2015, the appellant/husband and respondent no.2 tortured the petitioner/respondent no.1/wife physically, mentally and economically and drove her out of her matrimonial home and therefore, being compelled with the same the respondent no.1 lodged a complaint case no. 98/15 corresponding to G.R case No. 767/15 which was pending before the Court of C.J.M Jamtara and in that case the respondent no. 2 was arrested by the police and produced before the Court who was sent to jail and the anticipatory bail petition of the appellant was rejected up to the Hon'ble High Court of Jharkhand, Ranchi.

14. The respondent no.1 had also lodged another case being D.V case no. 06/15 under the Domestic Violence Act 2005 before the Court of C.J.M Jamtara. It has further been pleaded that the appellant who is a government teacher in primary school Gourisol, District-Jamshedpur and is earning about Rs.50,000/- per month and has movable and immovable properties in his share, house in village Phutaband and about 10 acres landed property in his share and also a house in New Town Jamtara which has been captured by the respondent no. 2 because of illicit relationship. The respondent no.1 cannot remarry and therefore, tolerating all the pains she has filed the original suit for restitution of conjugal rights before the learned Family Court.

15. The cause of action for the suit arose on 10.04.2016 on Sunday, when the respondent no.1 and her relatives, brother and members of the society requested the appellant to keep the petitioner with him and lead conjugal life by compromising the above two cases but both the appellant and respondent no.2 and the husband of the respondent no.2, replied that they would not keep the respondent no.1 at their house at any cost nor she will get the status of wife and then all of them decided for the institution of the suit to get the right.

16. On the basis of the aforesaid, the respondent no.1/petitioner/wife had filed suit for restitution of conjugal rights before the family Court under Section 9 of the Hindu Marriage Act 1955.

17. On being noticed, the respondent no. 2 did not appear before the Court but the appellant appeared before the Court and filed his written statement pleading therein that the case filed by the respondent no.1 Dhonibala Singh is all false and motivated and not maintainable in law and so fit to be dismissed. The respondent no.1 is about 10 years older than this appellant and she is women of questionable character. She has been set up by some interested persons to rope this appellant for extorting money from him. The malafide object behind this false case will be apparent from the mysterious impleadement of respondent no. 2 Smt. Shantibala Singh who happens to be a lady aged about 50 years and the mother of the two adult sons aged about 30 years and 25 years and her împleadement in this case u/s 9 of Hindu Marriage Act is beyond understanding. It has further been pleaded that the respondent no.1 Dhonibala Singh is not the wife of this appellant and they were never married with each other. So far the allegation of paragraph 14 and 15 of the plaint are concerned, the appellant submits that it is true that the respondent no.1 had filed a case u/s 498A of I.P.C against the appellant in which he was in custody for some time and in spite of allegation of torture committed upon her by the appellant she did not file any case against him for a long period of 20 years but just when the appellant got a government job, the case and two other cases were filed against him simultaneously only with malafide object of pressurizing him and extorting money from him and she was set up to file this case by someone of locality connected with the Court work. The actual fact is that

the respondent no.1 fell in love with next door neighbour Bhola Singh and continued her illicit relationship with him although he was married and such illicit relationship caused family feud in Bhola's family which is known to everyone in the locality. Due to such illicit relationship she could not be married with anybody and is still living in her father's house.

18. The learned Family Judge framed altogether seven issues which are as follows:

    (1) Whether the suit is maintainable in its present form?

    (2) Whether there is any cause of action for the suit?

    (3) Whether the petitioner and respondent are legally marriage wife and husband?

    (4) Has the petitioner ever lived with the respondent as his wife?

    (5) Whether the respondent has any reasonable cause for withdrawing himself from the society of the petitioner and refused to perform his marital obligation?

    (6) Whether the petitioner is entitled to get a decree for restitution of conjugal rights?

