IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No.218 of 2026

Anjali Devi, W/o Shashi Kumar Pandey, Aged about 27 years, R/o Village-Bhagwatidih, P.O. & P.S. Markacho, District Koderma. At present C/o Sujit Kr. Pandey, Vill-Dhodhakola, PO & PS Domchnch, District Koderma.

...**Appellant/Respondent**

Versus

1. Shashi Kumar Pandey, S/o Laxmikant Pandey, aged about 34 years, R/o Village-Bhagwatidih, PO & PS-Markacho, District-Koderma.

..Respondent/Petitioner

2. The State of Jharkhand through Senior Superintendent of Police, Koderma, P.O. & P.S. Koderma, (Markacho), District-Koderma.

... ...**Respondent**

CORAM: HON'BLEMR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE AKHIL KUMAR

For the Appellant : Mr. Pradeep Kumar, Advocate
For the Res. No. 1 : Mr. Dhirendra Kr. Das, Advocate

CAV/Reserved on 29.09.2026 **Pronounced on 05/11/2026**

Per Sujit Narayan Prasad, J.

Prayer:

1. The instant appeal under Section 19 of the Family Court Act, 1984 is directed against order/judgment dated 05.01.2026 and decree signed on 17.01.2026 passed by the learned Principal Judge, Family Court, Koderma in Original Suit No. 68 of 2025, whereby and whereunder the learned Principal Judge has allowed the suit ex-parte in favour of petitioner-husband and against the respondent-wife, filed herein under Section 13(1)(ia) of the Hindu Marriage Act, 1955 and thereby the marriage between the parties stands dissolved.

Brief facts of the case:

2. The brief facts of the case, as per the pleading made in the original suit, needs to be referred herein reads, which reads as under:

3. The marriage between the appellant/wife (respondent before Family Court) and respondent no. 1/husband (petitioner before Family Court) was solemnized in 2019 in accordance with Hindu rites and customs and after living peacefully for a month, it is alleged that the appellant-wife started quarreling and abusing her other in-laws leaving home unannounced. The petitioner-husband got her medically examined at Kanke, Ranchi whereupon she was diagnosed and prescribed medicine for schizophrenia, bipolar disorder and seizure. The respondent-wife, the appellant herein despite her poor and unstable mental health refused or avoided taking the medicines. As a result, several panchayats, meetings at different places, dates and occasions were held but no fruitful result emerged.

4. It is stated that pursuant to panchayat held on 10.5.2024 the petitioner-husband brought her to Markachho from where she went back to her parental home on 16.5.2024. A panchayat was held on 29.12.2024 at Sariya Durga Mandap that the respondent-wife would be sent to her matrimonial home only after proper and better treatment, but after few

months also there was no change in the behavior of the appellant-wife.

5. In the aforesaid background, the petitioner-husband, the respondent herein, had filed the suit before the learned Family Court wherein prayer was made to pass a decree for dissolution of marriage in favour of the petitioner/ respondent herein.

6. Before the learned family court, since the respondent-wife, appellant herein, did not appear, as such the case proceeded ex-parte vide order dated 11.11.2025, as against the appellant-wife.

7. The petitioner-husband adduced evidence in support of his case before the Family Court.

8. The learned family court, allowed the suit filed by the petitioner-husband filed under Section 13(1)(ia) of the Hindu Marriage Act, 1955 ex-parte for grant of decree of divorce.

9. The respondent-wife (appellant herein) being aggrieved with the order passed by the learned family court has approached this Court by filing the instant appeal.

10. On being noticed by this Court, the respondent-husband has appeared and contested the appeal.

Submission of learned counsel for the appellant-wife

11. Submission has been made that the learned family court has committed a procedural illegality during continuation of the trial as the process of summoning in accordance with law to the appellant has not been complied with and further no mode of substituted service was executed.

12. It has been submitted that the learned family court has failed to take into consideration while passing the impugned judgment that the respondent-husband has suppressed several material fact with regard to the cruelty done to the appellant by the respondent and his family members i.e., demand of additional dowry and due to non-fulfillment of their illegal demand, the respondent and his mother assaulted the appellant brutally thereby made her life critical and on 16.02.2025 ousted the appellant from matrimonial house and snatched all *stridhan* like gold chain, ear ring etc. Thereafter appellant any how reached to her Parents house and since then she is residing at her parents' house at Dhanbad with her daughter without any support from her husband.

