**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**F.A. No. 174 of 2024**

Ravi Kumar aged about 36 years Son of Late Bijay Kumar Permanent Resident of Jhumri Telaiya, Post and P.S- Jhumri Telaiya, District- Koderma, Presently resident of IHM, Near Brambe Hospital, Post and P.S- Mandar, District- Ranchi (Jharkhand) … … Appellant/Petitioner

Versus

Ms. Diwa Sinha wife of Ravi Kumar and daughter of Sri Manoj Kumar Sinha Resident of Qtr. No.98, Budora, Phulwaritand colliery, Near Durga Mandap, P.S- Katras, P.O- Kharkharee, Dhanbad, Jharkhand at present reside at B-403, B-Block, Akash Ganga Enclave, Middle School Road, Dhaiya, Post and P.S- Dhanbad, District-Dhanbad Jharkhand-826004

… … Respondent/Respondent

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**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD**
**HON'BLE MR. JUSTICE ARUN KUMAR RAI**

For the Appellant : Mr. Shankar Singh, Advocate,
For the Respondent : Mrs. Neeharika Mazumdar, Advocate

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**CAV/Reserved on 06.01.2026** **Pronounced on 22.01.2026**

***Per Sujit Narayan Prasad, J.***

**1.** The instant appeal has been filed under Section 19(1) of the Family Court Act, 1984 challenging the legality and propriety of impugned judgment passed on 10.06.2024 and decree signed on 18.06.2024 passed by the learned Principal Judge, Family Court, Ranchi in Original Suit No. 778 of 2021, whereby and whereunder, the petition filed under Section 13 (1) (i-a) of the Hindu Marriage Act, 1955 seeking a decree of divorce by the appellant-husband against the respondent-wife, has been dismissed.

**Factual Matrix:**

**2.** The brief facts of the case of the appellant-husband as narrated in the plaint, is that the marriage between the parties was solemnized on 25.01.2019 according to Hindu rites and rituals at Dhanbad. After

marriage the respondent came to her matrimonial home at Jhumritilaiya and lived there for about a week. But during stay the respondent did not follow the rituals and she had no regard and respect for the petitioner (appellant herein).

**3.** It has been stated that from 2nd to 7th February, 2019, they were on Darjeeling Trip, where the petitioner observed critical behaviour of the respondent. She constantly mentioned about her career sacrifices made due to marriage and she may not achieve job even after having high qualification and degree.

**4.** It is stated that petitioner observed peculiar behaviour of the respondent on the occasion of Holi Festival when she came to his home of Delhi on 13.03.2019 and she made an issue as why petitioner had applied colour on her face and she said to inform all these things to her family.

**5.** It is further stated that during her stay in Delhi the respondent abused the petitioner when he used to go and come from his office. She started arguing with him on petty matters and she used bad words for his sister who is settled in Delhi and she even opposed her visit to his house. The life of petitioner had become more miserable. The petitioner tried to convince the respondent but she did not pay any heed.

**6.** In the month of June, 2019 stone was detected in her Kidney. During treatment the petitioner received a phone call of his mother-in-law who scolded him that he is not taking care of her daughter properly and said to take her to Vellore for better treatment. On 24.06.2019 the petitioner returned back to his native place for joining his new job in Jharkhand Tourism at Brambe Ranchi. On the same day father-in-law without informing him came to his house at Jhumritelaiya and in front of his ailing

mother along with his daughter started shouting on the mother of the petitioner as a result his mother got unconscious and after cursing him and his family members, they left for Budora, Dhanbad. Thereafter, the respondent has not returned to her matrimonial home for a long period of six months i.e. from 24.06.2019 to 11.12.2019.

**7.** On 26th June 2019 the petitioner joined his new assignment at IHM Brambe and he send Whatsapp message to the respondent but she did not respond. The petitioner also rang to his father-in-law but he started scolding him and used filthy languages and threatened to see him. It is further stated that on 29th September 2019 the petitioner and his elder brother went to the house of respondent and tried to settle the dispute and after long conversation, respondent came to Brambe with petitioner on 11.12.2019 but just after reaching Brambe she started reported minute to minute activity of his house to her parents.

