IN THE HIGH COURT OF JHARKHAND AT RANCHI
F.A. No. 84 of 2023

Dr. Dhruv Alok, aged about 41 years, Son of Dr. Sitaram Akinchan, Resident of Kusum Vihar, Road No.4/B, Morabadi, P.O. + P.S.-Bariatu, District-Ranchi. … … **Appellant**

Versus

Meera Kumari, aged about 37 years, Wife Dr. Dhruv Alok, Daughter Resident of Krishna Prasad, Resident of Kusum Vihar, Road No.4/B, Morabadi, P.O. + P.S.-Bariatu, District-Ranchi AND resident of Mohalla-Thana Road, Lohardaga, P.O. + P.S. and District-Lohardaga, Jharkhand.

… … Respondent

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

For the Appellant : Mr. Peeyush Krishna Choudhary, Advocate
: Mr. Amrit Anunay, Advocate
For the Respondent : Mr. Birendra Kumar, Advocate

C.A.V. on 17.08.2026 **Pronounced on 11/09/2026**

Per Sujit Narayan Prasad, J.:

1. The instant appeal under Section 19(1) of the Family Courts Act, 1984 is directed against the judgment dated 20.03.2023 and Decree signed on 01.04.2023 passed by the learned Principal Judge, Family Court, Ranchi in Original Suit No.668 of 2017, whereby and whereunder, the petition filed under Section 27(1)(d) of the Special Marriage Act, 1954 by the Petitioner (appellant herein) seeking a decree of divorce against his wife (respondent herein), has been dismissed.

Factual Matrix

2. The brief facts of the case leading to filing of the divorce petition by the appellant/ petitioner needs to be

referred herein as under:

The marriage between the petitioner and the respondent was performed before the Marriage Officer, Ranchi on 28.07.2011, thereafter, the marriage was also solemnized in accordance with Hindu rites and customs at Dewari Mandir in presence of parents and relatives of both the sides. After their marriage the respondent came to her matrimonial house at Kusum Vihar, Ranchi and enjoyed the conjugal life. The petitioner-husband was a student of MD Physician at Republic of Kyrgyz (Kyrgyzstan) and has to complete his studies and the respondent- wife is an Assistant Professor at B.S. College, Lohardaga. It was a dowry free marriage.

It has been stated that after few months of the marriage the petitioner observed that behaviour and attitude of the respondent-wife towards the parents of the petitioner was not healthy. The father of the petitioner is a retired professor from Ranchi University and his mother is a housewife. The parents of the petitioner are suffering from heart disease and COPD. The petitioner tried to convince the respondent wife but instead of changing her behaviour and attitude she started misbehaving with the petitioner-husband. She also started abusive and irresponsible behaviour towards the petitioner and other family members while living separately under the same roof and stopped the

physical relationship with the petitioner. After few months the petitioner left for his studies to Russia by convincing the respondent- wife to behave properly with his parents but all went in vain which caused mental agony to the petitioner-husband and his parents and also affected further study of the petitioner.

It is further stated that the petitioner got information about the irresponsible behaviour and attitude of the respondent-wife from his friends and relatives which badly affected the study of the petitioner due to which he returned back to India. The petitioner made all efforts to persuade the respondent- wife but she refused to live with her in-laws.

Later on, the respondent- wife separated her mess under the same roof without permission and consent of the petitioner on instigation of her parents. The parents of the respondent- wife asked the petitioner to disassociate from his parents and forced him to transfer the money and property in the name of the respondent- wife which was not acceptable to the petitioner. The relationship and cohabitation could not establish due to complete disharmony and incompatibility between both the parties, thus, the petitioner was badly deserted in his matrimonial life and failed to establish his career as medical profession due to attitude and ill behaviour of the respondent-wife. Since the year 2012 no physical

relationship consummated between the petitioner and respondent as such aspiration of conjugal life between the parties has been busted on account of erratic behaviour of the respondent- wife and chaos reflected between the guardian of both the parties as well. As a matter of fact, ill behaviour of the respondent- wife caused irreparable mental injury to the petitioner-husband and deprived him from fatherhood as there is no issue out of their wedlock. Ultimately the petitioner- husband has no option except to take divorce from the respondent wife, hence, the suit has been filed before the learned Family Court for dissolution of marriage on the ground of cruelty u/s 27((1) d) of Special Marriage Act, 1954 among the parties by a decree of divorce.

