IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 28 of 2022

Usha Devi, aged about 26 years, wife of Vijay Kumar and daughter of Ramlakhan Yadav, resident of village-Murumdag, P.O. & P.S.-Itkhori, District-Chatra.

… … Appellant/Respondent

Versus

Vijay Kumar, aged about 29 years, son of Jagarnath Yadav, resident of village Obra, P.O. & P.S.-Sadar, District-Chatra.

… … Respondent/Petitioner

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Aditya Kumar Choudhary, Advocate [Through VC]
Mr. Anil Kumar Sinha, Advocate
Mrs. Nanda Kumari, Advocate
For the Respondent : Mrs. Bharti V. Kaushal, Advocate
Mr. Prabhkaran Munda, Advocate

CAV/Reserved on 07.07.2026 **Pronounced on : 01.09.2026**

Per Sujit Narayan Prasad, J.

1. The instant appeal under Section 19 of the Family Courts Act, 1984 is directed against the order/judgment dated 31.08.2021 and decree signed on 09.09.2021 passed by the learned Principal Judge, Family court, Chatra in Original Suit No. 18 of 2019 whereby the suit filed by the respondent-husband for dissolution of marriage on the ground of cruelty and desertion has been allowed by dissolving the marriage solemnized in between the parties.

Factual Matrix

2. The brief facts of the case as per the original matrimonial suit needs to be referred herein which is as under.

2.1 The petitioner (respondent herein) is a Jawan in the Indian Army and his marriage with the opposite party-Usha Devi (appellant herein) was solemnized on 14.05.2014 as per Hindu rituals and customs, where-after the appellant-opposite party-Usha Devi came to her Sasural along with the respondent-petitioner to lead the conjugal life. Respondent-

petitioner has his parents and two brothers in his family with him, he is living in a joint family.

2.2 It had been contended that in the year 2015 in the month of May, the appellant-opposite party-wife refused to stay with her husband and in-laws and she began to flee away to her parental house very frequently which caused immense corrosion upon the social prestige and conjugal life of the respondent-petitioner which caused him much mental turmoil. Thereafter, to settle his matrimonial life on the basis of advice and directions of his seniors in the Army, in August, 2015, respondent-petitioner took his wife Usha Devi to the Army Camp at Jabalpur. The duties of the respondent-petitioner were hard and he used to return late from his place of work which grossly annoyed his wife, Usha Devi, who began to curse him for coming late and ignoring her in discharge of the matrimonial life. She began to abuse and curse the respondent-petitioner and openly declared of not staying alone in the house. Respondent-petitioner tried to reason out with his wife about the nature of his duty and told her that the life of an Army Jawan was quite tough and called for a high sense of dedication and involvement, but, this did not pacify the appellant-wife and she refused to stay alone at Jabalpur and later on cooking up flimsy excuses, she filed a case upon the respondent-petitioner at Chatra and started to live separately. Respondent-Petitioner has contended that since August, 2015, there has been no matrimonial and conjugal relations established between the respondent-petitioner and the appellant-wife since then.

2.3 Respondent-petitioner has contended that in February, 2018, he lost his mother and one of his brothers got married, who earns his livelihood away from the native place and at his parental house, only his aged father and a younger brother are living and his wife, Usha Devi has bluntly refused to stay with her father-in-law and brother-in-law at his native place ever since February, 2018. It had also been contended that appellant had filed a case for maintenance against the respondent-petitioner bearing Maintenance Case No. 71 of 2015, in which Rs. 4,000/- (Four Thousand) per month was ordered to be paid

by this Court on her petition and in compliance thereto, respondent-petitioner is regularly paying the said amount to appellant.

2.4 Respondent-petitioner has asserted that appellant-wife, Usha Devi is not at all interested to lead conjugal life with him and neither she is discharging her matrimonial duty of looking after him and raising a family through him nor is interested to provide him companionship. Appellant-wife is not at all desirous to lead a married life with the respondent-petitioner and bear him children and has instead adopted a saintly approach to her life, where she is not inclined to lead a conjugal life with respondent-petitioner and, therefore, has rendered the respondent's life a marital hell. One day, she collected all her belongings and jewelry and booking a Bolero vehicle together with her relatives, went back to her Naihar and has since refused to come back. On 20.02.2019, a Panchayati was also convened between both the parties at Obra, in which appellant-wife flatly refused to discharge her matrimonial obligations and refused to stay at her matrimonial house. Several people tried to coax and cajole her, but, it made no impressions upon her and stating that she was satisfied with Rs. 4,000/- (Four Thousand) being provided by the respondent-petitioner, she would spend rest of her life with that and she has refused in clear terms of returning to the matrimonial fold of respondent-petitioner, hence respondent-petitioner despite being married is not able to enjoy a blissful married life.

3. On the basis of the aforesaid the respondent/petitioner/ husband had filed suit for dissolution of marriage before the family Court under Section 13 (1) of the Hindu Marriage Act 1955.

4. Upon notice the appellant/wife appeared in the Court and the matter was sent for mediation, however, the mediation failed on 28.06.2019 thereafter, the case proceeded for filing of the written statement.

5. Thereafter, the appellant-wife had filed her written statement stating therein that the case of the respondent-husband in its present form is not maintainable and is fit to be dismissed. There is no valid cause of action in the case and the cause of action, as stated in the petition, are all false,