**8.** It is stated that the behaviour of respondent did not change and she used to threat the petitioner with dire consequences and even with threat of death during his office hour through messages and even when he was out of station for his work. On 14.05.2020 and on 20.09.2020 petitioner was assaulted by respondent as a result he sustained injury in hand. Respondent also used to regret her behaviour and promised not to repeat her acts again but all assurance went in vain. During pregnancy period she started saying to this petitioner to move away either to Dhanbad or Indore with kid. She gave birth to a son on 21st June, 2021.

**9.** It is further stated that on 21st August the relatives of the petitioner came from Patna who could not attend the baby's function for blessing the baby but Opposite Party kept herself confined in a room and ignored the

presence of everyone. It is stated that on 29th August, 2021 suddenly the father and brother of his wife entered in the house of the petitioner and started shouting and yelling on the petitioner and his brother who had come there. They took away respondent and his child along with her all belongings including ornaments of respondent in several trolley without consent of the petitioner. Thereafter, the petitioner tried his best to convince the respondent to mend her ways and behave properly but went in vain.

**10.** It is stated that the respondent is a very stubborn and aggressive attitude lady. She used to quarrel with the petitioner on every trivial matter and humiliated petitioner publicly which caused immense pain to him. The respondent has deserted the petitioner since 29.08.2021 and since then she is living at her parental home at Dhanbad. The respondent while leaving her matrimonial home threatened to commit suicide, if, she stays with the petitioner and wants separation from the petitioner. She has utter disregard and dislikes for the petitioner. Her behaviour towards the petitioner/ appellant and his family members are quite unacceptable. She also tried to defame the petitioner in front of other relatives by saying that "*Rakho Apna Pachaas Hazar Ki Naukri*".

**11.** On the aforesaid grounds, the appellant-husband had filed a suit for dissolution of his marriage before the learned Family Judge and prayed to pass a decree of divorce.

**12.** After service of summon, the respondent-wife has appeared and has admitted her marriage with the petitioner in her written statement. It is stated that after marriage she lived in shared house hold at Jhumri Telaiya but she has never treated the petitioner and in-laws with any cruelty

though the petitioner and his family members always treated the respondent inhumanly for insufficient gifts which were given at the time of marriage.

**13.** It has further been stated in written statement that after marriage respondent and petitioner had gone to Darjeeling but entire expenses were borne by father of the respondent. The petitioner compelled and tortured respondent for doing job and pressurized for purchase of flat at New Delhi as he was in job of I.T.D.C. It is stated that for celebrating Holi festival she and petitioner came from Delhi. The petitioner in drunken state put colour in her private parts and on objection he brutally assaulted her.

**14.** On 22.03.2019 the Opposite Party and his family members assaulted respondent for preparing less food. On 25th March at New Delhi in absence of petitioner, his sister came to the residence and started pinching regarding insufficient gifts given to her at the time of marriage. It is stated that due to physical and mental torture respondent got admitted and saline was injected and respondent's three stones were traced out but petitioner did not take any care and just after 2 hours got her discharged from Batra Hospital.

**15.** It has further been stated that the allegations as alleged by the petitioner against her father and family members are totally false rather the petitioner and his family members tortured respondent with utmost cruelty and under compelling circumstances and demand of dowry respondent was staying in her parental home. It is further stated that her father to save the conjugal life of respondent took loan from his friends and gave Rs. 2 Lakhs to the petitioner in presence of his brother on 25.09.2019. Thereafter, the petitioner brought respondent to her matrimonial home on 06.12.2019.

**16.** It is stated that respondent was pregnant and went for checkup to Dr. Kirti Prasad on 19.09.2020 and she asked for diet chart to the Doctor then petitioner used unparliamentary language in front of local people and assaulted her. On 21.06.2021 she gave birth to a male child and expenses of delivery were borne by her father.

**17.** The statement made in para-16 to 21 of plaint before learned Family Court have been denied and it has been stated that it is far away from truth. It is further stated that respondent got weak as because no proper food was provided to her after delivery of the child and from time to time, she was assaulted by the petitioner and his family members. Lastly respondent called her father and went to her Maika. The petitioner has kept her all belongings. He is a very greedy person but instead of this respondent is ready to lead conjugal life with petitioner along with his child.

**18.** Further, it has been stated that the petitioner has no valid cause of action for filing this suit and he is not entitled to get any relief as claimed by him. The instant suit is not maintainable and is devoid of any merit and the same is liable to be dismissed.

**19.** The case proceeded for evidence during which the petitioner/appellant has produced and examined four witnesses including himself.