3. The case was admitted for hearing and upon notice the respondent-wife appeared before the learned Family Court.

4. Thereafter, the respondent-wife filed her written statement in which the respondent has denied the allegations of the petitioner.

The respondent- wife has stated that the suit is not maintainable and is liable to be dismissed as the same is against the facts and circumstances and there is no cause of action arose among them. The respondent- wife has admitted about the marriage before the Marriage Officer at Ranchi.

It has been stated that at the time of marriage father

of the respondent- wife had given a sum of Rs.10-Lacs to the father of the petitioner- husband. After marriage the petitioner and her in-laws snatched all her ornaments and told that this marriage has been solemnized only for grabbing money as she is an earning woman.

It has further been stated that the petitioner-husband and his parents forcibly induced some medicine for miscarriage of her pregnancy in the month of October 2012. Thereafter, the petitioner- husband went to Rusia and due to acute pressure of her in-laws the respondent took loan several time and gave the same to the petitioner-husband for his studies. But after returning from Rusia, behaviour of the petitioner-husband did not change and he started torturing and assaulting the respondent for his illegal demand and started to keep distance from her. The respondent has completely denied the allegations as alleged by the petitioner-husband in the plaint.

It has been stated the respondent- wife is living at her matrimonial house (Ground Floor). It has also been stated that the petitioner- husband has illicit relation with a woman from whom he wants to get married and thus the present suit has been filed by the petitioner. Hence, it is prayed that the suit of the petitioner may kindly be dismissed.

5. Based upon the pleading, the learned Family Court altogether has framed five issues which are as follows:

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

(ii) Whether the petitioner has valid cause of action to file the present suit?

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

(iv) Whether the petitioner is entitled to get decree of divorce?

(v) Whether the petitioner is entitled to get any other relief or reliefs as prayed for?

6. All the aforesaid issues were decided against the appellant-husband and in favour of respondent-wife and decreed the suit on contest in the following terms :-

"14. Under the above facts and circumstances as discussed herein above and after going into the merit of the case the petitioner-husband has miserable failed to prove his case of cruelty,it is, therefore,

ORDERED

that the present suit 27(1)(d) of Special Marriage Act, 1954 be and the same is hereby dismissed on contest. There will be no order as to cost."

7. The appellant-husband, being aggrieved with the judgment passed on 20.03.2023, has approached this Court by filing the present appeal

Submissions advanced by the learned counsel appearing for the appellant:

8. Learned counsel appearing for the appellant-husband has taken the following ground in support of his case: -

(i) Learned counsel appearing for the appellant has submitted that the impugned judgment passed by the learned Principal Judge, Family Court, Ranchi is wholly illegal, wrong, perverse and against the facts, materials and evidences available on record which are ample proof to prove the case of cruelty against the respondent as such, the judgment of the learned Family Court is fit to be set aside.

(ii) It has been submitted that the learned family court has misread the evidences and pleadings available on record while rejecting the plaint of the appellant by which he has not been granted the decree of divorce/dissolution of marriage.

(iii) Learned counsel appearing for the appellant has submitted that the impugned judgment passed by the learned Family Court is based on conjecture and surmises and not on the pleadings and evidences brought on record by the appellant.

(iv) He has submitted that the learned family court has failed to appreciate that the appellant always tried his level best to settle the disputes but the wife/respondent did not change her behaviour rather she deserted him without any reasonable cause and his consent.

(v) Learned counsel has submitted that the learned family court has further failed to scrutinise the evidence of the appellant regarding cruelty and desertion made by the respondent and after deciding all the issues in favour of the respondent, has dismissed the suit of the appellant on erroneous grounds.

(vi) Learned counsel for the appellant has submitted that the learned family court has also failed to appreciate the ill conduct and cruelty of the respondent with the appellant which was highly painful towards the appellant who had made all efforts to restore the conjugal relationship with the respondent but all efforts went in vain.

(vii) It has been submitted that the appellant has filed the instant original suit without any delay for dissolution of marriage, making an allegation of cruelty against the respondent.

(viii) Learned counsel has submitted that the learned family court has grossly erred to see that the pleadings of the appellant are sufficient to prove that the respondent had tortured him at highest degree by deliberately living separately from the appellant and deprivation of such conjugal life is ample proof to prove that the appellant was subjected to cruelty.