    (7) Whether the petitioner is entitled to get any other relief or 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 the appellant has withdrawn himself from the society of the respondent no.1/wife without any reasonable excuse, as such, the respondent no.1 is entitled to get a decree for restitution of conjugal rights and therefore, the suit has been decreed against the appellant and has been directed to take the respondent no.1 back from her parent’s house, live with her and to continue conjugal relationship at her matrimonial home within two months from the date of the order, which is the subject matter of the present appeal.

Submission of the learned counsel for the appellant/husband:

20. It has been contended on behalf of the appellant/husband that the factual aspect which was available before the learned court supported by the evidences adduced on behalf of the appellant/husband 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 considered the fact that the appellant has never solemnized marriage with the respondent no.1 at any time which has been supported by the witnesses being R.W. No.1, R.W. No.2 and R.W. No.4.

22. Learned counsel for the appellant/husband, 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 no.1/petitioner/wife:

23. *Per contra*, learned counsel for the respondent no.1/wife, while defending the impugned judgment, has submitted that there is no error in the impugned judgement.

24. The learned Family Judge has considered the issues in its entirety and based upon the cogent evidences has concluded that the appellant husband without any reasonable excuse has withdrawn himself from the society of the respondent wife.

25. Learned counsel, based upon the aforesaid ground, has submitted that if on that pretext, the judgment has been passed allowing the original suit filed for restitution of conjugal rights, the impugned judgment cannot be said to suffer from an error, as such, the present appeal is fit to be dismissed.

Analysis:

26. 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.

27. The case has been heard at length. The admitted fact herein is that the suit for restitution of conjugal right has been filed by filing an application under Section 9 of the Hindu Marriage Act, 1955 and accordingly, issues have been framed by the learned Family Court wherein primarily issue nos.(3), (4) and (5) pertains to whether the parties are legally married husband and wife and have lived together as also whether the appellant-husband has any

reasonable cause for withdrawing himself from the society of the respondent no.1 and refused to perform his marital obligation.

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

29. 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 no.1/wife are being referred as under:

(i) P.W-1, Subal Singh has deposed that the respondent no.1 and appellant got married about 19-20 years ago as per Hindu rites and customs and rituals as well as observing the ritual of saptpadi in the presence of the family members of both the parties and Late Som Nath Pandey was working as priest and Late Jatal Bhandari had acted as barber and the father of the respondent no.1 had given Kanyadaan and thereafter the respondent no.1 stayed at the house of her parents up to three years and thereafter dwıragaman ceremony was performed and she went to her husband's village and started living there. Sometimes thereafter her husband got job of para-teacher. She had no knowledge that her husband had illicit relation with the respondent no. 2 and gradually the appellant started ignoring the respondent no.1 and torturing mentally, physically and economically. On enquiry he started beating her. Later on, appellant took the respondent no.1 and the respondent no. 2, at the house of New Town Jamtara and started behaving her like maid servant. She was kept confined in a room and the appellant and respondent no. 2 used to establish physical relation and on protest she was beaten. A panchayat was also held but again thereafter they started repeating the same and in the year 2015 she lodged a case of torture, a case under DV Act and the present one.

In cross-examination he has stated that the respondent no.1 is his elder sister. He has three brother and three sisters. The respondent no.1 was married prior to the marriage of this witness and in her marriage Som Nath Pandey was priest and Jatal Bhandari was barber. He has further stated that the respondent no.1 petitioner stayed two three years quite well at the house of her husband but

ultimately in the year 2015 she was driven out because of dispute. He has denied the suggestion that there is difference of ten years in the age of Dhonibala Singh and Gunadhar Singh and that both were never married nor lived together.

(ii) P.W.-2, Lakhan Pal has also deposed that the respondent no.1 and appellant got married about 19-20 years ago as per Hindu rites and customs and rituals as well as observing the ritual of saptpadi in the presence of the family members of both the parties and Late Som Nath Pandey was working as priest and Late Jatal Bhandari had acted as barber and the father of the respondent no.1 had given Kanyadaan. He has further stated that the father of the respondent no.1 and father of this witness are friends and on that account this witness was also invited and present.