**20.** The respondent-wife has produced and examined altogether two witnesses including herself.

**21.** The learned Principal Judge, after hearing learned counsel for the parties, framed seven issues for adjudication of the lis, which are as follows :-

*I. Whether the present suit is maintainable in its present form?*

*II. Whether the petitioner has valid cause of action to file the present suit?*

*III. Whether the respondent is the legally wedded wife of the petitioner?*

*IV. Whether the respondent- wife has treated the petitioner-husband with cruelty?*

*V. Whether the petitioner husband is taking advantage of his own wrong?*

*VI. Whether the petitioner is entitled to get decree of divorce?*

*VII. Whether the petitioner is entitled to get any other relief of reliefs as prayed for?*

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

*"10. In the instant case also petitioner has sought divorce on the ground of cruelty but there is no such evidence on record which suggest that it became impossible for the petitioner to lead his conjugal life with his wife/ respondent. Petitioner appears to have not successfully established the cruelty of respondent-wife for getting the decree of divorce.*

*11. Thus from the available material on the record this Court is not satisfied that ground for divorce exists. Sec. 23 of the Hindu Marriage Act, 1955 provides that proceeding defended or not there must exists the ground for relief sought. Accordingly, the present suit is not maintainable in its present form and petitioner has no valid cause of action for the purpose of this suit. The petitioner husband appears to have taken advantage of his own wrong. As such the petitioner is not entitled to get any relief or reliefs.*

*12. In the light of the aforesaid discussions this Court finds that the petitioner-husband has failed to establish cruelty of respondent- wife for seeking the decree of divorce, thus, this Court finds that this is not a fit case where decree of divorce may be granted on the ground of cruelty."*

**23.** The appellant-husband, being aggrieved with the judgment passed on 10.06.2024, has approached this Court by filing the present appeal.

**24.** Learned counsel appearing for the appellant-husband has submitted that the Learned Family Court has failed to appreciate that the petitioner /appellant has produced credible evidence which are sufficient to establish that the respondent-wife has subjected him to

cruelty and on account of cruelty and desertion, the petitioner / appellant is entitled for grant of decree of divorce.

**25.** Further, it has been submitted that the findings recorded by the learned Family Court while answering issue no. (iv) (cruelty) are perverse, therefore, the same will not stand in the eye of law.

**26.** It has been argued on behalf of appellant that altogether four witnesses have been examined in this case including appellant and all have consistently supported that behaviour of respondent was very rude towards appellant and his family members and she used to quarrel and abuse them, therefore, it has been submitted that the learned Trial Court has failed to appreciate the evidences produced on behalf of plaintiff / appellant and, thus, came to wrong conclusion.

**27.** It has also been submitted that the learned court below has failed to appreciate that the respondent-wife used to threaten the appellant to commit suicide which caused the appellant to suffer extreme mental cruelty, loss of mental and family peace and harmony.

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

**Submission made on behalf of respondent-wife:**

**29.** Learned counsel for the respondent has submitted that learned trial court has rightly held that the appellant is not entitled for the decree of divorce on the ground of cruelty because the appellant has failed to prove the allegation of cruelty against her.

**30.** Learned counsel for the respondent-wife has submitted that the entire allegations levelled in are not correct and has rightly dismissed the suit.

**31.** It has been argued on behalf of respondent that she never treated the appellant with cruelty rather evidences on record depict that it is the respondent who is sufferer and being tortured mentally and physically by the appellant and his family members for demand of dowry.

**32.** Submission has been made that the learned Principal Judge, Family Court on the backdrop of the evidence led by the parties has come to the conclusion that the appellant husband has not been able to bring any such act of respondent-wife on record which can be termed as cruelty rather petitioner husband appears to have taken advantage of his own wrong.

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

**Analysis**

**34.** We have heard the learned counsel for the appellant husband as also learned counsel for the respondent-wife and perused the material available on record and the finding recorded in the impugned order.

