IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 18 of 2024

Pinku Kumar Choudhary, aged about 40 years, s/o Satyadeo Choudhary, r/o Mohalla-South Sheopuri, PO & PS Lohsinghna, Dist. Hazaribagh, presently residing at Ashok Nagar Road, Twin Tower, Argora Chowk, PO & PS Argora, Dist. Ranchi

... Appellant

Versus

Manisha Kumari, aged about 44 years, wife of Pinku Kumar Choudhary, Daughter of Late Motilal, Resident of Mohalla, Kalibari Road, Near Bank of Baroda, PO Hazaribagh, PS Sadar Dist. Hazaribagh **... Respondents**

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANOJ PRASAD

For the Appellant :Mr Pankaj Srivastava, Advocate
Ms Anushka Swadha, Advocate
For the Respondents :Ms Amrita Sinha, Advocate
Ms Shweta Suman, Advocate
Ms Pragunee Kashyap, Advocate

Reserved on: 07/10/2026 **Pronounced on: 05 / 11 /2026**

***Per*: Manoj Prasad, J.**

1. Heard Mr Pankaj Srivastava, Advocate who appears with Ms Anushka Swadha, learned counsel appearing on behalf of the appellant and Ms Amrita Sinha, who appears with Ms Shweta Suman and Ms Pragunee Kashyap learned counsel appearing on behalf of the respondent.

2. The present appeal has been filed under Section 19 (1) of the Family Courts Act, 1984 by the petitioner/appellant Pinku Kumar Choudhary impleading Manisha Kumari as a respondent who was also respondent before the court below.

3. The appeal challenges the judgment and decree dated 19.10.2023 and decree signed on 09.11.2023 passed by the learned Principal Judge, Family Court, Hazaribagh in Original Suit No.83 of 2023 whereby the suit for dissolution of marriage by decree of divorce under Section 27(d) of the Special Marriage Act was dismissed on contest. Section 27(d) of the Special Marriage Act, 1954, allows either the husband or the wife to file an application for dissolution of marriage by a decree of divorce on the ground that the opposite party/ respondent treated the petitioner with cruelty.

4. Briefly stated the case of the parties are that the suit was instituted by the present appellant against the present respondent for dissolution of marriage on the ground of cruelty by decree of divorce alleging inter-alia that admittedly marriage between the parties was solemnized on 25.08.2020 under the Special Marriage Act and thereafter the parties were residing together as husband and wife at Ashok Nagar within the District of Ranchi. The parties are Hindus governed by the provisions of the Hindu Law and that they led a happy conjugal life for about six months. However, no physical relationship was established between them, and hence they did not have any child after the marriage. Subsequently, the respondent is alleged to have tortured the appellant as well as his mother,

and tried to forcefully occupy the property of the appellant at Hazaribagh. The respondent also treated the other in-laws with cruelty and threatened to falsely implicate them in criminal cases with allegations of demand of dowry. Despite all persuasion, the behavior of the respondent is alleged to have continued in the same manner. Under the compulsion of such wrongful demands, the appellant was compelled to leave his parents and also his sister and to live with the respondent at Ranchi. However, as the respondent had an evil eye over the property of the petitioner, she, along with her associates who are her family members hatched a conspiracy to kill the present petitioner to become the owner of the husband's property. For these reasons, he installed CCTV cameras in his house. It is also stated that the respondent used to abuse him in the name of caste, and all these actions amounted to both physical and mental cruelty toward the present appellant. The mother of the appellant was called a witch and also a thief, with allegations of having stolen the Stridhan of the respondent and hence the necessity for the suit arose for the dissolution of marriage on the grounds of cruelty by the respondent-wife on the present appellant.