frivolous, baseless and hence, the petition is fit to be dismissed. The appellant-wife had admitted the contents of Para 1, 2, 3, 4 of the petitions to be true. As regards, the contents of Para 5, 6 & 7, they have been vehemently denied being absolutely false, baseless and frivolous which the appellant-wife has denounced with strict vehemence at her command. In reply thereto, she has stated that within two months of her marriage, her husband and other members of her in-laws' family began to raise a dowry demand of Rs. 1,00,000/- (One Lac) in cash, a motorcycle and a golden chain and she was tortured and harassed for not fulfilling this demand. She was even physically assaulted for not fulfilling the dowry demands. In fact, respondent-husband had taken her along to Jabalpur, where he was posted, but there also appellant-wife was physically assaulted, abused and cursed for the dowry demand and on 19.03.2015, she was evicted from her matrimonial house after snatching all her clothing, jewelry and other belongings. Appellant-wife, then was constrained to lodge Sadar P.S. Case No. 114 of 2015 against the respondent-husband and his family members for torture and harassment meted out to her, in which the respondent-husband approached the appellant-wife with an assurance of keeping her with all honour and dignity and not to harass her in future and promised to lead future marital life well. Accordingly, on the basis of compromise, the A.B.P. No. 243 of 2015 and A.B.P. No. 313 of 2015 filed on behalf of respondent-husband and his mother Kaushalya Devi, the said A.B.P. stood allowed by the Court of learned Principal District & Sessions Judge vide order dated 14.08.2015. After obtaining bail on 29.08.2015, respondent-husband Vijay Kumar took his wife, Usha Devi to Jabalpur, but resorting to his old habits and nature, he brutally assaulted her with an intention to kill her, as the consequences of which, appellant-wife was hospitalized in the Jabalpur Military Hospital and the information of her hospitalization was passed on to her parental house, then people from her parental house came to Jabalpur on 26.10.2015 and after getting her discharged from the hospital, took her back to her Naihar seriously viewing the dowry demands and consequential physical harassment meted out to the appellant-wife, Usha Devi.

6. It had also been contended that respondent-husband, Vijay Kumar never took care of his wife, on account of which, appellant-wife had to file a maintenance case against her husband numbered as 71 of 2015. It has been asserted that the respondent-husband is desirous of performing second marriage and thus, on account of the same, he calls the appellant-wife as an ugly looking, uncouth and a bad omen on his family in his life. She is constantly cursed and harassed. He does not want to keep her with him, whereas appellant-wife is always quite desirous to live with the respondent-husband and spend her conjugal life with him. As regards, the contents of Para 9 & 10, they are partly admitted and partly denied and whatever has been stated against the appellant-wife as being strictly denied by her. It is asserted that on account of respondent's bad behavior and temperament, the marital life of the couple particularly appellant-wife is being spoilt. At para-9 of her written statement, appellant-wife has categorically denied the Para 11 of the petition being totally false, baseless, misconceived and frivolous and hence have been vehemently denied by her. She has asserted that while she is always ready and agreeable to live together with the respondent-husband, but, he himself is trying to torture and harass her in several manners and leveling baseless allegation upon her, is not desirous to keep her with him. She has strongly denounced the allegation of the respondent-husband of going to her parental house together with all the documents, jewelry, clothing and jewelry of respondent's late mother. She has on the contrary, asserted that physically assaulting her. She has stated that at the time of marriage on 14.05.2014, her father had given Rs. 5,00,000/- (Five Lac) in cash, gifts and valuables worth about Rs. 3,00,000/- (Three Lac) and Rs. 2,00,000/- (Two Lac) was spent by her father in the wedding reception of Barat. At Para-11 of her written statement, appellant-wife has categorically denounced the contents of Para-12 of the petition being totally false, concocted, frivolous and misconceived to which she has denied with all vehemence at her command. She has asserted that at no point of time she has ever refused to stay with respondent-husband as his wife and infact has discharged her matrimonial obligations, rather, on the contrary, it is respondent-husband himself, who has refused to keep the appellant-wife with all dignity, honour and peace and in fact nurses an ulterior motive of

performing another marriage and replacing her. With these oblique intentions, he continues to physically assault her and abuse her both mentally and physically inflicting cruelty upon her. In the end, she has asserted that all the contents of the petition are absolutely baseless, misconceived and concocted, hence are strictly denied and there is no valid cause of action for filing the suit which has been only brought on concocted and flimsy grounds.

7. It is evident from the factual aspect as referred hereinabove which led to filing of the present appeal that, as per the Original Matrimonial Suit, the petitioner (respondent herein) is a Jawan in the Indian Army and his marriage with the opposite party-Usha Devi (appellant herein) was solemnized on 14.05.2014 as per Hindu rituals and customs, where-after the appellant-opposite party-Usha Devi came to her Sasural along with the respondent-petitioner to lead the conjugal life. Respondent-petitioner has his parents and two brothers in his family with him, he is living in a joint family.

8. It had been contended that in the year 2015 in the month of May, the appellant-opposite party-wife refused to stay with her husband and in-laws and she began to flee away to her parental house very frequently which caused immense corrosion upon the social prestige and conjugal life of the respondent-petitioner which caused him much mental turmoil. Thereafter, to settle his matrimonial life on the basis of advice and directions of his seniors in the Army, in August, 2015, respondent-petitioner took his wife Usha Devi to the Army Camp at Jabalpur. The duties of the respondent-petitioner were hard and he used to return late from his place of work which grossly annoyed his wife, Usha Devi, who began to curse him for coming late and ignoring her in discharge of the matrimonial life. She began to abuse and curse the respondent-petitioner and openly declared of not staying alone in the house. Respondent-petitioner tried to reason out with his wife about the nature of his duty and told her that the life of an Army Jawan was quite tough and called for a high sense of dedication and involvement, but, this did not pacify the appellant-wife and she refused to stay alone at Jabalpur and later on cooking up flimsy excuses, she filed a

case upon the respondent-petitioner at Chatra and started to live separately. Respondent-Petitioner has contended that since August, 2015, there has been no matrimonial and conjugal relations established between the respondent-petitioner and the appellant-wife since then.

9. Respondent-petitioner has contended that in February, 2018, he lost his mother and one of his brothers got married, who earns his livelihood away from the native place and at his parental house, only his aged father and a younger brother are living and his wife, Usha Devi has bluntly refused to stay with her father-in-law and brother-in-law at his native place ever since February, 2018. It had also been contended that appellant had filed a case for maintenance against the respondent-petitioner bearing Maintenance Case No. 71 of 2015, in which Rs. 4,000/- (Four Thousand) per month was ordered to be paid by this Court on her petition and in compliance thereto, respondent-petitioner is regularly paying the said amount to appellant.