In cross-examination he has admitted that his village Saluka is situated at a distance of 5 kilometers from the village Phutabandh and at a distance of about 15 kilometers from the village Radha Balbhavpur. When the respondent no.1 was married, this witness was aged about 18 years. He had seen the respondent no.1 and the appellant about one and half year ago at the house of Dhonibala and at that time their relation was good.

(iii) P.W.-3, Bhishmdev Singh is the elder brother of the respondent no.1 and he has deposed that the respondent no.1 was married with the appellant as per Hindu rites and customs during childhood by observing saptpadi and sindurdaan ritual and after being adult she went to her sasural about 18-19 years ago and started leading conjugal life with her husband. The appellant had illicit relation with the respondent no. 2. The appellant because of the relation with his bhabhi, drove the respondent no.1 out by beating and torturing.

In cross-examination he has admitted that the respondent no.1 was driven out about 2 years ago. Appellant has his house at Phutabandh. This witness was married about 25 years ago and he cannot tell as to how many years ago of his marriage, the respondent no.1 was married. He has also denied the suggestion that the

respondent no.1 was never married with the appellant nor they lived with each other.

(iv) P.W.-4, Sarweshar Hansda is the villager of the father of the respondent no.1 and he has deposed that the respondent no.1 was married with the appellant as per Hindu rites and customs during childhood by observing saptpadi and sindurdaan rituals and after being adult she went to her sasural about 18-19 years ago and started leading conjugal life with her husband. The appellant had illicit relation with the respondent no 2. The appellant because of the relation with his bhabhi, drove the respondent no.1 out by beating and torturing.

In cross-examination he has admitted that Gunadhar Singh is younger to him in age. This witness had not seen the bhabhi of the appellant.

(v) P.W.-5, Rathin Singh is cousin of the respondent no.1 and five six years elder to her. He has deposed that the respondent no.1 was married with the appellant as per Hindu rites and customs during childhood at the age of 12, by observing saptpadi and sindurdaan rituals and after being adult she went to her sasural about 18-19 years ago and started leading conjugal life with her husband. The appellant had illicit relation with the respondent no. 2. The appellant because of the relation with his bhabhi, drove the respondent no.1 out by beating and torturing.

In cross-examination he has deposed that he has two sisters and three cousin sisters but he cannot tell the year of marriage of any one of them. About 31 year ago Dhonibala had gone first time at the house of her husband and she was 18 years old at that time. The respondent no.1 lives with her parents and brother. In the marriage of the respondent no.1 Som Nath was purohit and Jatal Bhandari was barber but there was no barber or purohit from the side of the husband. He has denied the suggestion that Dhonibala was never married as per Hindu rites and customs nor she has ever lived at her matrimonial home.

(vi) P.W.-6 Nidra Bala Singh has deposed that she is the elder sister of the respondent no.1 and she has also been married in the same village i.e. phutaband and after the marriage and dwiragaman ceremony she continuously lives at the house of her husband and the sasural of this witness as well as that of the respondent no.1 falls in the same area. She has further deposed that the respondent no.1 was married with the appellant as per Hindu rites and customs during childhood at the age of 12, by observing saptpadi and sindurdaan rituals and after being adult she went to her sasural and started leading conjugal life with her husband. The appellant had illicit relation with the respondent no. 2 and because of the same, he drove the respondent no.1 out by beating and torturing.

In her cross-examination she has stated that she has deposed as witness three times from the side of the respondent no.1 and against the appellant. She cannot tell how many years after the marriage of this witness, the marriage of the respondent no.1 was solemnized. As per the custom and rites in his family the girls are married after being adult. She has also denied that the respondent no.1 and the appellant were never married nor they have ever lived together as husband and wife.