5. The respondent appeared in this case and filed a written statement denying the entire allegations made by the

appellant, while admitting the factum of marriage and stating that the parties are Hindus. It is stated that prior to their marriage, the parties knew each other, and during that time, the present appellant established a physical relationship with the present respondent on the assurances of marriage. This assurance was subsequently retracted, leading the present respondent filing a complaint. A subsequent compromise between the parties culminated in their marriage under the provisions of the Special Marriage Act. The entire allegations of cruelty are denied. It is stated that the appellant meted out cruelty to the present respondent and has ousted her, resulting that the present respondent had filed an application for the Restitution of Conjugal Rights registered as Original M.T.S. No. 48 of 2023, which was pending in the Court of Principal Judge, Family Court, Hazaribagh. It is further stated that after their marriage, both parties lived happily at Hazaribagh, subsequently moved to Ranchi to live together at Twin Tower, Ashok Nagar, Ranchi, for about 18 months. Thereafter, the respondent was ousted from the said house and since then i.e. 23.01.2022, she has been residing with her parents at Hazaribagh. All efforts of mediation failed. It is also stated that the parties were working together at Birla Sunrise Insurance Company and Bajaj Allianz Life Insurance and they were

known to each other. A proposal for marriage was also made, and for the purpose of marriage, bookings of banquet hall and other arrangements were made by the respondent. Upon refusal, a complaint was filed, which ended up in a compromise, and the marriage was solemnized on 25.08.2020, under the Special Marriage Act with the consent of the parties and in the presence of Parents of the parties' i.e. the appellant and the respondent. The complaint leading to the registration of Sadar PS Case No. 3 of 2021 was subsequently withdrawn under the expectation of happy conjugal life resulting into closure of the said case based on the settlement made by the present respondent. Thus, it is stated that no case for the dissolution of marriage was made out, and a prayer was made to dismiss the petition for dissolution of marriage.

6. After completion of pleadings issues were framed which are hereunder: -

(i) Whether the suit as framed is maintainable in its present form?

(ii) Whether the parties are legally married husband and wife?

(iii) Whether the respondent-wife treated the petitioner-husband with cruelty after marriage?

(iv) Whether the petitioner-husband is entitled for the relief of divorce on the ground of cruelty or any other relief/reliefs.

7. Four witnesses were examined on behalf of the present appellant including the appellant himself, father and two sisters of the appellant. The documents which have been marked as exhibit are the cash memo of Vishal Services, Ranchi showing purchase of CCTV and its accessories, Bank statement of PNB, Harmu Branch showing transaction with respondent – wife and her family members after marriage, bank Statement of ICICI bank showing transactions with respondent-wife and her family members before marriage, one Pen Drive alleged to be a copy of CCTV footage of the house of the petitioner-husband/appellant and certified copy of the Final Form and FIR of Hazaribagh Sadar P.S. Case No. 3 of 2021.

8. On behalf of the respondent-wife two witnesses were examined; the respondent herself and Sushma Kumari sister of the respondent and eight photographs were marked exhibit which were admitted by the father of the appellant to be photographs showing happy and good relationship between appellant and respondent.

9. Learned Trial Court, after considering the oral and documentary evidence, considered the allegations that the

marriage was solemnized under pressure is not substantiated by any evidence. It is not in dispute that the parties were known to each other. It is also not in dispute that an FIR was registered under Section 376 of the IPC with allegations of establishing physical relationship on the false assurance of marriage, whereafter the appellant agreed to honour the promise and solemnize the marriage under Special Marriage Act. Apparently, the appellant and the respondent are not from the same caste, but inter-caste marriage is not prohibited under Law. Learned Trial Court held that installing a CCTV camera in the house creates a bonafide doubt with regard to a happy relationship between the husband and the wife, and it was an attempt to procure evidence. However, the Pen Drive which was brought on record and marked as exhibit lacked the requisites certificate in terms of the Section 65 (B) of Indian Evidence Act, corresponding to the relevant provisions under the Bharatiya Sakshya Adhiniyam. Besides, the Pen Drive only contains some sound which probably belongs to a female, but neither was it identified to be that of the present respondent, nor any incriminating statement were found to be therein, in such audio recordings. The oral evidence on behalf of the parties was also insufficient to bring home the charges of cruelty. The sister of the present appellant in her evidence