10. Respondent-petitioner has asserted that appellant-wife, Usha Devi is not at all interested to lead conjugal life with him and neither she is discharging her matrimonial duty of looking after him and raising a family through him nor is interested to provide him companionship. Appellant-wife is not at all desirous to lead a married life with the respondent-petitioner and bear him children and has instead adopted a saintly approach to her life, where she is not inclined to lead a conjugal life with respondent-petitioner and, therefore, has rendered the respondent's life a marital hell. One day, she collected all her belongings and jewelry and booking a Bolero vehicle together with her relatives, went back to her Naihar and has since refused to come back. On 20.02.2019, a Panchayati was also convened between both the parties at Obra, in which appellant-wife flatly refused to discharge her matrimonial obligations and refused to stay at her matrimonial house. Several people tried to coax and cajole her, but, it made no impressions upon her and stating that she was satisfied with Rs. 4,000/- (Four Thousand) being provided by the respondent-petitioner, she would spend rest of her life with that and she has refused in clear terms of returning to the matrimonial fold of respondent-petitioner, hence respondent-petitioner despite being married is not able to enjoy a blissful married life.

11. It is evident from the factual aspect that the respondent/petitioner had a motion by filing a petition under Section 13(1)(i-a) (i-b) of the Hindu Marriage Act, 1955 for decree of divorce.

12. The learned Family Judge has called upon the appellant-wife. The appellant-wife had filed written statement and altogether six issues have been framed by the learned Family Court which are as follows:

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

    (ii) Whether the plaintiff has a valid cause of action for the divorce suit?

    (iii) Whether the action of Opposite Party/Defendant has treated the petitioner and his family members with cruelty?

    (iv) Whether the opposite party (wife) has deprived the petitioner or conjugal bliss by avoiding to establish physical relationship with petitioner and thus has inflicted cruelty on him?

    (v) Whether the plaintiff/petitioner is entitled to obtain a decree of divorce dissolving the marriage of the petitioner with opposite party U/s 13(1)(1-a)(1-b) of the Hindu Marriage Act, 1955?

    (vi) Whether the petitioner/plaintiff (husband) is entitled to obtain the relief or reliefs as prayed for?

13. Thereafter, the judgment has been passed allowing the suit by holding that the respondent-petitioner, Vijay Kumar is found entitled for a decree of divorce as prayed for. The matrimonial tie between the respondent-petitioner, Vijay Kumar and appellant-O.P.-wife, Usha Devi solemnized on 14.05.2014 as per Hindu rituals and customs hereby stands dissolved by a decree of divorce from the date of the decree, which is the subject matter of the present appeal.

Submission of the learned counsel for the appellant/respondent:

14. Learned counsel for the appellant/respondent-wife has taken the following grounds in assailing the impugned judgment:

    (i) It has been contended that the factual aspect which was available before the learned court supported by the evidences has not properly

been considered and as such, the judgment impugned is perverse, hence, not sustainable in the eyes of law.

(ii) The judgment impugned suffers from error on the ground that the learned Family Judge has not taken into consideration the fact which has come in the cross-examination of the P.W.-1, the respondent-husband wherein it has been stated by him that on the basis of cross-examination, he started living with the appellant based upon the compromise which was the basis of grant of anticipatory bail in connection with Sadar P.S. Case No. 114 of 2015.

(iii) It has been submitted that the aforesaid fact, therefore, clarifies that the respondent had lived with the appellant in the year 2018-19, as per the admission and hence, the ground of desertion which has been taken into consideration from the year 2015 is per se improper which has been taken note by the learned Family Judge for grant of divorce.

(iv) The learned Family Judge ought to have taken into consideration the stand taken on behalf of the appellant/the respondent before the original court, in the written statement even in a situation where all the witnesses have not been cross-examined by the appellant and no witnesses have been produced to adduce evidence in support of the written statement.

(v) The submission has been made that in absence of the cross-examination or no evidence having been adduced even then, it is the duty casted upon the Court being an adjudicator to decide the issue for the purpose of doing substantive justice even on the basis of the stand taken in the written statement.

(vi) It has been contended that here the fact about cruelty by way of subjecting the appellant to torture by brutally assaulting and in consequence thereof, hospitalization in Jabalpur is one of the stands taken in the written statement but that has not been taken into consideration.

(vii) P.W.-1 has been cross-examined by the appellant and in the cross-examination, it has been deposed by the respondent-husband that he

does not intend to live with the appellant. It has been submitted that the moment the specific stand has come in the cross-examination that the respondent-husband does not intend to live with the appellant-wife, it itself suggest that there is no withdrawal of the appellant from the life and society of the respondent-husband.

(viii) The ground urged in the supplementary affidavit filed in the present appeal is that on the date when the proceedings were conducted, a compelling situation had prevailed owing to the spread of the COVID-19 pandemic, and further, the appellant herself had fallen ill due to COVID-19 infection.

(ix) It has further been asserted in the supplementary affidavit that the marriage of the respondent-husband has not been solemnized owing to the pendency of the present appeal. Consequently, the statement made by the respondent-husband in his counter affidavit before this Court, to the effect that he has contracted a second marriage, is false and not worthy of acceptance.

(x) It has further been submitted that from the lower court records as well as the impugned order, it is apparent that the appellant had filed a written statement before the Principal Judge, Family Court, Chatra, in Original Suit No. 18 of 2019; however, she could not appear protecting her interests. She subsequently came to know about the ex-parte judgment and decree, as well as the application for solemnization of marriage. Thereafter, she immediately informed the Marriage Officer as well as the Circle Officer, Chatra, stating therein that she was suffering from Corona and due to that reason, she could not take care of her case and the matter proceeded ex-parte despite the filing of the written statement. Thereafter, upon procuring all the relevant documents, she filed the instant appeal before this Court.

(xi) It has been submitted that in the above facts and circumstances, the Appellant/wife could not properly substantiate her case before the Learned Principal Judge, Family Court, Chatra in Original Suit No. 18 of 2019. Further, certain relevant documents, which are essential

for proper adjudication of the matter, were not brought on record before the said court and, therefore, could not be considered.

15. Learned counsel for the appellant-respondent/wife, based upon the aforesaid ground, has submitted that neither the element of cruelty has been substantiated nor the element of desertion but without appreciating the aforesaid fact, the decree of dissolution of marriage has been passed, as such, the same is not sustainable in the eyes of law.