(vii) P.W.-7 is the respondent no.1 (petitioner before the learned Family Court) herself and she has deposed that she is the wife of the appellant Gunadhar Singh and she was married with him about 22 years ago as per Hindu rites and customs by observing the rituals of saptpadi and sindurdaan in presence of her relatives, Bhrahamin, Barber and three years thereafter her dwiragaman ceremony was performed and she started leading conjugal life at the house of her husband as well as her parents-in-law, bhaisur, gotni etc. at village phutaband and while residing in her sasural her name was entered in the voter list along with her husband Gunadhar Singh, father-in-law Bhola Nath Singh, Bhaaisur and Gotni in the same house number in village phutaband P.S Bindapathar District Jamtara in the year 2009, 2010, 2014 and 2015 and she has filed the certified copies of the same. She has further stated that her Bhaisur Bijan Singh was

working in railway and constructed a house in Jamtara New Town Mohalla where her gotni Shanti Devi was also living with whom her husband got physical relation and when she caught and protested and complained to her father, brother and parents-in-law, quarrel started in the family. Panchayat was also held but her husband abused and beat her and drove her out four and half years ago and since then she is residing at the house of her father. She also filed a case against her husband u/s 498A I.P.C as well as another case under D.V Act in which she has been granted Rs. 4000/- per month as maintenance allowance and Rs. 5000/- for expenses of the proceeding and she is legally married wife of appellant and she has the legal right to lead conjugal life with her husband.

In cross-examination she has admitted that she has filed three cases against the appellant. Subal Singh is her brother but she does not remember if he is elder or younger than her. She cannot tell the age of her elder sister Nidra Singh. She does not remember if she has filed all the three cases against the appellant prior to his getting job. He has driven her out of her matrimonial home by beating about 4 and half years ago and prior to that she was living with her husband in phutaband and thereafter she was living with him at New Town Jamtara and that house is in the name of all the three brothers namely Gunadhar Singh, Bijay Pad Singh and Bijan Singh. She has further stated that while filing this case she has got her age mentioned as 40 years in the affidavit of the plaint and at the time of filing her evidence on affidavit she has mentioned her age as 42 years. She has denied the suggestion that she is at least 10 years older than the appellant and that she has not been married with him and after he got the job she falsely implicated him in this case under the plan.

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

(i) R.W.-1, Fatick Singh who is the brother-in-law of the appellant and he has deposed that the respondent no.1 was never married with the respondent no.1 as per Hindu rites and customs and rituals nor he has

ever seen the respondent no.1 living in the house of the appellant. After the appellant got the job, some villagers only to extort money from him, set up the respondent no.1 who started claiming to be his wife and lodging false cases. He has further stated that the appellant has no house at Jamtara. He always used to reside in the village and when got job he resides in Jamshedpur.

In cross-examination he has admitted that he is the brother-in-law of the appellant and he is 61 years old but he cannot say his age at the time of his marriage. He also cannot say at which age Gunadhar Singh was married. He has denied the suggestion that he is falsely deposing being brother-in-law of the appellant.

(ii) R.W.-2, Vikash Chandra Singh is the nephew of the appellant and he has deposed that the respondent no.1 was never married with the appellant as per Hindu rites and customs and rituals nor she has ever lived in the house of the appellant. After the appellant got the job, some villagers only to extort money from him, set up the respondent no.1 who started claiming to be his wife and lodging false cases. He has further stated that the appellant has no house at Jamtara he always used to reside in the village and after he got job, he resides in Jamshedpur.

In cross-examination, he has admitted that Gunadhar Singh has three brothers and two others are Bijan Chandra Singh and Bijay Pado Singh and this witness is the son of Bijay Pado Pado Singh though they live separately. This witness has his name in the Voter list. He has cast his vote three four times. He has further admitted that the name of Gunadhar is also in the voter list on Sl.No. 272 and the name of Dhonibala, wife of Gunadhar Singh is on Sl. No. 269 in the voter list.

(iii) R.W.-3 Sandhiya Rani is the bhabhi of Gunadhar Singh and she has deposed that the respondent no.1 was never married with the appellant as per Hindu rites and customs and rituals nor they ever lived together as husband and wife. After the job of appellant became permanent, some villagers only to extort money from him set up the

respondent no.1 who started claiming to be his wife and lodging false cases. She has further stated that the appellant has no house at Jamtara and he always used to reside in the village and when his job became permanent, he went to TATA and resides there.

