Neutral Citation No. (2026:JHHC:32540-DB)

IN THE HIGH COURT OF JHARKHAND AT RANCHI
First Appeal No. 109 of 2011

Swarna Jha @ Swarna Mishra, wife of Sri Prasoon Kumar Mishra and daughter of Ganesh Jha, presently permanently residing at Qr. No.189/2/6, Main Road, Chhota Govindpur, P.O. & P.S. Govindpur, Town Jamshedpur, District East Singhbhum.

... ... Appellant

Versus

Prasoon Kumar Mishra, son of Sri Jaya Nand Mishra, resident of B. Block, Pradeep Vihar, Ibrahimpur, Delhi-36, at present-address resident of B-10/144, Pradeep Vihar, Ibrahimpur, Nathupura More, New Delhi-110036. **….. … ... Respondent**

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

For the Appellant : Mrs Shilpi Sandil Gadodia, Advocate
Ms Shruti Shekhar, Advocate
Ms Nidhi Lall, Advocate
Ms Sejal Agarwal, Advocate
Ms Sakshi Kathuria, Advocate

For the Respondent : None

Reserved On : 06/10/2026 **Pronounced On: 05/11/2026**

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

1. Heard Mrs Shilpi Sandil Gadodia, learned counsel for the appellant, who appears with Ms Shruti Shekhar, Ms Nidhi Lall, Ms Sejal Agarwal and Ms Sakshi Kathuria, Advocates. None appears for the Respondent.

2. The present appeal has been filed by the plaintiff-appellant Swarna Jha @ Swarna Mishra, impleading her husband, who was opposite party before the Court below as respondent.

3. The present appeal challenges the judgment and decree dated 25th July 2011, decree signed on 29th July 2011 by the learned Principal Judge, Family Court, Jamshedpur in Matrimonial Suit No.21 of 2008, whereby, the application for dissolution of marriage filed by the present appellant against the present respondent under Sections 13(1) (i-a) and (i-b) of the Hindu Marriage Act, i.e, on the grounds of cruelty and desertion was dismissed.

4. Briefly stated the facts of the case are hereunder: -

The appellant filed an application for dissolution of marriage, alleging, inter-*alia* that the parties were legally married husband and wife, which marriage was solemnized on 10.03.2002 and that out of the wedlock, they were blessed with a male child Arsh Utsav, who was born in the month of December 2002. It is stated that after marriage, she lived happily for a couple of months at her matrimonial home, but soon after the birth of a child, she was subjected to cruelty and was physically and mentally tortured for demand of dowry of Rupees Four Lakhs for the purpose of business of the respondent. Further stated that for non-fulfillment of the said demand of dowry, the appellant was ousted from her matrimonial home on 17th May 2003 and since then has been residing with her parents. It is also stated that the respondent, who is a practicing advocate at Delhi, practicing at the Lower

Court, the High Court as well as the Supreme Court and had earnings of more than Rs.50,000/- a month, neglected to take care of his wife and infant child. Besides, allegations are against the respondent of having abused, insulted and physically and mentally tortured the appellant. On these grounds, the prayer for dissolution of marriage was made.

5. On service of summons, the respondent appeared and filed a detailed reply, including preliminary objection as well as para-wise reply to the averments made in the application for dissolution of marriage. It is stated that the appellant comes from a rich family while the respondent was financially weak and that became the dominant reasons for dispute between the parties. Never any demand for dowry was made, rather the appellant who was working in Maheshwari & Associates and subsequently, is working with ICICI, had substantial earning, but completely neglected her husband and tortured the entire family members. It is stated that the present appellant concealed the factum of marriage and even in official documents did not disclose the name of her husband. She even did not wear the *sindoor,* which are all religious bonds indicating the marriage of a women. She also did not perform the festivals which were meant for the longevity and prosperity of the husband. The parents of the appellant, who were neglected by their own sons, had the only support system of

the present appellant and therefore, on their instigation and on their brainwashing, the present appellant insulted and abused the respondent and neglected his family members and refused to perform her matrimonial duties. It is stated that the present respondent had filed a complaint at Govindpur Police Station for the reason that the parents of the appellant were illegally demanding Rupees Ten Lakhs from the present respondent. It is also stated that the respondent was a women rights activist, and therefore, there was no question of the present respondent abusing or insulting the present appellant. While giving para-wise reply, every statement made in the plaint was denied. It is stated that the appellant was never ousted from her matrimonial home and alleged demand of dowry of Rupees Four Lakhs was also denied. On the contrary, it is alleged that on account of undue pressure created by the appellant and her family members to bring Rupees Ten Lakhs, the respondent lodged a complaint to the police at Govindpur Police Station, Jamshedpur. Counter allegations are made that the appellant used to intimidate the respondent and his family members with threat of false implication in criminal cases. Despite admitting that the respondent was a practicing advocate, it is stated that the respondent was a struggler in legal profession and with much difficulty was able to manage his days' meals. The respondent even agreed to live with the appellant at Jamshedpur but was not allowed access. The respondent was