13. Learned counsel for the appellant-wife has further submitted that the learned family Court has failed to take into consideration the fact that the transfer petition is pending before this Court, and notices were issued to the respondent, but in spite of knowing everything, the respondent-husband

never informed the learned family court regarding the pendency of the transfer petition before this Court, and matter has been proceeded in ex parte.

14. Attention has been drawn that the entire proceeding after declaring *ex parte* hearing, the learned Family court has completed the trial just within two months, which shows that the respondent has intentionally kept the learned family court in dark and has proceeded into the matter in a very haste manner just to get the impugned order in his favor.

15. Submission has been made that the impugned order has been passed treating the statement made by the husband to be a gospel truth, and on that basis order of divorce has been passed.

16. The learned family court treated the statement of the petitioner-husband to be gospel truth to the effect that the wife has failed to take prescribed medicine for amelioration of her mental illness, and treated such action of the wife to be mental cruelty. But, coming to such conclusion the learned family court did not give any clear finding as to whether the wife is suffering from any mental illness or not. On the contrary, no medical practitioner or medical officer has been examined in the present case to suggest even whether the applicant was suffering from any mental illness or what was the extent of such mental illness.

17. Submission has been made that as a matter of fact, on the cruelty done by the respondent-husband and his family members upon the appellant-wife and on being ousted by them, she left with no support for herself and her minor daughter as she was having no source of income, she filed Original Maintenance Case being O.M. Case No. 463 of 2025, which is pending and running at the stage of appearance of learned Principal Judge, Family Court, Dhanbad.

18. Therefore, submission has been made that the impugned order may be quashed and set aside.

Submission on behalf of respondent-husband:

19. While on the other hand, learned counsel appearing for the respondent-husband has submitted that he tried his best to keep her wife [appellant] but she fled away to her parental house on her own and despite several efforts being taken by him, she did not return.

20. It has further been submitted that the appellant-wife had treated the respondent-husband and his family members with cruelty and his reputation and character has been maligned constituting mental torture sufficient for grant of divorce.

21. So far factum of notice is concerned, submission has been made that notice has sufficiently been issued by the learned

family court but the appellant-wife purposely not appeared in order to harass the respondent-husband and now the present appeal has been filed only to drag the litigation.

22. Therefore, submission has been made that no interference is required in the order and decree of divorce as granted in favour of respondent-husband.

Analysis:

23. We have heard learned counsel for the parties and gone through the pleading available on record as also the finding recorded by learned Principal Judge, Family Court, and other materials available on record.

24. This Court before proceeding further needs to refer herein the factual aspect of the matter.

25. The marriage between the appellant and respondent no. 1 was solemnized in 2019 in accordance with Hindu rites and customs.

26. It is the case of the respondent-husband that after living peacefully for a month, the appellant-wife started quarreling and abusing her mother in-law. The petitioner-husband got respondent/wife (appellant herein) medically examined at Kanke, Ranchi whereupon she was diagnosed and prescribed medicine for schizophrenia, bipolar disorder and seizure but the respondent-wife, refused to take medicines.

27. It is alleged by the husband that several panchayats' meetings were held but no fruitful result emerged. However, pursuant to panchayat held on 10.5.2024 the petitioner-husband brought her wife, the appellant to Markachho from where again she went back to her parental home on 16.5.2024. A panchayat held on 29.12.2024 at Sariya Durga Mandap that the respondent/wife (appellant herein) would be sent to her matrimonial home only after proper and better treatment, but after few months also there was no change in the behavior of the appellant-wife.

28. In the aforesaid background, the plaintiff-husband, the respondent herein, had filed the suit before the Family Court the seeking decree for dissolution of marriage.

29. Coming to the evidence of petitioner/husband (respondent herein) led before the learned Family Court.

30. The petitioner in order to prove his case, had examined altogether three witnesses. P.W. 1 is Chandra Dev Singh, P.W. 2 is Mukund Murari Pandey; and P.W. 3 is Shashi Kumar Pandey, the petitioner-husband (respondent herein).