In cross-examination she has admitted that the name of her father-in-law is Bhola Nath Singh who has three sons and first one is her husband Vijay Pado Sigh, second one is Bijan Singh and third one is appellant Gunadhar Singh. She has further stated that her name is in the voter list in house no. 51 and the names of her dever and gotni are also in the voter list but she knows nothing about Dhonibala and at last she has denied the suggestion that she is falsely deposing because of being bhabhi of the appellant.

(iv) R.W.-4 Gunadhar Singh is the appellant (respondent no.1 in the original suit) and is the main contestant in the case. He has deposed that Dhonibala Singh is ten years older than him and she has been set up by some of his villagers for extortion of money from him. The case has been filed for restitution of conjugal rites and therefore, there is no reason for pleading his bhabhi as a party. He has further stated that he has never married with Dhonibala as per Hindu rites and customs nor she has ever lived with him together as husband and wife He has admitted that Dhonibala has filed a case of torture due to Dowry which is false and baseless. It is remarkable that she has been tolerating the alleged torture for about 20 years but has not complained anywhere and as soon as he got a permanent job of teacher, she filed several cases mislead by others for extorting money. She is taking maintenance allowance in domestic violence case from him. She is not his legally married wife therefore, there is no justification to keep her with him.

In cross-examination he has admitted that he is a government teacher posted at Primary School Kuldiha, district Jamshedpur. His parental house is situated in village phutaband. He does not remember the house number of his parental house. He does not have his name in voter list. He does not know if the names of his

brothers are in the voter list. He has denied that his name is mentioned in the voter list of 2014 with his wife Dhonibala. He has also denied that in the voter list from 2007 to 2014 his name along with the name of his wife Dhonibala and the name of his other brothers is mentioned in house no. 51. He has further denied that Dhonibala is not his legally married wife and as he does not like her, he has falsely deposed.

31. 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 on consideration of the aforesaid, has allowed the suit filed by respondent no.1/wife for restitution of conjugal rights by holding that the appellant has withdrawn himself from the society of the respondent no.1 without any reasonable excuse, as such, the respondent no.1 is entitled to get a decree for restitution of conjugal and therefore, the suit has been decreed against the appellant-husband herein and has been directed to take the respondent no.1 back from her parent's house, live with her and to continue conjugal relationship at her matrimonial home within two months from the date of the order.

32. The learned counsel for the appellant/husband has argued that the evidence led before the learned Family Court has not properly been considered and as such, the judgment suffers from perversity, hence, not sustainable in the eyes of law.

33. While on the other hand, argument has been advanced on behalf of the respondent no.1/wife that the judgment is well considered one, as such, the judgment impugned passed by the learned Family Court may not be interfered with as the same has been passed after consideration of all the aspects of the matter and material, evidences and exhibits placed on record.

34. 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.""*

35. Herein, it would be appropriate to discuss the object and scope of decree of restitution. The object of restitution decree was to bring about cohabitation between the estranged parties so that they could live together in the matrimonial home in amity. The leading idea of Section 9 was to preserve the marriage. For ready reference Section 9 of the Hindu Marriage Act is being referred as under*:*

> *9. Restitution of conjugal right.—When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court, for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly. [Explanation.—Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.]*

36. From perusal of the aforesaid provision, it is evident that if either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, before the court concerned, for restitution of conjugal rights and the court, on being satisfied with the statements made in such petition and further taking into consideration the legal ground that why the application should not be granted, may decree restitution of conjugal rights accordingly.

37. Further in explanation part of the said provision, it has been prescribed that when a question arises whether there has been "reasonable excuse" for withdrawal from the society, the burden of proving "reasonable excuse" shall be on the person who has withdrawn from the society.

38. It needs to refer herein that conjugal rights may be viewed in its proper perspective by keeping in mind the dictionary meaning of the expression "Conjugal" wherein the meaning of 'conjugal' as "of or pertaining to marriage or to husband and wife in their relations to each other" is given (Shorter Oxford English Dictionary, 3rd Edn. Vol. I page 371).