stated that she did not like the present respondent, which cannot be considered a parameter of cruelty by the wife. It can be considered to be otherwise that the family members of the appellant were not liking the respondent. So far the lodging of the FIR is concerned, the same was prior to the marriage, and the same was compromised, leading to closure of the case by the police. Thus, the mere lodging of the FIR, which was prior to marriage, cannot be considered as an act of cruelty by the respondent towards her husband, i.e. the appellant. Adverting to these facts and the evidence on record, the trial court concluded that the fact that the parties were legally married husband and wife is admitted, and there was nothing on record to establish that cruelty was meted out to the appellant by the respondent. Hence, the allegations of cruelty sufficient for the purpose of divorce, was held to be not proved, and accordingly, the suit of the present appellant was dismissed on contest.

ARGUMENTS

10. Learned Advocate appearing on behalf of the appellant, after much effort, has argued the case. Co-ordinate Benches of this Court had made several efforts for the purpose of getting the dispute resolved. It has come on record that a false affidavit was filed by the present appellant. Resultantly, by an

order dated 4th December, 2025 a Co-ordinate bench of this Court even considered that making a false statement in Court amounts to criminal contempt; however, before initiating a proceeding for contempt, an opportunity was given to the present appellant to explain as to why the proceeding for contempt should not be initiated against him. Subsequently, to avoid such contempt, a proposal for settlement was made, which appears to have failed. Finally, the case was heard, and the matter was reserved for judgment.

11. Learned counsel appearing on behalf of the appellant submits that the learned trial court committed error in law and fact in passing the impugned judgment. The facts that the parties were married under the provisions of the Special Marriage Act are not in dispute. It is also admitted that an application under Section 22 of the Special Marriage Act for Restitution of Conjugal Rights was filed by the present respondent and registered as Original M.T.S. No.48 of 2023, but the same was dismissed on contest on 19.10.2023. It is also stated that testimony of the witnesses examined on behalf of the appellant was not considered, even though each of the witnesses stated that the cruelty was meted out by the respondent to the appellant and his family members i.e., his aged parents. It is also stated that the appellant was compelled

to leave his parents and reside with the respondent at Ranchi, but the respondent was only interested in the property of the appellant, and the appellant apprehended a threat to his life; resultantly, CCTV was installed in the house. He further argues that the parties have been living separately since 13.10.2021, and this also becomes an additional ground for dissolution of marriage. A prayer is made to set aside the impugned judgment and decree and to pass an order for dissolution of marriage on the grounds of cruelty and desertion.

12. Per contra, learned advocate appearing on behalf of the respondent submits that certain facts are not in dispute. It is not in dispute that the parties knew each other as they were working together with Birla Sunrise Insurance Company and Bajaj Allianz Life Insurance. The filing of a case under Section 376 and other provisions of the IPC is not disputed, but the said FIR was registered for the reason that the present appellant made a false assurance of marriage, and on such false assurance, established a physical relationship with the respondent, subsequently retracting from his assurance of marrying her. However, no sooner did the appellant agree to honour his assurance, the parties solemnized the marriage in the presence of their respective parents under the provisions of the Special Marriage Act, and that the criminal case ended up

on submission of a final report, showing lack of evidence, predominantly on the basis of the affidavit and statement made by the present respondent, that they are living happily as husband and wife. It is also not in dispute that the parties lived together for a substantial period as husband and wife, but thereafter, it is the appellant who is guilty of ousting the respondent from his house. All these events happened after closure of the criminal case and the acceptance of the final report submitted by the police, in the said criminal case by the court concerned. Learned counsel submits that allegations of cruelty have not been proved, and the ground of desertion, though argued before the court, is not tenable for want of pleadings and the absence of any issue formulated on the said ground of desertion. Learned counsel submits that the impugned judgment may be sustained, as it deals at length with the oral and documentary evidence on record and do not warrant any interference. Prayer is made to dismiss the present appeal.

13. Learned counsel appearing on behalf of the appellant has stated that the learned trial court has not considered the evidence of P.W.5, namely Kanhaiya Lal Taleja, as his name does not find any mention in the entire impugned judgment.