31. P.W. 3, Shashi Kumar Pandey, the petitioner-husband, the respondent herein, has stated that his marriage was solemnized with the respondent, the appellant herein, in the year 2019 in accordance with Hindu rites and customs. According to him, after a month respondent-wife started

quarreling and abusing his mother leaving home without informing anyone. Despite medical prescription and advice, she avoided taking medicines. As per panchayat meeting at Rathai, Jainagar medical treatment was ensured by both the families. She came to his home on 10.05.2024 pursuant to the panchayat but left on 16.05.2024 for her parental home.

32. The other two witnesses, P.W. 1 and P.W. 2 have reiterated the same version, as stated by P.W. 3.

33. The said matrimonial suit instituted by the respondent-husband proceeded *ex-parte* against the appellant-wife on account of her non-appearance before the learned Family Court. Consequently, the suit was decreed in favour of the respondent-husband, and a decree for dissolution of marriage between the parties came to be passed.

34. Aggrieved by and dissatisfied with the said judgment and decree, the appellant-wife has preferred the present appeal assailing its legality and propriety.

35. Upon consideration of the aforesaid factual matrix, the following facts emerge as undisputed and admitted by the parties:

(i) The suit of dissolution of marriage has been filed by the respondent husband on the ground of cruelty by taking aid of mental illness of the appellant/wife.

(ii) The trial proceeded *ex-parte* due to non-presence of the appellant/wife before the learned Family Court.

(iii) Admittedly, on behalf of petitioner/husband (respondent herein) the doctor who had treated the appellant-wife for mental illness has not been examined.

(iv) The suit for dissolution of marriage was allowed in the favour of the respondent/husband.

36. The contention has been raised by the appellant that the learned family court treating the statement of the petitioner-husband to be gospel truth to the effect that the wife has failed to take prescribed medicine for amelioration of her mental illness, treated such action of the wife to be mental cruelty. But, coming to such conclusion the learned family court did not give any clear finding as to whether the wife is suffering from any mental illness or not.

37. It needs to refer herein that since appellate jurisdiction has been invoked herein, therefore, before entering into merit of the case, at this juncture it would be purposeful to discuss the appellate jurisdiction of the High Court.

38. It needs to refer herein that under section 7 of the Family Courts Act, the Family Court shall have and exercise all the jurisdiction exercisable by any District Court or any Sub-ordinate Civil Court under any law for the time being in force in respect of suits and proceedings of the nature which are described in the explanation to section 7(1).

39. Sub-section (1) to section 19 of the Family Courts Act provides that an appeal shall lie from every judgment or

order not being an interlocutory order of a Family Court to the High Court "both on facts and on law". Therefore, section 19 of the Family Courts Act is parallel to section 96 of the Code of Civil Procedure, the scope of which has been dealt with by the Hon'ble Apex Court in series of judgments.

40. The law is well settled that the High Court in a First Appeal can examine every question of law and fact which arises in the facts of the case and has powers to affirm, reverse or modify the judgment under question. In ***"Jagdish Singh v. Madhuri Devi" (2008) 10 SCC 497*** the Hon'ble Supreme Court observed that it is lawful for the High Court acting as the First Appellate Court to enter into not only questions of law but questions of fact as well and the appellate Court therefore can reappraise, reappreciate and review the entire evidence and can come to its own conclusion. For ready reference the relevant paragraph of the said judgment is being quoted as under:

> *"It is no doubt true that the High Court was exercising power as the first appellate court and hence it was open to the Court to enter into not only questions of law but questions of fact as well. It is settled law that an appeal is a continuation of suit. An appeal thus is a rehearing of the main matter and the appellate court can reappraise, reappreciate and review the entire evidence--oral as well as documentary--and can come to its own conclusion."*

41. Further, it needs to refer herein that under section 3 of the Indian Evidence Act a fact is said to be proved when the

Court either believes it to exist or considers its existence so probable that a prudent man under the circumstances would proceed on the supposition that such fact really exists. Therefore, the normal rule of preponderance of probability is the rule which governs the civil proceedings like this.