39. In the Dictionary of English Law, 1959 Edn. at page 453, Earl Jowitt defines 'conjugal rights' thus:

> *"The right which husband and wife have to each other's society and marital intercourse. The suit for restitution of conjugal rights is a matrimonial suit, cognizable in the Divorce Court, which is brought whenever either the husband or the wife lives separate from the other without any sufficient reason, in which case the court will decree restitution of conjugal rights (Matrimonial Causes Act, 1950, s. 15), but will not enforce it by attachment, substituting however for attachment, if the wife be the petitioner, an order for periodical payments by the husband to the wife (s.22). Conjugal rights cannot be enforced by the act of either party, and a husband cannot seize and detain his wife by force (R.V. Jackson [1891] 1 Q.B. 671)".*

40. In India it may be borne in mind that conjugal rights i.e. right of the husband or the wife to the society of the other spouse is not merely creature of the statute. Such a right is inherent in the very institution of marriage itself. Thus, the restitution of conjugal rights is often regarded as a matrimonial remedy. The remedy of restitution of conjugal rights is a positive remedy that requires both parties to the marriage to live together and cohabit.

41. Thus, the requirements of the provision of restitution of conjugal rights are the following:

    (i) The withdrawal by the respondent from the society of the petitioner.

    (ii) The withdrawal is without any reasonable cause or excuse or lawful ground.

    (iii) There should be no other legal ground for refusal of the relief.

    (iv) The court should be satisfied about the truth of the statement made in the petition.

42. The Hon'ble Apex Court in the case of ***Suman Singh v. Sanjay Singh, (2017) 4 SCC 85*** has categorically observed that when there is evidence establishing that it was respondent husband who withdrew from appellant's company without any reasonable cause, appellant is entitled to decree for restitution of conjugal rights. For ready reference the relevant paragraph is being quoted as under:

> *"24. In our considered view, as it appears to us from perusal of the evidence that it is the respondent who withdrew from the appellant's company without there being any reasonable cause to do so. Now that we have held on facts that the respondent failed to make out any case of cruelty against the appellant, it is clear to us that it was the respondent who withdrew from the company of the appellant without reasonable cause and not the vice versa. 25. In view of the foregoing discussion, the appeals succeed and are allowed. The impugned judgment [Suman Singh v. Sanjay Singh, 2013 SCC OnLine Del 2138 : (2013) 136 DRJ 107] is set aside. As a result, the petition filed by the respondent (husband) under Section 13(1) of the Act seeking dissolution of marriage is dismissed. As a consequence thereof, the marriage between the parties is held to subsist whereas the petition filed by the appellant against the respondent under Section 9 of the Act seeking restitution of conjugal rights is allowed. A decree for restitution of conjugal rights is, accordingly, passed against the respondent.*
>
> *26. We hope and trust that the parties would now realise their duties and obligations against each other as also would realise their joint obligations as mother and father towards their grown up daughters. Both should, therefore, give a quiet burial to their past deeds/acts and bitter experiences and start living together and see that their daughters are well settled in their respective lives. Such reunion, we feel, would bein the interest of all family members in the long run and will bring peace, harmony and happiness. We find that the respondent is working as a "Caretaker" in the Government Department (see Para 4 of his petition). He must, therefore, be the "Caretaker" of his own family that being his first obligation and at the same time attend to his government duties to maintain his family."*

43. Thus, on the basis of aforesaid settled position of law, it is evident that the court will grant a decree for restitution of conjugal rights when one spouse has withdrawn from the other's society without reasonable excuse. This means if a husband or wife leaves the marital home or refuses to live with their spouse without a justifiable reason, the other spouse can file petition before the court for this remedy. The court, if satisfied with the truth of the petition and finding no legal barrier, may order the withdrawing spouse to return and resume cohabitation.

44. In the backdrop of the settled position this Court is now re-adverting to the factual aspect of the instant case.

45. It has been contended by the learned counsel for the appellant that the learned family court has not considered the fact that the appellant has never solemnized marriage with the respondent no.1/wife at any time which has been supported by the witnesses being R.W. No.1, R.W. No.2 and R.W. No.4.