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

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

**P.W.-3 Ravi Kumar (petitioner himself)** has deposed about his marriage with the respondent on 25.01.2019. His evidence is verbatim to the statement he has made in his plaint. He has deposed that after marriage respondent came to her matrimonial home at Jhumri Tilaiya but during stay her behaviour towards the petitioner and his family members was not good. She was not following customs and tradition of the family and he was shocked to see the behaviour of his wife. She used to abuse the petitioner and his family members on petty matters, even she abused his elder sister who lives in Delhi. He has deposed that suddenly respondent along with her father went to Budaura Dhanbad leaving behind the petitioner and his ailing mother for about six month i.e. from 24.06.2019 to 11.12.2019. On 26.06.2019 petitioner joined on the post of Lecturer in IHM Barambe. He tried to contact respondent but she neither responded his call nor replied through other messages. Thereafter petitioner tried to contact from father of respondent and just after picking call of petitioner she started abusing this petitioner and threatened him. The petitioner along with his younger brother on 29.09.2021 went to the house of respondent, convinced respondent and her parents and thereafter on 11.12.2019respondent came to his working place at Barambe and she started informing about minute to minute activities to her Maika. The petitioner in hope of happy conjugal life made a trip of Andaman Nikobar but during whole journey behaviour of respondent towards petitioner was very cruel. After returning from Andaman Nikobar respondent always used to threaten for committing suicide. From 15.05.2020 to 30.09.2020 petitioner was treated with

utmost cruelty which caused immense pain to him. He was subjected to physical cruelty also as a result he got injuries on his left hand for which he got treatment from a nearby Doctor also. He further deposed that this petitioner tried his best to make his relation with his wife normal and she used to promise that she will not indulge in such activities in future but she continued to commit cruelties with him. He also stated that his wife during her stay with him got pregnant and gave birth to a son on 21.06.2021 but after birth of the child she started behaving in more cruel manner with him. It is also stated that on 21.08.2021 some of the relatives of the petitioner had came to the house of petitioner for blessing his child but his wife/ respondent did not talk to them and kept herself in distance with them. On 29.08.2021 the elder brother of petitioner, his younger sister and brother-in-law went to Barambe for taking her to their house but after one hour the father and brother of his wife came and forcibly entered in the house, they abused them and damaged household articles and his wife after collecting all her clothes, jewelleries in Trolley Bags went from his house with child. The brother and father of his wife were also saying for divorce and his wife was also saying that she will commit suicide if she lives with him and from 29.08.2021 she is living separately from this petitioner. He stated further that his wife is not willing to lead her conjugal life with him and also not ready to take any responsibility and due to cruel behaviour of his wife he has filed the present divorce suit.

In the cross-examination he stated that for one week after marriage the relation between both sides was quite normal, he also went to his

Sasural with his wife after two weeks of reception ceremony of marriage and stayed there for two days and during this period also the behaviour of his wife and her family members was quite normal with him. He stated that after marriage he had gone to Darjeeling and lived there for six days and during this period also they had no problem and they lived and ate together. He has not made any allegation about illicit relationship of his wife with another person. He also admitted that his wife had come to new place after marriage so it is quite natural that she needed time for adjustment. He further admitted in para-63 of cross-examination that his son is only three years old and not capable to understand the things and during this period he filed present case for divorce from his wife and it will adversely affect the future of son also. He further stated that his son was of two months only when his wife behaved in a cruel manner with him. He married with his wife for leading his life with her. He further stated that he has not filed any paper in proof of cruel behaviour of his wife. He has also stated that he has no knowledge that parents of his wife spent Rs.40 to 45 Lakhs at the time of marriage and denied the suggestion that he himself wants to end the matrimonial life without any reason. He also denied the suggestion that under the effect of liquor he used to assault his wife.

The learned Family Court has taken the evidence of P.W.-1, Satya Prakash Ranjan and P.W.-2, Manoj Kumar Srivastava (brother of the petitioner)conjointly and has been discussed togetheras they have given their evidence on similar lines. They stated about marriage of petitioner with Diwa Sinha which was solemnized on 25.01.2019 and

after marriage Diwa Sinha came to the house of petitioner Jhumritilaya and thereafter they went to honeymoon at Darjeeling from 2nd February to 07 February, 2019 and she was continuously saying to the petitioner that she had married with him under pressure as she wanted to make his career as she is highly educated. They stated that on petty matters she used to quarrel between both the parties. The respondent on 23.03.2019 went to Delhi where petitioner was working but she abused and misbehaved with the petitioner in Delhi also. She committed various types of cruelties with him and his family members as a result the life of petitioner became hell. The petitioner tried his best to make the relation normal but there was no change in the behaviour of respondent and on 29.08.2021 she called her father and brother and went to her Maika with all her belongings and since then she is living in her Maika. The petitioner had no option only to file the present divorce suit.