42. The expression "preponderance of probability" is not capable of exact definition nor can there be any strait-jacket formula or a weighing machine to find out which side the balance is tilted. The preponderance of probability would imply a positive element about possibility of existence of a fact. This means a higher degree of probability of happening of something and existence of a fact.

43. In ***"A. Jayachandra v. Aneel Kaur" (2005) 2 SCC 22*** the Hon'ble Apex Court has observed that the concept, a proof beyond the shadow of doubt, is to be applied to criminal trials and not to civil matters and certainly not to matters of such delicate personal relationship as those of husband and wife.

44. Since this Court is exercising the power of appeal as referred hereinabove and as per the settled position of law which require the consideration of the appellate Court is that the order/judgment passed by the appropriate Forum, if suffers from perversity, the same is to be taken as a ground for its reversal.

45. At this juncture it 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.*
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> ***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:*
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> *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 EncyclopedicEdn.)*
>
> *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."*

46. Thus, from the aforesaid, it is evident that any order said to be perverse 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.

47. Thus, "perversity" refers to a finding or decision so unreasonable or irrational that no reasonable person acting judicially could have reached it. It signifies a gross and unreasonable assessment of evidence or law by a court.

48. Further Perversity is a high threshold for intervention, distinguishing it from a mere error of fact or law. The "safest approach on perversity is the classic approach on the reasonable man's inference on the facts but inadequacy of evidence or a different reading of evidence is not perversity, reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Damodar Lal v. Sohan Devi, (2016) 14 SCC*** 197.

49. In the backdrop of the aforesaid factual and legal circumstances, this Court has carefully examined the impugned judgment and decree passed by the learned Family Court in order to ascertain whether the findings recorded therein suffer from perversity, arbitrariness, or any patent illegality warranting interference in the exercise of appellate jurisdiction.

50. Herein, submission has been made on behalf of the petitioner/husband (respondent herein) that the respondent-wife (appellant herein) after solemnization of marriage treated the petitioner and his mother with cruelty

and reputation and character was maligned constituting mental torture sufficient for grant of divorce.

51. So far the allegation of cruelty is concerned, it needs to refer herein the definition of '*cruelty'* as has been defined by Hon'ble Apex in the judgment rendered in ***Dr. N.G. Dastane Vs. Mrs. S. Dastane [(1975) 2 SCC 326],*** wherein it has been held that the Court is to enquire as to whether the 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.

52. The cruelty has also been defined in the case of ***Shobha Rani Vs. 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.

53. According to the Hon'ble Apex Court, "cruelty" is the "conduct in relation to or in respect of matrimonial conduct in respect of matrimonial duties and 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."

54. The Hon'ble Apex Court has further observed therein that while dealing with such complaints of cruelty that 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."

55. 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.

56. 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 cross-examination. The Hon'ble Apex Court held these allegations against the husband to constitute "cruelty".

57. In ***Vijay kumar 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.

58. 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.

59. Cruelty” has an inseparable nexus with human conduct and is always dependent on social strata or milieu to which parties belong, their ways of life, relationship, temperaments and emotions that are conditioned by their social status, reference be made to the judgment rendered by the Hon’ble Apex Court in the case ***Vishwanath***

***Agrawal* v. *Sarla Vishwanath Agrawal*, (2012) 7 SCC 288**.

60. The Hon'ble Apex Court in the case of ***K. Srinivas Rao* v. *D.A. Deepa*, (2013) 5 SCC 226** has observed that cruelty is evident where one spouse so treats other and manifests such feelings in other, as to cause reasonable apprehension in mind of other that it would be harmful or injurious to reside with other spouse and cruelty may be physical or mental. It has further been observed that staying together under the same roof is not a precondition for mental cruelty. Spouse can cause mental cruelty by his or her conduct even while he or she is not staying under the same roof.