not informed of any family function in the house of the appellant, including the '*Mundan Sanskar*' of his own son. On account of such acts on behalf of the respondent, it is alleged that the respondent is suffering from mental and psychological distress. It is stated that the respondent is a victim of the cruelty, meted out by the appellant. In the detailed written statement, it is also stated that the respondent saw the appellant accompanying some other man while she was undergoing training at Tata AIG Insurance Company and on one occasion, when he reached the office to bring back his wife, she no doubt accompanied him, but without disclosing that the respondent was her husband. The allegations against the parents of the appellant are also there of having abused and insulted the respondent and his parents and other family members. Thus, it is stated that no case of cruelty or desertion is made out and the respondent was/is willing to restore the conjugal life. Prayer was made to dismiss the suit.

6. Based on the pleadings, the following issues were framed: -

   (i) Whether the petition as framed and filed is maintainable?

   (ii) Whether after solemnization of marriage between the parties, the respondent treated the appellant with cruelty?

(iii) Whether the respondent deserted the appellant for continuous period of more than two years immediately preceding the presentation of this petition?

(iv) To what relief/reliefs, is the petitioner entitled to?

7. After framing of issues, the witnesses were examined on behalf of the parties. Five witnesses were examined on behalf of the present appellant. P.W.1 was appellant herself, P.W.2 happens to be the mother of the appellant, P.W.3 is a neighbor of the appellant namely Pradeep Kumar Singh, P.W.4 is a colleague of the appellant namely Stephen Francis and P.W.5 is the father of the appellant namely Gangesh Jha. On behalf of the respondent, the first witness is Parmanand Mishra, the uncle of the respondent, the second witness is Hemant Kumar the brother of the respondent, the third witness is Jayanand Mishra the father of the respondent and last witness is the respondent himself, i.e., Prasoon Kumar Mishra. The birth certificate of the minor child, born on 21.12.2002, is Exhibit-A. No other oral or documentary evidence is there on the record. The learned Trial Court after hearing the parties considering the oral and documentary evidence on record and also considering the respective contentions of the parties as per the pleading took up the issue of cruelty and desertion. While examining the aspects of cruelty, the learned Trial Judge held that it was alleged by the present appellant that demand of

Rupees Four Lakhs was made and for non-fulfillment of the said demand, she was subjected to cruelty. However, the appellant in her cross-examination failed to disclose the date and time of demand. The allegation of abuse was also made but no specific dates and time have been given. The appellant in cross-examination admitted that she never used to wear *sindoor,* and it is also admitted that the respondent was not informed in any family function, including the function of '*Mundan'* of the child. The appellant also admits that in the form of Tata AIG Insurance Company, she did not disclose the name of her husband. The witnesses of the appellant as well as the respondent were discussed and finally, the learned Trial Court concluded that the appellant failed to make out a case of cruelty against the respondent and the essential ingredients to make out a case of desertion was missing as the respondent still was agreeable to restore the conjugal life. This amounted to absence of the intention to desert, despite the fact that the parties have been living separately for long. These issues, accordingly were decided against the present appellant and consequentially, the suit of the present appellant was dismissed.

8. In the present case, it appears that efforts of settlement was made by the Coordinate Benches of this Court several times, but finally, it appears that by order dated 01.08.2025, when the

appellant, respondent and their son were physically present, pursuant to the orders of the Court, it was held that the possibilities of settlement did not exist and willingness to re-start their life was completely absent and therefore, the case was ordered to be listed for 'hearing' on merits and the appeal has been heard on its merits.

9. It is also important to mention that the appellant was represented by her Learned Advocate, and the respondent was appearing in person. However, on the last date, when the matter was heard, the respondent was not present in person, but as written arguments on behalf of the respondent were available on record, the case was reserved for orders.