(ix) Learned counsel for the appellant has submitted that it

has also come through the evidences and the findings of the learned court below that the respondent never voluntarily tried to accompany with the appellant and her in-laws family to lead a conjugal life and in such a situation, the decree of divorce ought to have been granted by the learned court below in favour of the appellant.

9. Learned counsel for the appellant, based upon the aforesaid grounds, has submitted that the judgment impugned suffers from perversity, as such, not sustainable in the eyes of law.

Submissions advanced by the learned counsel appearing for the respondent:

10. Learned counsel for the respondent-wife, defending the impugned order, has taken the following grounds: -

(i) The learned counsel appearing on behalf of the respondent- wife has submitted that the respondent-wife has never committed any cruelty against the petitioner and his family members rather it is the petitioner himself and his parents who committed cruelty against her prior to the marriage also as is evident from her evidence that her marriage was cancelled several times and extended for more than a year and thus, she suffered from mental agony.

(ii) Learned counsel for the respondent has submitted that

after marriage she performed all the marital obligations towards the petitioner- husband and his parents. She took loan for study of the petitioner- husband in foreign and also opened a shop for her in-laws in Boreya but they could not run it. She maintained the day-to-day expenses of the family in absence of the petitioner-husband at Ranchi. She also extended medical facilities to the in-laws as well. But the attitude and behaviour as well as demand of dowry of the petitioner- husband and his parents never stopped, hence, she lodged a criminal case u/s 498A IPC (Ext.A) before Bariatu Police Station being Bariatu P.S. Case no. 371 of 2017 which is still pending.

(iii) Learned counsel has further submitted that she is residing in the house of the petitioner- husband in separate room given by the parents of the petitioner-husband having her own separate mess, however, she wishes to live in conjugal relation with the petitioner-husband. She never thinks about dissolution of marriage rather she wants to live with the petitioner-husband, hence, this suit may kindly be dismissed.

(iv) It has been submitted that the appellant has sought divorce on the ground that the behaviour of respondent-wife towards the appellant and his family members is torturous and, therefore, the appellant cannot

reasonably be expected to live with the respondent but the learned Family Court, after taking into consideration the evidence, has held that the appellant-husband has not succeeded to prove and establish the ground of cruelty and has rightly dismissed the suit.

(v) Learned counsel for the respondent has further submitted that learned trial court has rightly held that the appellant is not entitled for the decree of divorce on the ground of cruelty because the court did not find that there is any serious nature of cruelty for which a decree of divorce may be granted to the appellant.

(vi) Learned counsel for the respondent has submitted that the respondent still wants to live with the appellant and ready to lead a dignified life to which she is entitled as being wife of the appellant.

(vii) Learned counsel for the respondent has submitted that the appellant-husband has illicit relation with a woman from whom he wants to get married and thus the present suit has been filed by the appellant in the garb of cruelty.

11. Learned counsel for the respondent-wife on the aforesaid grounds has submitted that the impugned judgment requires no interference by this Court.

Analysis:

12. We have heard the learned counsels appearing for the

parties, gone through the Trial Court Records, as also the impugned judgment, the testimonies of the witnesses and the documents exhibited therein.

13. This Court, before looking into the legality and propriety of the impugned order, requires to refer the testimonies of the witnesses, as available on record.

14. The appellant, in support of his case, has adduced four witnesses including himself. The relevant portion of the testimonies of the witnesses are mentioned as under:-

P.W.1 Dr. Dhruv Alok, the appellant himself, has stated in his examination-in-chief that his marriage was solemnized before the Marriage Officer, Ranchi on 28th July, 2011. After few months of the marriage, behaviour of the respondent wife was become aggravated and aggressive who used to misbehave with his parents and whenever he tried to convince her she used to treat him with cruelty and used to abuse him.

In the month of October, 2012, he went to Russia for his further studies of Medical and after return from there in the month of June, 2013 the respondent neither talked with him nor allowed for cohabitation. One day she suddenly told him that she does not want to see his face and started living separately in the ground floor of his house. The petitioner and his family members tried their level best to convince her but failed to do so. Thereafter, he

again went foreign for his studies. The friends and relatives of the petitioner also tried to convince her but all went in vain. The parents of the respondent have forced the parents of the petitioner to transfer the property in the name of the respondent-wife.

It has further been stated that after completion of his studies the petitioner returned back to India in the month of September, 2016 and found the behaviour of the respondent- wife towards his old aged parents was not good and she had lodged a complaint before the Jharkhand State Women Commission against him and his old parents attacking over their chastity.