46. In order to appreciate the aforesaid contention we have ventured into impugned judgment wherefrom it is evident that the learned family court has taken note of the fact that there are several other documentary evidence from the side of the petitioner (respondent no.1/wife herein) viz., Ext.2/1 which is CC of voter list of the year 2010, Ext.2/2 which is CC of voter list of the year 2014, Ext.2/3 which is CC of voter list of the year 2015, Ext.3 which is Aadhar card of the petitioner (respondent no.1/wife herein) and Ext.4 which is voter ID card of Dhonobala Singh (respondent no.1/wife herein) which also corroborate the marriage between petitioner and respondent no. 1 (appellant/husband herein) because in all these documents the name of the respondent no. 1 (appellant/husband herein) has been mentioned as husband of the petitioner (respondent no.1/wife herein) in the same house no. 51 of village Phutabandh which is parental house of the respondent/appellant/husband and all these documents are prima facie evidence of the relationship of marriage and have corroborative value though not conclusive one and to rebut the same no cogent evidence has been adduced from the side of the respondent/appellant/husband rather he has taken the stand that the petitioner/respondent no.1/wife has been set up by some of his villagers which is very vague and general in nature and not proved by any evidence as to who are those villagers/persons and Ext. 1 and 1/1 which are *purcha* of agricultural property do not appear to have any relevance in this case.

47. Further it is evident from impugned order/judgment that the learned Family Court has also taken note of the fact that the petitioner (respondent no.1 herein) is the legally married wife of the respondent no. 1 (appellant herein) and she has also lived with him at her matrimonial home together up to

2015 just before she was driven out of her matrimonial home by the respondent no. 1 (appellant herein).

48. Further the learned Family Court has taken into consideration the testimony of the respondent no.1/wife and has found that the wife has very clearly deposed that after her marriage, she went to her sasural and started living with respondent no.1/husband at the matrimonial home but because of illicit relation with the respondent no. 2, the respondent no. 1/husband started torturing her in different ways and ultimately respondent no. 1/husband drove her out of her matrimonial home by beating her in the year 2015 and thereafter she came to the house of her parents and is residing there and this portion of evidence has been corroborated by the evidence of P.W.-1 to P.W.-6. Accordingly, the learned Family Court has finally reached to the conclusion that the respondent no. 1/husband (appellant herein) has withdrawn himself from the society of petitioner(respondent no.1/wife herein) without any reasonable cause and accordingly, this issue is decided in favour of the petitioner/respondent/wife and against the respondent/appellant/husband. For ready reference the relevant paragraph of the aforesaid order of learned Family Court are being quoted herein which reads as under:

> *"14.Not only this, there are several other documentary evidence from the side of the petitioner namely Ext.2/1 which is CC of voterlist of the year 2010, Ext.2/2 which is CC of voter list of the year 2014, Ext.2/3 which is CC of voter list of the year 2015. Ext.3 which is Aadhar card of the petitioner Dhonibala Singh and Ext.4 which is voter ID card of Dhonobala Singh which also corroborate the marriage between petitioner and respondent no. 1 because in all these documents the name of the respondent no. 1 has been mentioned as husband of the petitioner in the same house no. 51 of village Phutabandh which is parental house of the respondent and all these documents are prima facie evidence of the relationship of marriage and have corroborative value though not conclusive one and to rebut the same no cogent evidence has been adduced from the side of the respondent rather he has taken the stand that the petitioner has been set up by some of his villagers which is very vague and general in nature and not proved by any evidence as to who are those villagers/persons. Ext. 1 and 1/1*

which are purcha of agricultural property do not appear to have any relevance in this case.

23. Thus, on the basis of the above discussions, it is held proved that the petitioner is the legally married wife of the respondent no. 1 and she has also lived with him at her matrimonial home together up to 2015 just before she was driven out of her matrimonial home by the respondent. Accordingly, both these issues are decided in favour of petitioner and against the respondent.