61. In matrimonial relationship cruelty mean absence of mutual respect and understanding between spouses which embitters relationship. Sometimes it may take form of violence, or at times may just be an attitude or approach. Silence in some situations may also amount to cruelty reference be made to the case of ***Ravi Kumar v. Julmidevi, (2010) 4 SCC 476.***

62. For considering dissolution of marriage at instance of a spouse who alleges mental cruelty, result of such mental cruelty must be such that it is not possible to continue with matrimonial relationship reference may be taken from the judgment rendered by the Hon'ble Apex

Court in the case of ***Joydeep Majumdar v. Bharti Jaiswal Majumdar, (2021) 3 SCC 742.***

63. Further the word 'cruelty' is used 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. The cruelty may be mental or physical, intentional or unintentional. There may be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect on the other spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted, reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Vinita Saxena* v. *Pankaj Pandit*, (2006) 3 SCC 778.**

64. Further, in the case of ***Manish Tyagi* v. *Deepak Kumar*, (2010) 4 SCC 339 the** Hon'ble Apex Court has categorically observed that to constitute 'cruelty', it is enough that conduct of one of parties is so abnormal and below accepted norm that other spouse could not reasonable be expected to put up with it. Conduct is no longer required to be so atrociously abominable which would cause reasonable apprehension that it would be harmful of injurious to continue cohabitation with another spouse. Hence, it is not necessary to establish physical

violence. Continued ill-treatment, cessation of marital intercourse, studied neglect, indifference may lead to inference of cruelty.

65. The word "cruelty" under Section 13(1)(i-a) of the Act has got no static connotation, and therefore, gives a very wide discretion to the Court to apply it liberally and contextually. What is cruelty in one case may not be the same for another and has to be applied from person to person while taking note of the attending circumstances. Harm or injury to health, reputation, the working-career or the like, would be important considerations in determining whether the conduct of the defending spouse amounts to cruelty. It has to be shown that the defending spouse has treated him with cruelty to cause reasonable apprehension in his/her mind that it will be harmful or injurious to live with the contesting spouse.

66. This Court, on the backdrop of aforesaid facts, provisions of law and law laid down by Hon'ble Supreme Court, has gone into the grounds on which decree of divorce has been granted by the learned family court and found therefrom that allegation against the appellant-wife is that she did not pay respect to her husband and her in-laws and further allegation has been made that she was suffering from mental illness for which she was advised to take medicine which she refused.

67. While on the other hand, the specific case of the respondent-wife(appellant herein) is that the respondent-husband and his family members demanded additional dowry and due to non-fulfillment of their illegal demand, the respondent and his mother assaulted the appellant brutally made her life critical and on 16.02.2025 ousted the appellant from matrimonial house snatched all *stridhan* like gold chain, ear ring etc. Thereafter, the appellant any how reached to her Parents house and since then she is residing at her parents' house at Dhanbad with her daughter without any support from her husband.

68. A perusal of the impugned judgment reveals that the learned Family Court has treated the appellant-wife's non-adherence to the prescribed medical regimen as an act of cruelty towards the respondent-husband and has founded the decree of divorce substantially on the said circumstance. For ready reference the relevant paragraph is being quoted herein which reads as under:

> *"10. It therefore emerges that the parties though married in 2019, they have been separate since 16.5.2024, the day the respondent left her matrimonial home voluntarily. Since there is no rebuttal of the assertion made by the petitioner for reason that respondent absented herself from the proceedings of this case as such this Court has to accept the averments made in the plaint and as affirmed in the deposition of witnesses. The respondent failed to take the prescribed medicine for amelioration of her mental illness and such a conduct in the considered opinion of this Court*

> *constituted mental cruelty. Repeated panchayat meetings have been held and the petitioner all along would abide with the directions issued to him and has ensured medical treatment for her illness. The respondent however has refused medication resulting to deterioration of her mental condition. The petitioner in such circumstances has no other option and has rightly sought severance from the marital bond with the respondent."*

69. Thus, from the findings recorded in the impugned judgment, it is apparent that the learned Family Court has primarily founded its conclusion on the premise that the appellant-wife refused to adhere to the prescribed medical treatment, which allegedly resulted in deterioration of her mental condition, and has treated the same as constituting mental cruelty towards the respondent-husband.