Submission of the learned counsel for the respondent/plaintiff:

16. Per contra, Ms. Bharti V. Kaushal, learned counsel for the respondent/petitioner-husband while defending the impugned judgment has taken the following grounds:

(i) It has been submitted that it is a case where although the written statement was filed on behalf of the appellant but the same has not been corroborated since no evidence has been led on her behalf.

(ii) The element of cruelty and desertion has well been proved as would be evident from perusal of the impugned judgment which is based upon the evidence of the witnesses adduced on behalf of the respondent-husband.

(iii) The case under Section 498-A was instituted by the appellant which ended in acquittal.

(iv) The ground of COVID-19 which is being taken by way of additional affidavit is not fit to be considered since no such ground was ever taken in course of the trial, moreover, the case under Section 498-A was diligently been pursued during the same period and as such, it is incorrect on behalf of the appellant to take the ground of prevailing COVID-19 during the relevant time.

17. Learned counsel for the respondent-husband, based upon the aforesaid grounds, has submitted that the impugned judgment, therefore, suffers from no error.

Analysis:

18. This Court has heard the learned counsel for the parties and gone through the finding recorded by the learned Family Judge in the impugned judgment.

19. The case has been heard at length. The admitted fact herein is that the suit for dissolution of marriage in between the parties has been filed under Section 13(1) of the Hindu Marriage Act, 1955 and accordingly, issues have been framed by the learned Family Court wherein primarily issue nos.(iii) (iv) and (v) pertains to cruelty and desertion.

20. It is evident that the evidence has been led on behalf of the respondent-petitioner-husband before the Family Court. For better appreciation, the evidences led on behalf of the respondent/petitioner is being referred as under:

    (i) P.W-1, Vijay Kumar, the respondent-petitioner, has stated that his marriage was solemnized as per Hindu customs and rituals on 14.05.2014 with Usha Devi, the appellant-respondent. After the marriage, Usha Devi came to reside with him in his house and soon after her arrival, she quarreled with his mother, father and a brother and refused to live in a joint family and without the consent and approval of the respondent-petitioner, went back to reside at her parental house. He has further averred that in August, 2015, he took his wife Usha Devi to his place of posting at Jabalpur, but there also appellant-wife did not allow him to stay peacefully and cooking up frivolous excuse for either coming late from duty or not to attend his duty, she began to pressurize the respondent-petitioner for staying back with her and continuously engaged herself in quarreling with the respondent-petitioner and abusing him. It is also asserted that she used to also indulge with him in physical fights. This caused a lot of trouble and loss of peace of mind and the conduct of the appellant-wife became quite un-bearing for the respondent-petitioner, as he had to discharge hard duties being an Army Jawan in which a lot of hindrances were being put by the appellant-wife. Lastly, on 26th October, 2015, together with her maternal uncle and brother, she returned to her Maika and instituted a false maintenance case against

him and refused to live with him at all. The respondent-petitioner in compliance of the Court's order began to pay Rs. 4,000/- (Four Thousand) per month to his wife towards maintenance expenses which he is paying regularly ever since. The respondent-petitioner as deponent has averred that his wife neither is desirous to live with him as a legally married wife, nor wants to discharge her matrimonial obligations or even bear any children to the respondent-petitioner. She is very quarrelsome lady which has robbed the respondent-petitioner of the peace of his mind. It is averred that on 20th February, 2018, a Panchayati was convened in which his wife Usha Devi categorically refused to live with him as wife and discharge her matrimonial obligations. It is also averred that deponent's wife is staying away from him ever since 26th October, 2015. There has been no conjugal relationship between them ever since. She is not at all desirous to live with him and his family members and constantly indulges in fists fight with them. appellant-wife is not at all interested to bear respondent’s children and allow him to expand his family and thus, respondent-petitioner feels cheated in the alliance. He has also deposed that the contents of written statement of the appellant are also absolutely false and frivolous and far away from the truth.

In his cross-examination, this deponent has deposed that he has not filed any case before the court of law for bringing back his wife to his companionship. He has deposed that he had gone to fetch his wife at her Naihar along with three people, but her father told them that the appellant-respondent was not available at home. He has deposed that he had gone on 25th February, 2018 to fetch his wife back home. He has deposed that there was an oral Panchayati also convened at his house at Obra in which members of his wife's family had come to participate in the Panchayati. He has deposed that apart from the visit on 25.02.2018, he had never ever visited his Sasural to fetch back his wife. He has deposed that once in 2014 and once in 2015, he had gone to bring back his wife, but he could not recall the month in the year 2015 when he had visited his wife to fetch her back. He has admitted of having perused the written statement filed by his

wife in this case and has also acknowledged the truth that he is paying the maintenance amount to his wife. He has admitted the fact of his wife instituting a criminal case against him for dowry demands and physical cruelty which was numbered as Sadar PS Case No. 114 of 2015. In the said case, he has acknowledged of having been enlarged on bail on the basis of compromise between him and his wife. He has deposed that he had kept his wife with him, but presently his wife is not living with him. He has deposed that he has denied the allegations of his wife made in her written statement. Lastly, he has deposed that even if his wife was desirous to live with him, he would not continue his marital relation with his wife and neither there are any prospects of him and his wife leading a blissful conjugal life in future.

(ii) P.W.-2 is Surji Devi, an independent witness, who in her deposition, has averred that she knows both the parties well. She has deposed that Vijay Kumar's marriage with Usha Devi was performed on 14.05.2014 as per Hindu rituals and customs. After which, upon her Vidai, Usha Devi came to reside in her Sasural village Obra, but after few days of her stay, she quarreled with the husband and other members of in-laws' family and refusing to stay in a joint family and without the consent and knowledge of her husband and other in-laws, she returned to her Maika. She has deposed that Vijay Kumar serves in the Indian Army and in the year 2015, Vijay Kumar had taken his wife, Usha Devi to his place of posting at Jabalpur, but, Usha Devi did not stay peacefully at Jabalpur also and continued to quarrel with her husband-respondent/petitioner. Then, in October, 2015, she returned to her Maika along with her brother and maternal uncle and instituted a false case upon Vijay Kumar and his family members. She also refused to stay with him. She had instituted a maintenance case upon her husband in the Chatra Court, from where as per the order, she is regularly getting Rs. 4,000/- (Four Thousand) per month from her husband. This witness has deposed that Usha Devi is neither keen to lead a matrimonial life with her husband nor is desirous to bear him children and instead continues to quarrel and fight with him. She has also deposed that in the year 2018, a Panchayati was

convened, but Usha Devi flatly refused to live and stay with Vijay Kumar. Usha Devi is living separately since 2015 and is not at all keen to resume her co-habitation and conjugal relation with the husband, Vijay Kumar and has also indulged in physical assault with her in-laws, therefore, Vijay Kumar has instituted the case before the Court for dissolving his marriage.