He has stated that since the year 2016 he is living separately with his parent under the same roof having no communication either physical or emotional with the respondent-wife which caused mental agony to the petitioner husband and lastly on 03.11.2017 he filed the present suit for divorce.

During cross-examination this witness has deposed that at the time of marriage his parents were present before the Marriage Officer, Ranchi. After marriage his wife did not come to his house and he used to go to the house of the respondent for meeting her. After marriage before the Marriage Officer a social marriage was also performed which is not mentioned in the Affidavit. A ring ceremony

was performed before the social marriage. This witness further deposed that his elder brother did his studies from Ukraine but from there he brought a girl or not he does not know or his brother perform marriage with her or not, kept her at Delhi and presently she is residing there. After marriage the petitioner was outside India from the year 2012 to 2013. Since the year 2013 the respondent is living at his house and since then there is communication gap between them. The respondent- wife has separated her mess and confined herself in his house. From the year 2011 to 2016 there was no case pending between them but after filing complaint before the Mahila Ayog against him and his family members, the petitioner filed the present suit.

This witness has deposed that he has not lodged any complaint before Police Station. This witness has denied that he has filed the present suit to dislodge the respondent- wife from his house

P.W.2 Malti Akinchan, the mother of the petitioner, has deposed more or less similar to the deposition of PW-1 (petitioner). She has deposed about the marriage between the petitioner and respondent before the Marriage Officer, Ranchi on 28th July, 2011 and social marriage between them in the month of July, 2012 at Deori Mandir.

She has stated that after going of his son for his

further studies, behaviour of the respondent towards her and her husband was very cruel and aggressive. In the month of June, 2013 her son (petitioner) came back and tried to convince the respondent but went in vain. The respondent lodged complaint before State Women Commission on 26th September, 2016 against her and her husband and son which caused mental tension to her husband.

She has deposed that the respondent has locked one part of her house due to which she and her old husband are facing difficulties. Since before the marriage the respondent is Lecturer at Ranchi University and posted in the District of Lohardaga.

She has deposed about the criminal case lodged by the respondent- wife against her and her family members in the year 2017.

During cross-examination this witness has deposed that both the parties do not want to live together hence this suit is filed and except this nothing has come out from the cross-examination of this witness.

P.W.3 Amit Kumar, friend of the petitioner, has deposed that he came to know about the marriage between both the parties from the petitioner. During reception he met with the respondent and after marriage the petitioner went to Russia for his further studies. The petitioner

informed him over phone about the ill behaviour of the respondent towards his parents.

This witness has deposed about the litigation between the petitioner and the respondent. His evidence is also more or less similar as deposed by the previous witnesses.

During cross-examination this witness himself deposed that at the time of marriage he was present there but, in the evidence, has deposed that he got information about the marriage between the parties by the petitioner which is contradictory. Nothing material has come out from his cross-examination for determination of the present suit.

P.W.4 Usha Verma, maternal aunt of the petitioner, whose evidence is verbatim to the evidence of other witnesses, hence, it is not being dealt in detail.

She has deposed about the marriage between both the parties before Marriage Office as well as social marriage.

She has deposed that the respondent has lodged criminal case against the petitioner and his family members before Bariatu Police Station in the year 2017 and both the parties are in litigating terms since long.

During cross-examination she has deposed that she did not attend the marriage. She does not know on what

ground the present suit has been filed by the petitioner and has not seen quarrel between the parties. She also does not know in which year the present suit has been filed. From evidence of this witness, it seems that she is a hearsay witness.

15. The respondent-wife has examined three witnesses including herself in support of her case. The extract of the deposition of the witnesses is being referred herein:-

RW-1 Meera Kumari, the respondent herself, has admitted her marriage with the petitioner before the Marriage Officer, Ranchi. One Chaprasi Mahto was the mediator of this marriage who is the official colleague of her father-in-law Dr. Sitaram Ankichan. Before marriage the date of marriage was fixed for 6th June at Durga Mandir, Morabadi after returning of her husband Dr. Dhruv Alok from foreign at Hotel Seventh Heaven at Lalpur. But her in-laws started saying about the Ring Ceremony as such the date of marriage cancelled but Ring Ceremony never performed. Instead of Ring Ceremony, Cheka was performed on 25th June, 2011 in presence of Dhruv Alok at Jagarnathpur Mandir and on 26th June, 2011 an application was submitted in the Office of Marriage Officer, Ranchi. The second date of the marriage was fixed for 06th July for which Invitation card was printed out but on the pretext of refusal of the Lawyer of