70. However, it is evident that while arriving at the aforesaid finding, the learned Family Court did not have the benefit of any evidence from the doctor who had allegedly treated the appellant-wife. The conclusion regarding her mental condition and the consequences of her alleged refusal to take medication appears to have been recorded solely on the basis of the testimony of the respondent-husband.

71. This Court is of the considered view that where mental illness of a spouse is pleaded as a ground for matrimonial relief and it is further alleged that refusal to undergo treatment or take prescribed medication

aggravated the severity of such illness, the Court is under an obligation to subject such allegations to careful scrutiny.

72. At the very least, an endeavour ought to have been made to verify the factual aspects relating to her medical condition. Admittedly, no such exercise was undertaken by the learned Family Court. Further, it needs to refer herein that the primary function of a Court is to adjudicate the dispute between the parties on the basis of substantial justice. A court's duty is to deliver substantial justice, meaning ensuring fair outcomes based on merit of the case.

73. In the case of ***Jasraj Inder Singh v. Hemraj Multanchand, (1977) 2 SCC 155*** the Hon'ble Apex court has observed that "Justice is truth, is beauty and the strategy of healing injustice is discovery of the whole truth and harmonising human relations. Law's finest hour is not in meditating on abstractions but in being the delivery agent of full fairness. This divagation is justified by the need to remind ourselves that the grammar of justice according to law is not little litigative solution".

74. Justice is nothing but a manifestation of the truth. It is truth which transcends every other action and when substantive law, as it appears, does not facilitate the emergence of the truth, it is the paramount duty of the Court to interpret the law in light of its teleos. Such an exercise is warranted in a higher degree, particularly while

considering a social welfare legislation, reference in this regard be made to the judgment passed by the Hon'ble Apex Court in the case of ***Om Prakash @ Israel @ Raju @ Raju das Vs. Union of India & Anr. 2025 INSC 43.***

75. In the instant case, upon a consideration of the discussion made hereinabove, it is manifest that the learned Family Court has failed to consider settled position of law that even in the absence of cross-examination or where no evidence has been adduced on behalf of respondent due to her or his absentia, in the adjudication of Family Matter, the Court being an adjudicator of disputes, is duty-bound to examine the evidence in proper way and in possible manner for the purpose of doing substantive justice. The obligation of the Family Court is to ensured that the said adjudication is not rendered incomplete merely by reason of non-appearance, but is guided by the overarching principle of fairness and justice.

76. Further this Court is conscious of the fact that the appellate jurisdiction conferred under Section 19(1) of the Family Courts Act, 1984 is not confined merely to examining the legality of the impugned judgment on a question of law, rather, the High Court is empowered to examine the correctness of the judgment both on facts and on law. Thus, this Court, while exercising appellate

jurisdiction, is required to examine whether the findings recorded by the learned Family Court are based upon proper appreciation of the evidence available on record and whether the procedure adopted by the learned Family Court is in accordance with the settled principles of law.

77. It is well settled that an appellate court, while examining a judgment and decree passed by the learned Family Court, is required to satisfy itself as to whether the statutory requirements for grant of a decree of divorce have been fulfilled.

78. The mere fact that the proceeding proceeded *ex parte* against the appellant/wife does not dispense with the petitioner's/husband obligation to establish, through legally admissible evidence, the grounds pleaded for seeking a decree of divorce.

79. This Court further finds that the principal foundation of the matrimonial suit instituted by the respondent-husband was the allegation that the appellant-wife was suffering from schizophrenia, bipolar disorder and seizure and that, despite being advised to take medicines, she had refused to comply with the medical advice. According to the respondent-husband, such conduct, coupled with her alleged quarrelsome behaviour, constituted mental cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act, 1955.

80. At this juncture, it would be appropriate to refer to the judgment rendered by the Hon'ble Supreme Court in ***Ram Narain Gupta versus Smt. Rameshwari Gupta***, reported in ***(1988) 4 SCC 247,*** wherein the Hon'ble Supreme Court, while considering the issue of mental disorder as a ground for dissolution of marriage under Section 13(1)(iii) of the Hindu Marriage Act, 1955, has held that mere existence of a mental disorder is not sufficient to justify dissolution of marriage. The degree and extent of the mental disorder must be such that the spouse seeking dissolution of marriage cannot reasonably be expected to live with the other spouse. Mere branding of a person as suffering from schizophrenia would not be sufficient to grant a decree of divorce.