10. Written arguments have been filed on behalf of both parties and are on record. Learned counsel appearing on behalf of the appellant has submitted that for the last more than 23 years, the parties are living separately. There has been no resumption of conjugal life between the parties. The allegations and counter-allegations are there, but if the allegation made by the present respondent in the pleading, and also given by way of suggestion to the present appellant while cross-examining the appellant, is considered, the same are facets of cruelty that do not require further proof. It is stated that the respondent while cross-examining the witness has stated that the appellant had given some declaration of having two sons. Such

unsubstantiated allegations have imputations on the character of the present appellant and is cruelty of the highest magnitude. Similarly, in the pleading, it has been stated that the appellant used to accompany some male friend, while returning from the office, back to her home. Such allegation ex-facie is imputation on the character of the appellant and is also cruelty of the highest degree. P.W.4 who was a colleague of the appellant, who had come to depose in the Court, was also given a suggestion that he was supporting the case of the appellant as he was also a bachelor. These all facts in the case, amounts to character assassination of the present appellant and such allegation themselves amounts to cruelty which was ignored by the learned Trial Judge. Learned counsel also submits that the learned Trial Judge ignored the evidence of the appellant for certain hyper technical reasons.

11. The learned Trial Court held that though the allegation of demand of dowry is there but the same has not been corroborated as to when this demand of dowry was made. The settled principle of law is that in matrimonial cases, like civil suits, evidence on preponderance of probabilities has to be examined unlike criminal cases where the standard of proof is beyond shadow of reasonable doubt. Learned counsel also submitted that the statements in isolation have been considered by the learned Trial Judge. It is true that the

appellant in her evidence had stated that she did not inform the present respondent even during the family functions. But the reason assigned therein was not considered by the learned Trial Judge as the appellant had stated that he was not informed for the reason that every time, when he used to come to their house, he used to create mischief in presence of guests and in public view by verbally abusing each and every family member using filthy language.

12. Learned counsel submits that the law is settled that the statements were to be taken as a whole or not at all. It could not have been read in isolation and only a fragment of the statement could not have been isolated for the purpose of denying the relief. further submitted that it is true that in the written statement and also in the oral evidence, the respondent has stated that he was ready to restore the conjugal life but merely making such bald statements without any genuine effort to restore conjugal life should have been considered by the learned Trial Judge.

13. Admittedly, till date, no application for restitution of conjugal rights has been filed by present respondent and admittedly, till date, the respondent has not bothered to pay a single penny for the upbringing/ maintenance of his son, which ought to have been considered by the learned Trial Judge.

14. Thus, these aspects of the case are sufficient to set aside the impugned judgment and decree and allow the present appeal by dissolving the marriage between the parties by a decree of divorce both on the grounds of cruelty and desertion.

15. In the written synopsis filed on behalf of the appellant, a summary of facts has been mentioned. It is admitted that the marriage was solemnized between the parties on 10th March 2002, and a male child was born out of the wedlock on 21st December 2002. The appellant alleges that she was ousted from her matrimonial home for non-fulfilment of the illegal demand of dowry of Rupees Four Lakhs, which occurred on 17.05.2003, and the present suit for dissolution of marriage was instituted in the year 2008, which was dismissed by the impugned judgment and decree on 25.07.2011. The statement of witnesses examined by the appellant has been discussed. It is stated that the brother of the respondent examined as R.W.2, admitted that the respondent needed a separate chamber, for which, they were trying to arrange money, which in fact corroborates the case of the appellant that such demand of money was made on the pretext of dowry demand for purchasing a chamber by the present respondent.

16. Three questions of law have been formulated by the learned counsel for the appellant in her written submission, i.e., **firstly**, whether the learned Family Court applied any

impermissibly high standard of proof, **secondly**, whether the unsubstantiated character assassination and defamatory allegations made by the respondent during trial, constitute mental cruelty under Section 13(1)(i-a) of the Hindu Marriage Act and **thirdly**, whether the continuous separation of the parties since May, 2003 has resulted irretrievable breakdown of marriage, rendering, the refusal to sever the tie, an act of mental cruelty.

17. While discussing the first question of law, it has been stated that the Hon'ble Supreme Court in **N.G. Dastane Vs. S. Dastane, reported in (1975) 2 SCC 326,** held that unlike the standard of proof applicable for adjudicating the criminal proceedings, in matters relating to matrimonial dispute, normal rule governing the civil proceeding applies. The Court has to determine whether on giving the evidence, a reasonable person would conclude that the allegations are more likely to be true or not.