It has been observed in the impugned judgment that despite several calls, when no one appeared to cross-examine this witness, the learned Family Court in its own had decided to cross-examine the witness and in reply to the queries of the court, this witness has deposed that she knows both Vijay Kumar and Usha Devi well as they are her neighbours. She has deposed that both Vijay Kumar and Usha Devi were married about 3-4 years ago, but she could not recall the date of their marriage, month or the year. After her marriage, Usha Devi had come to her Sasural and for about one-two months had stayed peacefully in the house. Thereafter, she began to quarrel with the husband and other members of in-laws' family and later without informing anybody in her Sasural and without the consent of her husband, she called her relatives from her Naihar and went back to her parental house along with them. She has deposed that Vijay Kumar is serving in the Indian Army. Few years ago, he had taken his wife Usha Devi to his place of posting at Jabalpur, but there also the couple could not lead a peaceful conjugal life and there were frequent quarrels between them on account of which Usha Devi returned to her Maika along with her relatives. Suo motu, this witness exclaims that later on she had heard that Usha Devi had instituted a maintenance case upon her husband, Vijay Kumar, in which in compliance of the Court's order, she was receiving Rs. 4,000/- (Four Thousand) per month from her husband. She has deposed that Usha Devi is not at all keen to live and stay with her husband nor lead a conjugal life with him nor bear him any children. She frequently quarrels with the husband. She has deposed that about three years ago there was a Panchayati also convened between both the sides, in which Ushal Devi had categorically refused to live and stay with

Vijay Kumar. She had deposed that Usha Devi is living separately from her husband since over three years and Vijay Kumar has instituted the present case for divorce seeking dissolution of marriage with Usha Devi, since she is not at all inclined to live with him and perform marital duties. Lastly, this witness has deposed that whatever she has stated before this Court, it is entirely based on her personal knowledge.

(iii) P.W.-3 is Chando Yadav, who in his deposition has almost echoed the contents of the examination-in-chief on the sworn affidavit of P.W.-2, Surji Devi. It has been categorically asserted that on account of bad behavior, non-cooperation in leading married life and deprivation of physical pleasures through married life and bearing of children, the respondent-petitioner, Vijay Kumar has been constrained to institute the present case for dissolution of marriage with wife Usha Devi before the Court of law.

It has been taken note in the impugned judgment that as no one appeared on behalf of the defence to cross-examine this witness, the learned Family Court in the ends of justice and suo motu action proceeded to cross-examine the witness. This witness has deposed that both Vijay Yadav and Usha Devi are his neighbours. Both are husband and wife, who married in 2014 as per Hindu customs and after the marriage, Usha Devi upon her Vidai came to her Sasural at Obra and began to live together. After one-two months of marriage, the couple began to indulge in frequent quarrels and fight and then Usha Devi without the consent and approval as well as information to her in-laws, went back to her Maika. What transpired thereafter between the couple is however not known to him. He has deposed that Vijay Kumar stays in Delhi and serves in the Indian Army and in the year 2015, Usha Devi had accompanied her husband Vijay Kumar to his place of posting at Jabalpur, where she stayed for about 10-15 days, later on he got information that the couple were indulging in frequent quarrels and fight there also. Thereafter, Usha Devi went back to her Maika and according to his knowledge, Usha

Devi is not at all desirous and keen to live with Vijay Kumar and spend her conjugal life with him and, therefore, she is creating a lot of flimsy excuses. He has deposed that as per his information, Usha Devi had earlier instituted a case upon her husband, but what was the issue involved, he is not aware of the same. Suo motu, he exclaims that it must be on account of frequent fights and quarrels. He has deposed that Vijay Yadav and Usha Devi are living separately from each other since about 8-10 years. On the suggestion of the court that the marriage had been solemnized in the year 2014, this witness improved his version and stated that it was about seven years ago. At para-4 of his deposition, this witness has significantly deposed that he is unaware of the cause for which Vijay Kumar has instituted the present case. Suo motu, he exclaims that perhaps he was desirous of keeping his wife with him, so he must have instituted the present case. At para-5 of his deposition, this witness has deposed that what is stated in the deposition on oath, he is unaware of the contents, as it was neither read over to him nor he has read the same, because he is essentially an illiterate person. He has lastly deposed that whatever he has deposed before the Court on the day, it is purely through his own personal knowledge and wisdom and he has not at all been tutored by Vijay Kumar.

(iv) P.W.-4 is Sagar Kumar, who like the previous two witnesses, namely, Surji Devi and Chando Yadav, has also almost echoed the same contents as that laid out in the examination-in-chief on oath of P.W.-2 & P.W.-3. He has deposed that since Usha Devi has refused to stay with Vijay Kumar and lead a conjugal relation with him nor bear him any children and is a very quarrelsome lady, who ill-treats the respondent-petitioner as well as his family members, therefore, respondent-petitioner Vijay Kumar has instituted the case before the court for seeking decree of divorce from his wife and dissolution of marriage with her.