81. The aforesaid judgment lays down an important principle that a matrimonial court cannot proceed merely on the basis of a medical label or an unsubstantiated allegation regarding the mental condition of a spouse. The nature, extent and effect of the alleged mental disorder must be established by reliable evidence.

82. In the present case, admittedly, the medical practitioner who allegedly examined and treated the appellant-wife has not been examined by the respondent-husband. No medical officer or expert witness has been produced to establish the alleged diagnosis of

schizophrenia, bipolar disorder or seizure. Further, no cogent medical evidence has been brought on record to establish the nature, severity or extent of the alleged illness or its impact upon the matrimonial relationship.

83. This Court is of the considered view that the alleged refusal on the part of the appellant-wife to take prescribed medicines, without establishing the underlying medical condition and the circumstances surrounding such alleged refusal, could not, by itself, have been treated as sufficient proof of mental cruelty. The learned Family Court was required to examine the relevant facts and circumstances before arriving at such a conclusion.

84. Further, it is equally important to distinguish between the ground of cruelty under Section 13(1)(ia) and the ground of mental disorder under Section 13(1)(iii) of the Hindu Marriage Act, 1955. Both provisions operate in different fields and have their own statutory requirements. A matrimonial court cannot mechanically treat the alleged existence of a mental illness as equivalent to cruelty without examining whether the conduct complained of, on the basis of reliable evidence, satisfies the ingredients of Section 13(1)(ia) of the Act.

85. The refusal or inability of a person to undergo medical treatment, particularly in relation to an alleged mental health condition, cannot automatically be

characterised as an act of cruelty. The Court is required to examine the conduct in its entirety, the circumstances in which such conduct occurred and its actual effect upon the matrimonial relationship. Mental illness cannot, by itself, be made a ground for stigmatizing a spouse or dissolving the marriage.

86. In the present case, the learned Family Court appears to have accepted the version of the respondent-husband without undertaking the aforesaid exercise. The absence of any cogent medical evidence assumes significance in the facts of the present case because the alleged mental illness and refusal to take medicines constituted an important part of the respondent-husband's case for seeking dissolution of marriage.

87. It is a settled principle of law that even in an *ex-parte* proceeding, the Court is not expected to grant a decree mechanically. The petitioner is required to establish the cause of action and the statutory ground for relief through legally acceptable evidence. The absence of the defendant or respondent does not convert the allegations made in the plaint or petition into admitted facts, nor does it relieve the Court of its obligation to independently examine the evidence and record reasons for granting the relief sought.

88. In the present case, the learned Family Court was required to examine whether the alleged conduct of the appellant-wife, as asserted by the respondent-husband, was established by cogent evidence and whether such conduct, in its entirety, amounted to cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act, 1955. The learned Family Court was also required to consider the evidentiary value of the medical allegations, particularly when no treating doctor or medical expert had been examined.

89. This Court is of the considered view that the impugned judgment and decree cannot be sustained particularly taking into consideration the manner in which the alleged mental illness has been considered by the learned Family Court warrant interference by this Court in exercise of its appellate jurisdiction under Section 19(1) of the Family Courts Act, 1984.

90. This Court, in view of the aforesaid discussion and upon due consideration of the legal connotation of the term "perversity" and in light of the foregoing discussion, is of the considered view that the impugned judgment and decree fall squarely within the ambit of perversity.

91. Consequently, such a decree cannot be permitted to stand, and in exercise of appellate jurisdiction, this Court finds sufficient cause to interfere with the same.

92. Accordingly, the impugned judgment dated 05.01.2026 and decree signed on 17.01.2026 passed by the learned Principal Judge, Family Court, Koderma in Original Suit No. 68 of 2025 are hereby quashed and set-aside.

93. Accordingly, the instant appeal stands allowed.

94. Office shall proceed accordingly.

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

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

(Akhil Kumar, J.) **(Akhil Kumar, J.)**

5th November, 2026

Alankar/**A.F.R.**

Uploaded on 06.11.2026