18. On the second question of law, reliance has been placed on the judgment **in the case of Praveen Mehta Vs. Inderjit Mehta reported in (2002) 5 SCC 706**, where the Hon'ble Supreme Court has held that continuous demand of dowry, ouster from the matrimonial home, prolonged neglect and denial of maintenance to the wife and child and use of abusive language are all acts of cruelty to satisfy the ingredients under

Section 13(1) (i-a) of the Hindu Marriage Act. The same view has also been held by the Hon'ble Supreme Court in **Shobha Rani Vs. Madhukar Reddi, reported in (1988) 1 SCC 105**. Further, the Hon'ble Supreme Court in **V. Bhagat Vs. D. Bhagat, reported in (1994) 1 SCC 337** and further reiterated in the case of **K. Srinivas Rao Vs. D.A. Deepa, reported in (2013) 5 SCC 226**, held that unsubstantiated imputation upon the chastity of a woman made on oath and placed on the Court records constitutes grave mental cruelty.

19. Further, leveling of false and reckless allegations amounted to cruelty as decided in the matter of **Raj Talreja Vs. Kavita Talreja, reported in (2017) 14 SCC 194.** On the third question of law, reliance has been placed on the judgment in the matters of **Naveen Kohli Vs. Neelu Kohli, reported in (2006) 4 SCC 558**; **Samar Ghosh Vs. Jaya Ghosh, reported in (2007) 4 SCC 511** and **K. Srinivas Rao Vs. D.A. Deepa, reported in (2013) 5 SCC 226,** where the Hon'ble Supreme Court has held that when marriage has ruptured beyond repair and the parties are living apart for prolonged period, forcing them to preserve the legal status of marriage inflicts severe psychological torture and constitutes mental cruelty. With these submissions, the prayer is made to set aside the impugned judgment and decree.

20. The respondent had filed a reply to the appeal, reiterating similar facts as stated in the written statement. Written argument has also been filed on behalf of the respondent where the respondent has stated the facts of the present case which now does not remain to be in dispute. The respondent has referred to the cross-examination of P.W.1, where the appellant, while denying that her husband was present at Tinplate Hospital, day and night, admits that in the consent form for cesarean operation during the time of birth of their son, signature of the respondent was taken on the form. At para 41, the appellant admits that the respondent wrote various letters to her, but she did not reply. At para 48, she is unable to disclose the name of various paternal and maternal uncles of the respondent. At para 49, she admits that she did not inform the respondent about any function in her family, including her son's '*Mundan'* ceremony and also admits that while filling the TATA AIG form, she did not put the name of her husband. At para 73, she is unable to give the date when demand of dowry was made and at para 79, admits of having no written proof that the respondent demanded dowry from her. At para 90, she says that she never enquired as to how the respondent has been living at Delhi, since the last six years nor made any inquiry with regard to the health condition of the respondent. At para 114, she says that she sent message to the respondent not to harass her as the respondent used to

send messages having abusive words and threats, then, reference is made to the cross-examination of P.W.2 which is not very significant as there are only suggestions. Reference is made to the evidence of P.W.4 who was a co-employee with the present appellant, who in his evidence has stated that the respondent used to make frequent calls during the office working hours and used to even abuse and threaten the other colleagues of the present appellant, however, he was unable to bring on record the call details and the dates when such calls were made. Certain documents have been referred which though has not been marked as Exhibit but perhaps forms part of the examination-in-chief of the present respondent being journey tickets, showing the fact that the appellant with her son had stayed with the respondent in the year 2007. He has also brought on record the copy of a decree for restitution of conjugal rights. It is stated that false allegation of demand of dowry was made and false allegation of ouster of the appellant on 17th May 2003 was also made. It has been stated that it is a case where the appellant has admitted of having made false statement of dowry as the same was not corroborated by any corroborative evidence or any document. There is nothing on record to show that any complaint was filed by the present appellant against the respondent with regard to demand for dowry or cruelty meted out on her. It is also stated that the

parties lived together lastly in the year 2007 and hence, allegation of desertion is also unfounded.

21. The written argument refers to the judgment of Hon'ble Supreme Court in **Vishwanath Agrawal Vs. Sarla Vishwanath Agrawal, reported in (2012) 7 SCC 288, where** it is held that mere allegation of cruelty does not amount to cruelty and allegation made in the pleading unless they travel beyond ordinary defense cannot amount to cruelty. Further, referring to the judgment of the Hon'ble Supreme Court in the matter of **V. Bhagat Vs. D. Bhagat *(supra)***, the respondent submits that ordinary allegations and counter-allegations in matrimonial litigation do not automatically constitute mental cruelty. On the point of irretrievable breakdown of the marriage, it has been stated that same is not a ground for grant of divorce and the Hon'ble Apex Court in exercise of its extra-ordinary jurisdiction under Article 142 of the Constitution, exercises such power which cannot be exercised either by the Trial Court or by this Court.