It has been taken note in the impugned judgment that with respect to this witness also, there was no body to cross-examine this

witness from the side of appellant-respondent. Therefore, in the ends of justice, the learned Family Court proceeded to cross-examine this witness on its own motion. In reply to the queries raised by this Court, this witness has deposed that respondent-petitioner, Vijay Kumar is his uncle whose marriage with Usha Devi was performed on 14th May, 2014 as per Hindu rituals and customs and after the marriage Usha Devi came to reside in her matrimonial house at Obra. She stayed peacefully in Sasural for a month and thereafter indulging in a quarrel with his uncle she returned to her Naihar. He has deposed that both his own house and his uncle's house are adjoining each other and they are close neighbours. Further, he has deposed that Vijay Kumar is serving in the Indian Army and is presently posted at Delhi. Earlier, he was posted at Jabalpur and while Vijay Kumar was posted at Jabalpur, both his uncle and Usha Devi stayed together at Jabalpur for seven months where-after his aunt Usha Devi went back to her Maika after quarreling with his uncle. He has deposed that Usha Devi always insisted upon her husband Vijay Kumar to live separately. However, Vijay Kumar was never interested to live separately and aloof from his family and was always keen and inclined to live together, but this desire of his uncle never materialized and Usha Devi never displayed any inclination to live together with him. He has deposed that presently both Usha Devi and Vijay Kumar are living separately from each other and it has been almost six years since their separate inhabitation. He has deposed that Usha Devi had instituted a case against her husband Vijay Kumar in which Usha Devi has stated that her husband does not keep her well and he has deserted him. He has also deposed that once there had been a social Panchayati between both the sides in which Usha Devi had flatly refused to stay and live together with petitioner, Vijay Kumar. He has deposed that the present case has been instituted by Vijay Kumar for obtaining divorce from Usha Devi and lastly has deposed that he has made all the deposition before the court on the basis of his personal knowledge.

21. It has been taken note in the impugned judgment by the learned Family Judge, after going through the records, despite several opportunities granted by the learned Family Court, neither any witness was produced and examined on behalf of the appellant-respondent/wife and not any cross-examination of the witness nos.2, 3 & 4 produced on behalf of the respondent-petitioner/husband was conducted on behalf of the appellant-wife, save and except P.W.-1, Vijay Kumar.

22. The learned Family Judge has appreciated the evidences led on behalf of the respondent-petitioner as also the submission made in the pleading, i.e., plaint has found that the element of cruelty and desertion being established, as such, has allowed the suit by dissolving the marriage in between the parties which is the subject matter of the present appeal.

23. The learned counsel for the appellant/respondent has argued that the learned Family Judge ought to have taken into consideration the stand taken on behalf of the appellant/the respondent before the original court, in the written statement even in a situation where all the witnesses have not been cross-examined by the appellant and no witnesses have been produced on her behalf to adduce evidence in support of the written statement.

24. The further submission has been made that in absence of the cross-examination or no evidence having been adduced even then, it is the duty casted upon the Court being an adjudicator to decide the issue for the purpose of doing substantive justice even on the basis of the stand taken in the written statement but from perusal of the impugned order it is evident that learned Family Court has not taken into consideration the all aspect of written statement.

25. It has been contended that here the fact about cruelty by way of subjecting the appellant to torture by brutally assaulting and in consequence thereof, hospitalization in Jabalpur is one of the stands taken in the written statement but that has not been taken into consideration by the learned Family Court.

26. It has further been contended that on the date when the proceedings were conducted, a compelling situation had prevailed owing to the spread of the COVID-19 pandemic, and further, the appellant herself had fallen ill due to COVID-19 infection.

27. While on the other hand, argument has been advanced on behalf of the respondent/petitioner that since the point of suffering from Covid-19 has not been raised by the appellant before the learned Family Court, therefore the said ground cannot be raised before this Court at the appellate stage. Moreover, the case under Section 498-A was diligently been pursued during the same period and as such, it is incorrect on behalf of the appellant to take the ground of prevailing COVID-19 during the relevant time. It has further been contended that the impugned judgment is well considered one and as such, the impugned judgment requires no interference.

28. This Court while appreciating the argument advanced on behalf of the parties on the issue of perversity needs to refer herein the interpretation of the word "perverse" as has been interpreted by the Hon'ble Apex Court which means that there is no evidence or erroneous consideration of the evidence. The Hon'ble Apex Court in ***Arulvelu and Anr. vs. State [Represented by the Public Prosecutor] and Anr., (2009) 10 SCC 206*** while elaborately discussing the word perverse has held that it is, no doubt, true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law. Relevant paragraphs, i.e., paras-24, 25, 26 and 27 of the said judgment reads as under:

> ***"24.*** *The expression "perverse" has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court observed that the expression "perverse" means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.*
>
> ***25.*** *In Parry's (Calcutta) Employees' Union v. Parry & Co. Ltd. [AIR 1966 Cal 31] the Court observed that "perverse finding" means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber & Plastics v. CCE [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.*
>
> ***26.*** *In M.S. Narayanagouda v. Girijamma [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough [(1878) 1 LR 1r 331] the Court observed that a "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether*

> *against the evidence. In Godfrey v. Godfrey [106 NW 814] the Court defined "perverse" as turned the wrong way, not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.*
>
> ***27.*** *The expression "perverse" has been defined by various dictionaries in the following manner:*
>
> *1. Oxford Advanced Learner's Dictionary of Current English, 6th Edn.*
>
> *"Perverse.—Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable."*
>
> *2. Longman Dictionary of Contemporary English, International Edn.*
>
> *Perverse.—Deliberately departing from what is normal and reasonable.*
>
> *3. The New Oxford Dictionary of English, 1998 Edn.*
>
> *Perverse.—Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.*
>
> *4. The New Lexicon Webster's Dictionary of the English Language (Deluxe Encyclopedic Edn.)*
>
> *Perverse.—Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.*
>
> *5. Stroud's Judicial Dictionary of Words & Phrases, 4th Edn.*
>
> *"Perverse.—A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.""*

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. 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.

31. 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.***

32. On the anvil of the rival submissions advanced by the learned counsel appearing for the respective parties, and upon a careful appraisal of the factual substratum of the case, this Court deems it expedient to crystallize the following issues which now fall for adjudication:

(i) Whether, in view of the fact that the plea of suffering from Covid-19 was not urged by the appellant before the learned Family Court, such a ground can legitimately be permitted to be raised for the first time at the appellate stage?

(ii) Whether the learned Family Judge was bound to take into consideration the defence pleaded in the written statement on behalf of the appellant/respondent before the trial court, notwithstanding that the appellant failed to cross-examine the witnesses of the opposite party and did not adduce any evidence in support of her own pleadings?