the father-in-law, he again cancelled the date of marriage. Thereafter, on 25th November 2011 was again fixed which had to perform at Bihar Club but could not be organized and fixed in the month of February, 2012 for social marriage but again could not solemnized due to none appearance of the petitioner Dr. Dhruv Alok and it was informed that the marriage would not be performed. Thereafter due to pressure of the family members and fear of litigation the petitioner came back to Ranchi and performed social marriage on 26.07.2012 at Deori Mandir, Tamar. Thereafter, the respondent- wife came to her matrimonial house on 27.07.2012 and a reception party was organized there as such under the above circumstances the respondent started her conjugal life with petitioner.

She has deposed that before the marriage her father-in-law had taken a sum of Rs.10 Lacs cash as Token money (Tilak) and after marriage the father of the respondent had also given ornaments and household articles to the petitioner-husband. Before marriage the father-in-law informed the father of the respondent-wife that his son is pursuing his M.D. Study at Asian Medial Institute in Russia and after marriage the respondent has to live in Russia.

It has been stated that in the month of October, 2012

she informed about her pregnancy to the petitioner and her in-laws and thereafter her husband (petitioner) took her to a doctor. After check-up by the Doctor her husband and father-in-law forcefully administered a medicine to her at night. On the next day she felt some stomach pain and miscarriage took place. Thereafter in the month of November, 2012 her husband returned back to Russia. Her father-in-law used to pressurize her for purchasing car after taking loan and her husband and in-laws used to say that they will keep her only after taking money and when her husband Dhruv Alok came back to Ranchi in the year 2014 and established relation with her but he never gave respect to her as a wife.

It has further been stated that her sister-in-law (Nanad) herself informed to Bariatu Police about the torture and cruel act of the petitioner and his parents for demand of money as dowry. The Police scolded them and threatened not to repeat the same but their behaviour did not change. Thereafter she lodged a case before Bariatu Police Station in the year 2017 in which at the time of bail the petitioner- husband was directed to give Rs.5000/- per month to the respondent- wife but he is not complying the said order. She never tortured or ill-treated her husband and in-laws. She opened a shop at her own income at Boreya for her in-laws but her mother-in-law could not run

the same. Now it has become closed. She has performed her matrimonial obligation. Her in-laws have provided a room in their house for her in which she resides. She does not want to take divorce from her husband as she is still residing at her matrimonial house at Kusum Vihar, Morabadi, Bariatu, Ranchi and she tried to fulfill every genuine demand of her husband Dhruv Alok and does not want divorce from him.

During her cross-examination this witness has deposed that since the month of September, 2017 she is living separately from her husband having no relation between them. In para-40 she has deposed that she has neither arrayed the mediator Chaprasi Mahto Jee as witness nor has brought him as a witness. After marriage the date had been extended several times for about one and a half year. Due to fear of legal action Dhruv Alok performed marriage at Mandir. In para-54 of the cross-examination she has deposed that she has no paper regarding abortion as abortion had taken place at home. In para-56 she has deposed that Dhruv Alok never treated her as a wife. In para-59 this witness has deposed about filing of Bariatu P.S. Case No. 371/2017. She has also deposed that she cannot say that her husband ever suffered from COVID or not though her in-laws suffered from COVID but at that time she was not there. Except the

above nothing has come out from the cross-examination of this witness to take into consideration.

RW-2 Krishna Prasad, father of the respondent, has fully supported the case of her daughter.

He has deposed about the marriage between both the parties before the Marriage Officer Ranchi on 28.07.2011. He has deposed that after marriage her daughter went to her matrimonial house and fulfilled all the small and big thing from her salary. The son-in-law wants joint account in the Salary Account of his daughter. His daughter (respondent) lodged criminal case for torture and demand of dowry against the petitioner and his family members before Bariatu Police Station. During hearing of the bail matter the petitioner was directed to pay a sum of Rs.5000/- per month to his daughter but he is not complying the said order of the Court.

During cross-examination this witness has deposed that after how many days of negotiation the marriage between the parties has been solemnized he can't say. This witness has further deposed that his daughter lives at her matrimonial house separately. She is Professor at Lohardaga and her husband is a Doctor and works in Lab whose income is Rs.10,000/-. The child of his daughter was killed.