22. Referring to a judgment of the Hon'ble Supreme Court in **Dr. Anita Vs. Indresh Gopal Kohli, decided on 14th November 2025**, it has been mentioned that the Hon'ble Supreme Court has held that irretrievable breakdown of marriage is not an independent statutory ground for divorce under the Hindu Marriage Act. Before granting relief, the Court

must determine which spouse is responsible for the breakdown of the matrimonial relationship. A spouse who is responsible for the separation cannot claim equitable relief. Thus, it is stated that the impugned judgment and decree do not warrant any interference and the prayer is made to dismiss the appeal.

FINDINGS

23. Having heard the rival contentions raised by the parties, the following points for determination falls for our consideration: -

(i) Whether the appellant had made out a case of cruelty so as to entitle her to a decree of divorce under Section 13 (1) (i-a) of the Hindu Marriage Act?

(ii) Whether the appellant was entitled to a decree of divorce on the ground of desertion?

24. Certain facts in the present case which are not in dispute are hereinunder: -

The marriage between the parties, solemnised in the year 2002, is admitted, and it is also admitted that their son was born out of wedlock. As of now, the parties are living separately, and the possibility of the restoration of conjugal life between the parties does not exist. It is not in dispute that the appellant is also a working woman, and the respondent is a practicing Advocate in Delhi. It is also

not in dispute that, to date, the respondent has not paid any amount for the upbringing or maintenance of his son, who has now become a major.

25. With the above facts in the background, the zone of contest is whether the present respondent inflicted cruelty on the appellant, sufficient to entitle her to a decree of divorce. In her application for dissolution of marriage, the appellant has pleaded that she was subjected to physical and mental cruelty. The respondent used to abuse her, and a demand for dowry was made. On non-fulfilment of that demand, she was ousted from her matrimonial house. The respondent, while defending his case, has stated that the allegation of a demand for dowry is false and that no such demand was ever made. It is stated that the respondent, immediately after the marriage, particularly after the birth of a son and when she was undergoing training for employment, had no inclination to continue the marital life, suppressed the factum of marriage with the present respondent, both on record and by her conduct, and that counter-allegations are that the appellant and her family members made a demand for Rupees Ten Lakhs and, as the same was not given, they were being threatened, for which a complaint was filed at Govindpur Police Station, District Jamshedpur. The respondent has also stated in his written statement that his wife, i.e., the present appellant,

used to accompany some other person while she was undergoing training with Tata AIG Insurance Company Limited. Such an allegation, though not mentioned specifically, has an imputation on the character and chastity of the present appellant.

26. Learned counsel appearing on behalf of the appellant has strongly argued that the allegation of dowry was supported by the appellant's evidence and by her parents, examined as P.W.2 and P.W.5. The inability to mention the date when this demand of dowry was made does not falsify the statement that such a demand was made. More so, when it is corroborated by the statements of the respondent's witnesses, i.e., the respondent's brother and other family members, who say that the respondent was in dire need of money for the purpose of having his own chamber in Delhi. *These interlinked aspects of the case were not considered by the learned Trial Judge, and we are of the considered view that the standard of proof in civil suits, including matrimonial cases, is different from that in criminal cases. In matrimonial cases, the standard of proof is not beyond shadow of doubt; rather, it is based on the principles of preponderance of probabilities, i.e., whether a sufficient case is made out to establish the claim of the party*. In this case, there are consistent statements by the appellant

and her parents about the demand for dowry; however, they have failed to disclose the date when the demand was made.

27. We are of the considered view that inability to disclose the date was not fatal to the allegations of demand of dowry and at least, *prima facie*, cruelty on the ground of demand of dowry was established.