(iii) Whether, in a situation, after filing of the written statement if the witnesses are not being produced, then, is it available for the learned Family Court to not consider the averment/ground which has been agitated in the written statement?

(iv) Whether by making reference of the averment made in the written statement construed to be consideration in the eyes of law in absence of any finding either way?

33. Having regard to the factual matrix of the case, this Court considers it appropriate to adjudicate Issue No. (i) independently, while Issues No. (ii), (iii) and (iv) shall be taken up conjointly, inasmuch as they are interwoven and rest upon a common substratum of facts and law.

RE: Issue no.(i)

34. As a general rule, a brand-new factual ground or case not raised in the original pleadings or trial court cannot be raised for the first time during an appeal. An appellate court ordinarily does not permit a party to raise a brand-new factual ground or case for the first time in appeal if it was not pleaded or argued before the trial court.

35. A new factual ground not cited earlier cannot be introduced for the first time in appeal, as it would amount to enlarging the scope of the dispute beyond what the trial court considered. If a party fails to raise a ground at trial, it is deemed waived unless exceptional circumstances exist. However, an appellate court may allow a new point in rare, exceptional cases if good cause is shown.

36. The Hon'ble Apex Court in ***Divyagnakumari Harisinh Parmar and Others Vs. Union of India and Ors. 2025 SCC OnLine SC 2064*** has observed that Court cannot entertain an entirely new case at the appellate stage at the behest of either party and is strictly confined to adjudicate the issues arising from the suit as framed by the pleadings of the parties, for ready reference the relevant paragraphs of the aforesaid judgment are being quoted as under:

> ***16.*** *Having considered these arguments, we are constrained to observe that although the submissions advanced by the Appellants may, at first blush, appear to carry some force, a closer perlustration of the pleadings and grounds urged before the courts below makes it evident that such claims are being canvassed for the very first time before this Court. The Respondents are, therefore, correct insofar as they are asserting that these contentions had neither been pleaded nor pursued at any prior stage of the proceedings.*
>
> ***17.*** *These assertions advanced by the Appellants find no trace in the pleadings before any of the courts below, be it the Trial Court, or in the subsequent appellate proceedings. Neither the issues framed, nor the written submissions filed, nor the oral arguments addressed at those stages make any reference to such contentions. Indeed, the claims appear to have surfaced for the very first time before this Court. Notably, the plea concerning the applicability of Decree No. 27:135 has been raised only through an application filed before this Court on 13.07.2023 seeking leave to urge additional grounds, being I.A. Nos. 132155 and 132156 of 2023.*
>
> ***18.*** *In this regard, we place our reliance on the well-entrenched principle of law that no relief can be granted on a case not founded in the pleadings.*[5] *This Court cannot entertain an entirely new case at the appellate stage at the behest of either party and is strictly confined to adjudicate the issues arising from the suit as framed by the pleadings of the parties.*

> ***19.*** *This rule has been consistently affirmed across time and is rooted in the very purpose of pleadings—namely, to define the scope of the dispute and enable the court to adjudicate upon the rights of the parties. Pleadings, together with the issues framed thereon, serve to crystallise the points of conflict, ensure that each side is apprised of the case it has to meet, and afford both parties a fair opportunity to lead evidence and advance submissions.*[6] *To allow a party to depart from this framework at a belated stage would not only prejudice the opposite side but also undermine the principles of predictability and consistency that the adjudicatory process seeks to avow."*

37. Thus, the proper function of an appellate court is to correct an error in the judgment or proceedings of the court below and not to adjudicate upon a different kind of dispute a dispute that had been never taken before the court below. It is only in exceptional cases that the appellate court may, in its discretion allow a new point to be raised before it, provided there are good grounds for allowing it to be raised.

38. In the instant case, the appellant has, for the first time at this stage, raised the plea that she was suffering from COVID-19 infection during the relevant period, and, on account thereof, she was unable to appear before the learned Family Court after having filed her written statement.

39. The ground of prevailing COVID-19 has been taken on behalf of the appellant. However, the same has seriously been disputed by referring the conduct of the appellant by taking the ground on behalf of the respondent-husband that during the same period, the criminal case was diligently been pursued by the appellant.

40. Admittedly herein, the learned counsel for the appellant has taken the ground of prevailing COVID-19 that led her not to pursue the proceeding with due diligence, but no such ground has been agitated by her before the concerned court or even by the advocate who had appeared there had not made prayer to that effect.

41. The learned counsel for the respondent has responded regarding the due diligence said to be shown by the appellant for pursuing the criminal case, since this Court has already referred that no new plea is to be taken at the appellate stage and as such, the fact about prevailing COVID-19 is not

being taken as a ground herein to look into the matter and legality and propriety of the impugned judgment.

42. Accordingly, issue no.(i) is answered herein.

Re: Issue No.(ii), (iii) and (iv)

43. In sum and substance, the core of the contention is that, in the absence of any evidence adduced to substantiate the contents of the written statement, is it open to the learned Family Court to disregard the assertions made therein.

44. It needs to refer herein that The Code of Civil Procedure, 1908 (hereinafter, "the said Code"), outlines the procedure for filing a written statement and the consequences of non-appearance. Order VIII Rule 1 of the said Code mandates that the defendant shall present a written statement of their defence within thirty days from the date of service of summons, which may be extended by the court up to ninety days. The written statement contains the defendant's pleadings, including new facts, counter-claims, and set-off.

45. Further it needs to refer herein that Proceedings are declared ex-parte when a defendant, despite due service of summons, fails to appear in court on the date of hearing. An ex-parte decree can be passed even if a written statement was filed, but the defendant subsequently failed to appear at the trial stage for evidence.

46. While Order VIII Rule 10 of the said Code grants the court discretion to pronounce judgment or make other orders if a written statement is not presented but this provision is not mandatory for automatically decreeing the suit and courts should exercise caution in proceeding under Order VIII Rule 10. Even in ex-parte proceedings, the court is not a mere rubber stamp; it must scrutinize the plaint and ensure that the plaintiff's case is established.