RW-3 Girija Kumari, sister of the respondent, has

fully supported the case of her sister. Her evidence is more or less similar as deposed by RW-1 and RW-2.

She has deposed about the marriage between both the parties before the Marriage Officer Ranchi on 28.07.2011. She has deposed that after marriage her sister went to her matrimonial house and fulfilled all the small and big thing with full dignity from her salary. Her brother-in-law (petitioner) wanted joint account in the Salary Account of her sister (respondent). Her sister lodged criminal case for torture and demand of dowry against the petitioner and his family members before Bariatu Police Station.

During cross-examination this witness has deposed that after solemnization of marriage her sister went to her matrimonial home. This witness has further deposed that in the year 2012 the petitioner Dhruv Alok went to the Bank for adding his name in the Bank Account of her sister (respondent). She has deposed that all the allegations as alleged by the petitioner in his plaint are false and fabricated.

16. Besides oral evidence, documentary evidences were also adduced, which were marked as exhibits.

17. The learned Principal Judge, from the statements of the witnesses so produced on behalf of the parties, has come to the conclusion that plaintiff/petitioner has miserably failed

to prove the grounds of alleged cruelty pleaded by him in his petition.

18. The appellant has claimed that the respondent was subjecting him with cruelty and he is living separately with his parent under the same roof having no communication either physical or emotional with the respondent-wife which caused mental agony to him. But, in his entire evidence the appellant has not disclosed any such specific incident from which it can be even remotely inferred that the conduct of the respondent was so cruel that it has become impossible for the appellant to live with her. All the assertions made by the appellant are quite general in nature and the appellant (P.W.1) has himself admitted in his cross-examination that he had not lodged any case in any police station against his wife.

19. From the testimony so recorded of the appellant-husband, the learned Principal Judge, Family Court has come to the conclusion that in the instant case, except the vague and omnibus allegations made by husband against his respondent-wife, no cogent convincing, clinching evidence, no concrete documentary evidence has been led to substantiate the charges of cruelty. The onus to prove the grounds taken for divorce squarely rests on the husband which are required to be discharged by leading a cogent, tangible and reliable evidence.

20. The learned Family Judge has gone into the

interpretation of the word “cruelty” and assessing the same from the material available on record as also the submission made in the pleading, has found that the element of cruelty has not been established. The said finding of the learned Family Court has been assailed herein by way of filing the instant appeal.

21. Herein since appellate jurisdiction has been invoked therefore, before entering into merit of the case, at this juncture it would be purposeful to discuss the appellate jurisdiction of the High Court.

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).

22. 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.

23. 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:

> *27.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.*

24. Further, it requires 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 but herein since grave allegation of extra-marital affair has been alleged therefore cogent evidence is required to be laid by the

plaintiff/appellant.

25. 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.

26. 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. Therefore, the Court has to see what are the probabilities in the case and legal cruelty has to be found out, not merely as a matter of fact, but as the effect on the mind of the complainant spouse caused by the acts or omissions of the other.

27. Since this Court are 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.

28. It needs to refer herein that 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 so 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:

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.""*

29. Thus, from the aforesaid it is evident that if any order made in conscious violation of pleading and law then it will come under the purview of perverse order. Further "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.

30. In the backdrop of the aforesaid settled position of law this Court is now adverting to examine that whether the prayer of the appellant for dissolution of marriage is fit to be allowed on the ground of cruelty alleged to be committed by the respondent wife.

Issue of cruelty

31. Now this court is adverting to the issue of cruelty. It needs to refer herein that the "cruelty" has been interpreted by the Hon'ble Apex Court in the case of ***Dr. N.G. Dastane vs. Mrs. S. Dastana, (1975) 2 SCC 326*** wherein it has been laid down that the Court has to enquire, as to whether, the conduct charge as cruelty, is of such a character, as to cause in the mind of the petitioner, a reasonable apprehension that, it will be harmful or injurious for him to live with the respondent.

32. This Court deems it fit and proper to take into consideration the meaning of 'cruelty' as has been held by the Hon'ble Apex Court in ***Shobha Rani v. Madhukar Reddi, (1988)1 SCC 105*** wherein the wife alleged that the husband and his parents demanded dowry. The Hon'ble Apex Court emphasized that "cruelty" can have no fixed definition.