28. Further, the appellant, in her pleading, has stated that the respondent committed both physical and mental cruelty through verbal abuse. P.W.1, P.W.2 and P.W.5 have corroborated this, stating that the respondent used to verbally abuse them in public view, including on occasions when guests were present in the house. For this reason, the respondent was not invited to attend social functions in the house. The learned Trial Judge considered only a part of the statement, namely that the respondent was not invited to attend the social functions, and failed to appreciate that the reason for non-invitation was the disturbance/nuisance created by the respondent by abusing the appellant and her family members in the presence of guests and in public view, which was very insulting and lowered the dignity of the appellant and her family members. To avoid a repetition of the same, such invitation was not given to the respondent, which prima facie appears to be justified. Such allegation also establishes the case of the appellant that she was subjected to verbal abuse. Two

independent witnesses examined by the appellant as P.W.3 and P.W.4, one of whom is a neighbour, have stated that they witnessed the respondent abusing the appellant in public view. It is not a minor domestic quarrel or normal wear and tear in family life; rather, such abuse affects the dignity of a woman, which cannot be compromised merely because she is the legally wedded wife of the person who is abusing her. *The dignity of the wife has to be respected, and when such dignity is compromised, it is undoubtedly a case of proven cruelty against the wife, who need not come before the Court to say the actual words used by her husband to abuse her*. P.W.4, who happens to be a colleague, has also corroborated the allegation of cruelty against the wife, stating that frequent calls were made to the respondent during office working hours, leading to disturbance in the discharge of official duties. When such calls were not picked up, calls to other office members were made, including the witness, and on refusal to hand over the phone to the appellant, he was also abused using filthy words. Such acts on behalf of the respondent, under no circumstances, can be condoned or considered not to be acts of cruelty; rather, they are aggravated acts of cruelty.

29. To crown the above facts is the conduct of the respondent. While cross-examining the witness on behalf of the appellant, particularly P.W.4, the respondent suggested that, because he

was a bachelor, he was supporting the appellant with ill motive, which in fact was an imputation on the character and chastity of the appellant. The respondent has also stated in his pleading that the appellant had disclosed to the Registration Authority the birth of a second child, which is a direct allegation on the character and chastity of a woman in this case, the present appellant.

30. In view of the law laid down by the Hon'ble Apex Court as discussed above, we are of the considered view that such allegation definitely amounts to mental cruelty on the woman, which aspect of the case was not considered by the learned Trial Judge.

31. We are, therefore, of the considered view that the point for determination formulated by us with regard to the cruelty having been meted out by the respondent to the appellant was proved, and that the same is decided in favour of the present appellant and against the respondent.

32. Coming to the second point for determination with regard to desertion, this Court is of the considered view that the evidence on the point of desertion is variable. The appellant claims to have been deserted by her husband, i.e., the respondent, while the respondent claims that the appellant was residing separately from him. No effort appears to have been made by either of the parties for restitution of conjugal rights.

The decree for restitution of conjugal rights is stated to have been obtained by the respondent, but there is nothing on record to show that the decree was put to execution. Efforts at restoration have also failed, even before this Court, as appears from the various orders of the Coordinate Benches of this Court. However, even in the present respondent's defence, it has been categorically stated that he intends to restore conjugal life. The fact that the parties have been living separately for a long time may not be in dispute, but the second element to establish the case of desertion is the *animus deserendi*, i.e., the intention not to cohabit, which must be considered. In the present case, the respondent has been urging that he intends to restore conjugal life, which proves that the intention to desert the appellant by the respondent is lacking. We are, therefore, of the considered view that the ingredients to make out a case under Section 13(1) (i-b) of the Hindu Marriage Act were not present, and the learned Trial Judge has not committed any error in holding that the appellant failed to prove a case of desertion by the respondent.

33. Case laws referred by the learned counsel for the appellant that in cases of irretrievable breakdown of marriage allowing the martial ties to continue as law does not permit it to be broken, amounts to mental and psychological distress on the wife and also comes within the definition of mental cruelty is

beyond the ambit and scope for consideration by us as irretrievable breakdown of marriage is not a statutory ground for divorce and such jurisdiction can be exercised only by the Hon'ble Apex Court. However, as we have already discussed that there exists sufficient evidence of cruelty by the respondent on the appellant, sufficient to establish a case under Section 13(1) (i-a) of the Hindu Marriage Act. ***Therefore, the impugned judgment and decree passed by the learned Trial Court, dismissing the application of the appellant for dissolution of marriage, is set aside.***

34. The marriage between the parties stands dissolved by a decree of divorce on the ground of cruelty in terms of Section 13(1) (i-a) of the Hindu Marriage Act.

35. The appeal is, therefore, allowed without costs.

36. Pending I.As, if any, do not survive and stand disposed of.

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

(Manoj Prasad, J.)

November, 5th , 2026
BS/-
A.F.R.