47. Thus, when a written statement has been filed, it becomes part of the court record. Even if the defendant fails to appear later, leading to ex-parte proceedings, the court cannot ignore the defence already placed on record. The court should consider the averments made in the written statement to ascertain the true facts and to ensure that justice is done. This is particularly pertinent in matrimonial cases, where the court often takes a more active

role in arriving at the truth, given the sensitive nature of the disputes and their far-reaching implications. The court should weigh the pleadings of both sides, even if one party is absent, before passing a final decree.

48. It is settled position of law that mere filing of a written statement by a defendant in a matrimonial suit, even if followed by non-appearance leading to ex-parte proceedings, does not automatically negate the defence already placed on record.

49. The Hon'ble Apex Court in the case of ***Rina Kumari @ Rina Devi @ Reena Vs. Dinesh Kumar Mahto @ Dinesh Kumar Mahato and another 2025 INSC 55*** while taking into the consideration the factual aspect that despite filing the above statement Rina Kumari failed to appear thereafter before the Family Court has observed that the findings in the proceedings for restitution of conjugal rights, which were partly uncontested as Reena did not appear before the Family Court to adduce evidence or advance her case after filing her written statement, did not clinch the issue and the High Court ought not to have given such undue weightage to the said judgment and the findings therein.

50. Further the Hon'ble Apex Court emphasized that the findings in ex-parte restitution of conjugal rights proceedings are not conclusive and the court dealing with maintenance under Section 125 Cr.P.C. must independently assess whether the wife had sufficient reason to refuse to live with her husband, despite such a decree. The appeal was allowed, setting aside the High Court's judgment and restoring the Family Court's order of maintenance for the wife.

51. On the basis of discussion made hereinabove it is settled position of law that in a matrimonial suit, even if the proceedings are conducted ex-parte due to the non-appearance of a party, the court has duty to examine the contents of a written statement that has already been filed by that party.

52. Therefore, once a written statement has been duly filed, it forms part of the record of the proceedings. Even if the defendant subsequently fails to appear, resulting in the matter being taken ex parte, the defence already placed on record cannot be ignored by the Court. The settled principle is that pleadings, though not evidence in themselves, must nevertheless be

considered to ascertain the issues in controversy. Particularly in matrimonial disputes, where the Court assumes a more proactive role in eliciting the truth owing to the sensitive nature of the subject and its far-reaching consequences, it is incumbent upon the Court to weigh the pleadings of both sides. The Court must, before passing a final decree, examine the averments contained in the written statement in order to ensure that the adjudication is just, fair, and in conformity with the welfare of the parties involved.

53. Adverting to the impugned judgment wherefrom it is evident that while passing the said impugned Judgment the learned Family Court has not properly considered the contents of the written statement and has passed the judgment based only upon the evidences of the petitioner/husband (respondent herein). Thus, there is no proper consideration of the content of written statement filed by the respondent/wife (appellant herein).

54. It is evident from the impugned judgment that the learned Family Judge has failed to take into consideration the specific stand of the appellant, as set forth in the written statement, that she was subjected to cruelty in the form of brutal assault by the respondent, which resulted in her hospitalization at Jabalpur.

55. Admittedly, the respondent-husband (P.W.1) has been cross-examined by the appellant and in the cross-examination, it has been deposed by the respondent-husband (P.W.1) that he does not intend to live with the appellant. Therefore, the moment the specific stand has come in the cross-examination that the respondent-husband does not intend to live with the appellant-wife, it is itself suggestive of the fact that there is no withdrawal of the appellant from the life and society of the respondent-husband.

56. Thus, from the aforesaid it is evident that the content of the written statement has not been properly considered by the learned Family Court which is contrary to the settled position of law as discussed and referred in the preceding paragraphs that in absence of the cross-examination or no evidence having been adduced even then, it is the duty casted upon the Court being an adjudicator to decide the issue for the purpose of doing

substantive justice even on the basis of the stand taken in the written statement.

57. Accordingly, issue no. (ii),(iii) and (iv) are answered herein.

58. 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 merits. Laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizens under personal, property and other laws. The procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify the miscarriage of justice.

59. The Hon'ble Apex Court in the case of ***Sugandhi v. P. Rajkumar, (2020) 10 SCC 706*** has specifically observed that the procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation, relevant paragraph of the aforesaid order is being quoted as under:

> *"9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under sub-rule (3)."*

60. 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".

61. Justice is nothing but a manifestation of the truth. It is truth which transcends every other action and when procedural law stands in the way of the truth, the Court must find a way to circumvent it. Similarly, 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.***

62. In the instant case, upon a consideration of the discussion made hereinabove, it is manifest that the learned Family Court has failed to properly appreciate the contents of the written statement. Such omission runs contrary to the settled position of law, as already referred to in the preceding paragraphs, that even in the absence of cross-examination or where no evidence has been adduced, the Court, being an adjudicator of disputes, is duty-bound to examine the stand taken in the written statement for the purpose of doing substantive justice. The obligation of the Court extends to considering the contents of the written statement placed on record, so that the adjudication is not rendered incomplete merely by reason of non-appearance or lack of evidence, but is guided by the overarching principle of fairness and justice.

63. 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.

64. 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.

65. Accordingly, the impugned judgment dated 31.08.2021 and decree signed on 09.09.2021 passed by the learned Principal Judge, Family court, Chatra in Original Suit No. 18 of 2019 are hereby quashed and set-aside.

66. Accordingly, the matter is remitted to the learned Principal Judge, Family court, Chatra, by revival of Original Suit No. Original Suit No. 18 of 2019 to its original file.

67. Both parties are directed to cause their appearance before the learned Principal Judge, Family court, Chatra within a period of four weeks from today.

68. The learned Principal Judge, Family Court, Chatra shall thereafter proceed with the matter from the stage of cross-examination of the petitioner's witnesses (respondent herein), and shall also afford due opportunity to the respondent-wife (appellant herein) to lead evidence in support of the averments contained in her written statement. The Court shall, thereafter, decide the matter strictly in accordance with law.

69. With aforesaid direction and observation, the instant appeal is hereby disposed of.

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

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

(Sanjay Prasad, J.) **(Sanjay Prasad, J.)**

1st September, 2026

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

Uploaded on : 03.09.2026