33. According to the Hon'ble Apex Court, "cruelty" is the "conduct in relation to or in respect of matrimonial conduct in respect of matrimonial obligations". It is the conduct which adversely affects the spouse. Such cruelty can be either "mental" or "physical", intentional or unintentional. For example, unintentionally waking your spouse up in the middle of the night may be mental cruelty; intention is not an essential element of cruelty but it may be present. Physical cruelty is less ambiguous and more "a question of fact and degree."

34. The Hon'ble Apex Court has further observed therein that while dealing with such complaints of cruelty it is important for the court to not search for a standard in life, since cruelty in one case may not be cruelty in another case. What must be considered include the kind of life the parties are used to, "their economic and social conditions", and the "culture and human values to which they attach importance."

35. 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.

36. In ***V. Bhagat vs. D. Bhagat (Mrs.), (1994)1 SCC 337***, the wife alleged in her written statement that her husband was suffering from "mental problems and paranoid disorder". The wife's lawyer also levelled allegations of "lunacy" and "insanity" against the husband and his family while he was conducting a cross-examination. The Hon'ble Apex Court held these allegations against the husband to constitute "cruelty".

37. In ***Vijaykumar Ramchandra Bhate v. Neela Vijay Kumar Bhate, (2003)6 SCC 334*** the Hon'ble Apex Court has observed by taking into consideration the allegations levelled by the husband in his written statement that his wife was "unchaste" and had indecent familiarity with a person outside wedlock and that his wife was having an extramarital affair. These allegations, given the context of an educated Indian woman, were held to constitute "cruelty" itself.

38. In the case of ***Sujata Uday Patil v. Uday Madhukar Patil, (2006) 13 SCC 272*** the Hon'ble Apex Court has observed that Matrimonial disputes have to be decided by courts in a pragmatic manner keeping in view the ground realities. For this purpose, a host of factors have to be taken into consideration and the most important being whether the marriage can be saved and the husband and wife can live

together happily and maintain a proper atmosphere at home for the upbringing of their offsprings. This the court has to decide in the facts and circumstances of each case and it is not possible to lay down any fixed standards or even guidelines.

39. 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.

40. Further in the case of ***Vishwanath Agrawal* v. *Sarla Vishwanath Agrawal*, (2012) 7 SCC 288,** the Hon'ble Apex Court has held as follows:—

> *22. The expression "cruelty" has an inseparable nexus with human conduct or human behaviour. It is always dependent upon the social strata or the milieu to which the parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status.*
>
> *25. After so stating, this Court observed in* Shobha Rani

case *about the marked change in life in modern times and the sea change in matrimonial duties and responsibilities. It has been observed that : (SCC p. 108, para 5)*

"5. … when a spouse makes a complaint about the treatment of cruelty by the partner in life or relations, the court should not search for standard in life. A set of facts stigmatised as cruelty in one case may not be so in another case. The cruelty alleged may largely depend upon the type of life the parties are accustomed to or their economic and social conditions. It may also depend upon their culture and human values to which they attach importance."

26. Their Lordships in Shobha Rani case *referred to the observations made in* Sheldon *v.* Sheldon wherein Lord Denning *stated, "the categories of cruelty are not closed". Thereafter, the Bench proceeded to state thus:* (Shobha Rani case, *SCC p. 109, paras 5-6)*

"5. … Each case may be different. We deal with the conduct of human beings who are not generally similar. Among the human beings there is no limit to the kind of conduct which may constitute cruelty. New type of cruelty may crop up in any case depending upon the human behaviour, capacity or incapability to tolerate the conduct complained of. Such is the wonderful (sic) realm of cruelty.

6. These preliminary observations are intended to emphasise that the court in matrimonial cases is not concerned with ideals in family life. The court has only to understand the spouses concerned as nature made them, and consider their particular grievance. As Lord Reid observed in Gollins *v.* Gollins : *(All ER p. 972 G-H)*

'… In matrimonial affairs we are not dealing with objective standards, it is not a matrimonial offence to fall below the standard of the reasonable man (or the reasonable woman). We are dealing with this man or this woman.'"