Apart from that, it is stated that ground of desertion is also made out.

FINDINGS

14. Having heard the parties and the rival contentions raised by the learned advocates for the appellant and the respondent, the sole point for determination which falls for our consideration is ***whether the appellant had proved a case of cruelty meted out by his wife i.e respondent, sufficient to make out a case for dissolution of marriage in terms of Section 27 (1) (d) of the Special Marriage Act***.

15. Cruelty is not defined under the Special Marriage Act, but it includes both physical and mental cruelty. The concept of cruelty, without a specific definition, encompasses such conduct by the respondent against the petitioner/appellant as is sufficient to render the matrimonial relationship unworkable and to warrant dissolution of the marriage between the parties. In a catena of decisions, the Hon'ble Supreme Court, while deliberating on the ambit and scope of cruelty for the purpose of divorce, has reiterated that, in each case, the consideration of cruelty sufficient for the purpose of divorce is governed by the particular and peculiar circumstances of that case.

16. In the present case, during the course of arguments, it was stated that the parties had been living separately for a

sufficiently long period, but the parties did not plead desertion, nor was any issue framed on that point. Therefore, arguments for dissolution of marriage on the ground of desertion are not tenable in the eyes of the law.

17. We therefore limit our consideration to the aspects of cruelty. The present appellant alleges that the respondent used to threaten the appellant, and, for that purpose, the appellant even installed a CCTV camera in his own house. Further, the allegations are that cruelty was meted out to the father-in-law and mother-in-law. The father has been examined in this case as P.W.2, but he has not stated anything about any act of cruelty by his daughter-in-law, or that he was insulted by his daughter-in-law. The entire allegations are that a false case of rape was instituted by the present respondent, and that the respondent used to abuse the present appellant and even contemplated doing away with the life of the present appellant.

18. The statement of the appellant's sister in her examination-in-chief on affidavit also relates to the same aspect, namely that the respondent was interested in her brother's money, had filed a false complaint against him to force the marriage to be solemnised, and that her brother used to inform her that the respondent frequently abused him. P.W.4, another sister of the appellant, stated in paragraph 16 of her cross-examination that

she did not like the respondent because she had filed a police case against her brother. Though it is difficult to suggest that such statements by the present respondent's sisters-in-law amount to cruelty on the respondent, they certainly do not amount to cruelty on the husband/appellant. Such evidence demolishes the case of cruelty by the respondent on the appellant as alleged by the appellant.

19. The 5th witness examined by the appellant was Kanhaiya Lal Taleja, which perhaps does not find mention in the impugned judgment, but the same is available for consideration before this Court. In his examination-in-chief, he stated about the CCTV footage; however, he is apparently not an expert, nor has he established that the Pen Drive containing the CCTV footage is genuine. Furthermore, there is no certificate on record to validate its evidentiary value or the technical specifications of the CCTV footage downloaded in the alleged Pen Drive. *In his cross-examination, he admitted that he was a co-accused in the FIR lodged by the present respondent*. The credentials of this witness therefore become doubtful, and his joining hands with the present appellant appears obvious, perhaps for a common cause.

20. Having considered the entire materials on record, we are of the considered view that the appellant has failed to establish

cruelty by the respondent so as to make the matrimonial life miserable or sufficient for the purpose of granting a decree for divorce on such a ground. We, therefore, we are of the considered view that the point for determination formulated by us is answered in favour of the respondent and against the appellant. The impugned judgment and decree warrant no interference; the appeal is, therefore, dismissed with a cost of Rs.20,000/-.

21. This cost is imposed in view of the appellant's wrongful conduct even before this Court, as apparent from the orders drawn by the Co-ordinate benches of this Court. Costs shall be deposited with the Family Court, Hazaribagh, to be paid to the present respondent.

22. Pending I.A.'s, if any, do not survive and are accordingly disposed of.

(M.S. Sonak, C.J.)

(Manoj Prasad, J.)

November 05, 2026

Anjali/-

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