24. Now, as regards Issue No. 5 which is " Whether the respondent has any reasonable cause for withdrawing himself from the society of the petitioner?" on this point, PW7 Dhonibala Singh has very clearly deposed that after her marriage with the respondent no. 1 she went to her sasural and started living with him at the matrimonial home but because of illicit relation with the respondent no. 2, the respondent no. 1 started torturing her in different ways and ultimately he drove her out of her matrimonial home by beating her in the year 2015 and thereafter she came to the house of her parents and is residing there and this portion of evidence of this witness has been corroborated by the evidence of PW1 to PW6 and in such circumstances it is held proved that the respondent no. 1 has withdrawn himself from the society of petitioner without any reasonable cause and accordingly, this issue is decided in favour of the petitioner and against the respondent.

26.Now as regards Issue no. 6 "Whether the petitioner is entitled to get a decree for restitution of conjugal rights? as it has already been decided in favour of the plaintiff and against the respondent on the basis of the evidences of both the sides that the respondent who is legally married husband of the petitioner, has withdrawn from the society of the petitioner without any reasonable excuse and so she is residing at the house of her parents for more than 5 years and therefore, the petitioner has every right and valid cause of action to file the present suit and has filed this suit accordingly which well maintainable under the provision of section 9 of the Hindu Marriage Act 1955, the petitioner automatically gets entitled to a decree for restitution of conjugal rights and so in view of all these facts , circumstances and evidence, this issue is also decided in favour of the plaintiff and against the respondent.

29.Thus, on the basis of the above appreciation of the evidence led on behalf of both sides I find and hold that the petitioner has been able to

prove that her husband (respondent No. 1) has withdrawn himself from the society of the petitioner without any reasonable excuse and so she is entitled to get a decree for restitution of conjugal rights -----,

49. It is evident from impugned judgment that the learned Family Court has placed its reliance upon the documentary evidence, viz., Ext.2/1 (certified copy of voter list, 2010), Ext.2/2 (voter list, 2014), Ext.2/3 (voter list, 2015), Ext.3 (Aadhar card of Dhonibala Singh), and Ext.4 (voter ID card of Dhonibala Singh) which have been produced by the petitioner/respondent no.1/wife. In all these documents, appellant is shown as the husband of the respondent no.1 residing in house no. 51, village Phutabandh, which is the parental house of the appellant. These documents, though not conclusive, constitute *prima facie* corroborative evidence of marriage. The appellant has failed to rebut them with cogent proof.

50. Further, Dhonibala Singh/wife deposed that after marriage she resided at her matrimonial home, but due to appellant's illicit relationship with respondent no. 2, she was subjected to cruelty and ultimately expelled in 2015. This testimony is corroborated by P.W.-1 to P.W.-6. It is thus proved that appellant withdrew from the society of the respondent/wife without reasonable cause. The issue is decided in favour of the petitioner.

51. From the foregoing paragraphs of the impugned judgment/order, it is manifest that the learned Family Court has meticulously scrutinized each document as well as the oral testimonies adduced on behalf of both parties. Upon such comprehensive appraisal, the learned Family Court has conclusively determined that respondent no. 1/husband (the appellant herein) withdrew himself from the society of the petitioner/respondent no.1/wife without any reasonable cause.

52. This Court, therefore, is of the considered view that the said finding, being based on cogent appreciation of evidence, does not suffer from perversity.

53. Accordingly, the order/judgment dated 28.06.2021 passed by the learned Family Court, Jamtara in Original Suit No. 29 of 2026 whereby the suit filed by the petitioner/respondent wife under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights against her husband

(appellant herein) and her gotni, Shantibala Singh (respondent no. 2 herein), was allowed, warrants no interference.

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

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

I agree **(Sujit Narayan Prasad, J.)**

(Pradeep Kumar Srivastava, J.) **(Pradeep Kumar Srivastava, J.)**

07th July, 2026

Saurabh/**A.F.R.**

Uploaded on 09.07.2026