

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.759 of 2012

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Tanuja Sinha, W/O Sri Pankaj Yadav, And D/O Late Brij Nandan Prasad
Resident Of Mohalla Chakaram, P.S. Budha Colony In The Town And District
Of Patna.

... .. Appellant/s

Versus

Pankaj Yadav, S/O Late R.P. Yadav U. Resort Estate, P.S. Sushant Lok,
Gurgaon, Hariyana.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Jagnnath Singh, Advocate Mr.Shivnandan Bharti, Advocate Mr.Deepak Kumar, Advocate Mr.Padmnabl Kashyap, Advocate
For the Respondent/s	:	Mr.Sanket, Advocate Mr.Tejas Vatsa, Advocate Mr.Navin Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

23	26-03-2026	This is an appeal filed by the respondent/wife against her husband, assailing a judgement and decree of divorce, passed by the learned Principal Judge, Family Court, Patna on 28 th of September, 2012. At the outset, let us described the chequered background of this appeal. The instant appeal was filed against the judgement and decree of divorce, dated 28 th of September, 2012 on 16 th of October, 2012. The argument was heard by a Division Bench comprising of Hon'ble Mr. Justice
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Dr. Ravi Ranjan (as His Lordship then was) and Hon'ble Justice S. Kumar on 6th of December, 2017 and delivery of judgement was reserved by the concerned Bench. Subsequently, on transfer of Hon'ble Dr. Justice Ravi Ranjan, the record of the instant appeal was not listed till 11th of April, 2025. On 11th of April, 2025, this appeal was listed before Hon'ble Mr. Justice P. B. Bajanthri (as His Lordship then was) and Hon'ble Mr. Justice S. B. Pd. Singh. The said Bench passed an order requesting Hon'ble the Acting Chief Justice to pass a formal order assigning the appeal to the Bench. Subsequently, on 18th of March, 2026, the appeal was listed before this Bench.

2. In the meantime, the appellant moved before the Hon'ble Supreme Court in Writ Petition (s) (Civil) No (s) 293 of 2026 and The Hon'ble Supreme Court was pleased to direct the Hon'ble the Chief Justice, Patna High Court to list the instant appeal at the top of the list before an appropriate Bench to make an endeavor to decide the appeal within 3 months. Subsequently, the appeal was listed before us. On that day the appellant prayed for adjournment.

3. We fixed the matter specially today for hearing.

4. The learned arguing counsel on behalf of the appellant and the respondent are present.

5. The appeal is taken up for hearing.

6. We have heard the learned Advocate for the appellant.

7. It is submitted by the learned Advocate on behalf of the appellant that marriage of the appellant was solemnized with the respondent on 11th of May, 1995. In the said wedlock a male child was born on 7th of January, 1999. Subsequently, the respondent herein filed Matrimonial Case No. 50 of 2002 before the learned Principal Judge, Family Court, Patna, praying for dissolution of marriage by a decree of divorce against his wife. The said suit was decreed on contest and marriage was declared to be dissolved by a decree of divorce under Section 13 (1) (i-a) of the Hindu Marriage Act. The present appeal challenges the above-mentioned judgement and decree passed by the learned Principal Judge, Family Court, Patna.

8. Learned Advocate on behalf of the appellant / wife, at the outset, submits that marriage between the parties were dissolved on the ground of cruelty as envisaged in Section 13 (1) (i-a). It is submitted by him that without going through the various factual aspects urging as to whether there were acts of cruelty between the parties, it is an admitted position that for last 25 years, the appellant and the respondent are living

separately. The son of the appellant is being reared and maintained by the mother / appellant. The said son is now aged about 27 years. He is studying abroad and it is contended on behalf of the appellant that the expenditure of his studies are borne partly by pending loan obtained by the mother and partly by his maternal grand-father. Since the parties have no matrimonial relationship for the last 25 years and the respondent even failed to comply with the direction of the Trial Court to make payment of alimony at the rate of Rs. 4,000/- per month to the wife and Rs. 1,000/- per month to the son of the parties since 2012, the act of the respondent itself is an act of cruelty.

9. It is held in plethora of decisions by the Apex Court as well as various High Courts that uninterrupted desertion by both the parties amount to cruelty.

10. On such submission, the learned Advocate on behalf of the appellant submits that the appellant has no grievance if the impugned judgement is affirmed and marital tie between the parties is severed.

11. Obviously, the learned Advocate on behalf of the respondent also admits that the respondent does not have any objection if the impugned judgement is affirmed.

12. Considering such submission made by the learned

Counsels for the parties, we are of the view that since there was no marital relationship between the parties for the last 25 years and the they did not live together even for a single day during the said period, the continuous separation and abandonment of both the spouses to each other permanently is a ground of excessive cruelty for which the respondent was granted dissolution of marriage by a decree of divorce.

13. We do not have any alternative opportunity to take a different view from what has been taken by the learned Court below.

14. Therefore, the instant appeal is dismissed.

15. The judgement of the Trial Court is affirmed on the ground and observation stated in the impugned judgement as well as on grounds stated by us Decree of divorce be drawn up accordingly.

16. However, the instant appeal does not end with above judgement. This Court requires to adjudicate the issue of permanent alimony and maintenance under Section 25 of the Hindu Marriage Act.

17. Therefore, both the appellant and the respondent are directed to file affidavit of assets and liabilities in terms of the guidelines, contained in ***Rajnish v. Neha & Anr.*** reported in

(2021) 2 SCC 324 and Aditi @ Mithi v. JiteshSharma, reported in *2023 SCC Online SC 1451*, by 9th of April, 2026.

18. The prayer under Section 25 of the Hindu Marriage Act shall be considered on the next date fixed.

(Bibek Chaudhuri, J)

(Chandra Shekhar Jha, J)

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