41. In the case of ***Samar Ghosh v. Jaya Ghosh, (2007) 4 SCC 511*** it has been held by the Hon'ble Apex Court as follows: —

> *99. Human mind is extremely complex and human behaviour is equally complicated. Similarly human ingenuity has no bound, therefore, to assimilate the entire human behaviour in one definition is almost impossible. What is cruelty in one case may not amount to cruelty in other case. The concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, traditions, religious beliefs, human values and their value system.*
>
> *100. Apart from this, the concept of mental cruelty cannot remain static; it is bound to change with the passage of time, impact of modern culture through print and electronic media and value system, etc. What may be mental cruelty now may not remain a mental cruelty after a passage of time or vice versa. There can never be any straitjacket formula or fixed parameters for determining mental cruelty in matrimonial matters. The prudent and appropriate way to adjudicate the case would be to evaluate it on its peculiar facts and circumstances while taking aforementioned factors in consideration.*

42. Thus, from the aforesaid settled position of law it is evident that "Cruelty" under matrimonial law consists of conduct so grave and weighty as to lead one to the conclusion that one of the spouses cannot reasonably be expected to live with the other spouse. It must be more serious than the ordinary wear and tear of married life.

43. Cruelty must be of such a type which will satisfy the conscience of the Court that the relationship between the parties has deteriorated to such an extent that it has become impossible for them to live together without mental agony. The cruelty practiced may be in many forms and it must be

productive of an apprehension in the mind of the other spouse that it is dangerous to live with the erring party. Simple trivialities which can truly be described as a reasonable wear and tear of married life cannot amount to cruelty. In many marriages each party can, if it so wills, discover many a cause for complaint but such grievances arise mostly from temperamental disharmony. Such disharmony or incompatibility is not cruelty and will not furnish a cause for the dissolution of marriage.

44. Herein allegations of cruelty have been specifically made by plaintiff/appellant wherein it has been stated that the differences arose between him and respondent (wife) as after few months of the marriage, behaviour of the respondent wife was become aggravated and aggressive who used to misbehave with his parents and whenever he tried to convince her she used to treat him with cruelty and used to abuse him.

45. From the record it appears that both parties are highly educated and one is Professor and another is Doctor by profession. The appellant has claimed that the respondent was subjecting him with cruelty. But, in his entire evidence the appellant has not disclosed any such specific incident from which it can be even remotely inferred that the conduct of the respondent was so cruel that it has become impossible for the appellant to live with her.

46. However, in the instant case whatever assertions

have been made by the appellant against the respondent are quite non-specific and of quite omnibus nature and further, the appellant has not been able to prove the same. Even the appellant has not asserted any such act which can be said to be so grave as to enable the appellant for seeking a decree of divorce on the said ground.

47. As regards the filing of a case by the respondent on the ground of her being tortured of demand of dowry is concerned, mere seeking a legal remedy by the wife against her husband can't be termed as cruelty unless it is proved that the said proceeding was launched maliciously without any reality.

48. Thus, on the basis of the pleading and evidence on the record, this Court is of the view that the ground of cruelty has not been substantiated by the appellant and further it has also not been proved that the extent of cruelty is so much that it appears absolutely not possible and safe for the petitioner-husband to live together with respondent-wife and continue with their married life.

49. Thus, on the basis of the discussion made hereinabove this Court is of the view that the appellant has failed to substantiate the commission of alleged cruelty of respondent upon him and since the learned Family Court while negating the claim of cruelty has duly appreciated the evidences brought on record, therefore the finding of the

learned Court on the alleged act of cruelty, is not perverse.

50. This Court, based upon the aforesaid discussions is of considered view that the issue of cruelty as has been alleged by the appellant-husband against his wife could not be proved because no cogent evidence to that effect has been produced by the appellant and, as such, this Court has no reason to take different view that has been taken by the learned Family Court observing that the petitioner has not been able to prove that respondent subjected him with cruelty to the extent required by law.

51. On the perusal of the impugned judgment, it is considered view of this court that learned Family Court after due deliberation of factual aspect as well as evidence led by both the parties has recorded its finding, therefore, the contention of learned counsel for the appellant that impugned judgment is suffering from perversity, is not fit to be accepted, hence rejected.

52. This Court, on the basis of discussions made hereinabove, is of the view that the judgment dated 20.03.2023 and Decree signed on 01.04.2023 passed by the learned Principal Judge, Family Court, Ranchi in Original Suit No.668 of 2017 filed by the appellant-husband under Section 27(1)(d) of the Special Marriage Act, 1954 for a decree of divorce has been dismissed, requires no interference by this Court.

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

54. Pending interlocutory application, if any, also stands disposed of.

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

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

Date : 11/09/2026

Birendra**/A.F.R.**

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