P.W.-1 in cross-examination stated that he is friend of petitioner Ravi Kumar but they are resident of different places and their work place are also in different towns. He has got no house in Ranchi and also have never worked at Ranchi. He further deposed that he came for giving evidence on the request of his friend Ravi Kumar. He stated that he met with the wife of petitioner in his quarter situated within the premises of IHM but his wife behaved in normal way with him. It further appears from his entire cross-examinationthat he has not much knowledge about the relation of the parties, it transpires that even at the time of marriage he was living abroad and he shown his

ignorance as to whether parties had gone for honeymoon to any place.

P.W.-2 is own brother of the petitioner. He stated that his brother filed this case for divorce on the ground of cruelty. He stated that the Sasural of his brother/ petitioner is situated in Dhanbad and he enquired about the family of respondent prior to marriage. He further stated that marriage ceremony lasted for five days and during marriage ceremony there was no discord and as per their customs Sweets, Cloths and other items were exchanged. He further stated that one Baleno Car was gifted by father of respondent but the said car was in the name of father of respondent and it is lying in the quarter of his brother. He stated in para-58 of cross-examination that in matrimonial life sometimes disputes takes place between husband and wife. He further stated that he tried his best to resolve matrimonial dispute between both the parties. He also stated that if his wife commits any wrong then he tries her to correct it but never tried to end the matrimonial relation.

**P.W.-4, Anup Toppo** has stated in his affidavit examination-in-chief that he knows petitioner and his wife from last five years. The petitioner joined in IHM Barambe in June 2019 and from December 2019 his wife came to live with him but relations between both of them was not normal. He stated that he was posted as Security Guard and during his security duty at 10:00 p.m. on 29.08.2021 he heard Hulla from the house of petitioner and when he enquired, he came to know that father and brother of respondent had come in the house of petitioner and they were crying, they were also threatening the

petitioner which was clearly audible to him. He further stated that he saw that respondent with 6-7 Trolley Bag went from the quarter of the petitioner and brother and father of respondent at the time of going away were using unparliamentary words on the petitioner. He further stated that he works as peon in Canara Bank only and does not work in security duty of IHM. He further stated that Ravi Sir and his wife are good persons and he never saw any quarrel between Ravi Sir and his wife.

**37.** The respondent-wife has also adduced two witnesses, including herself, in support of her case which are being dealt hereunder as:-

**R.W.-1 Diwa Sinha, the respondent herself** in her affidavit examination-in-chief admitted her marriage with the petitioner on 25.09.2019 and stated that her father made heavy expenses at the time of marriage and they were leading a happy conjugal life and after marriage they had gone outside for a trip. She always performed the duties of a wife but the behaviour of petitioner was never proper with her. Her husband always abused her and this divorce suit has been filed by her husband/ petitioner on completely false and frivolous grounds. She further stated that no such incident as alleged by petitioner on Holi festival took place and she has filed photographs of Holl from which it is evident that everything was normal. She stated that petitioner was always pressurizing her to bring money from her father and brother and at times she took money from them and gave to petitioner for the purpose of saving conjugal life. She also stated that she has a son from the petitioner but her husband never took care of her son also and he was always busy in enjoyment. The behaviour

of petitioner towards her was never proper and whenever she and petitioner went for visit to other places the entire expenses was borne by her father. She stated that she does not want that the marriage should be dissolved as she wants to lead her matrimonial life with petitioner.

In the cross-examination also she has given detail description about cash, vehicle, jewelleries etc. given to the petitioner at the time of marriage. She also stated that Baleno car was purchased in the name of her father as the petitioner himself requested that how he will show purchase of a Baleno car in his name as he is in service. She also stated that the expenses of her stay in Sasural was given sometimes by her father and sometimes by her husband. She stated in para-44 of her cross-examination that she came to her Maika on 29.08.2021 as her husband under the effect of liquor assaulted her and threw her two months baby from the bed.

**R.W.-2, Manoj Kumar Sinha is father of the respondent** and he has also fully supported the version of respondent. He stated that his daughter after marriage lived peacefully for three months in her Sasural and his daughter performed all obligations of a wife towards her husband/petitioner but the petitioner always abused and assaulted his daughter. He has denied the entire allegation made by the petitioner in this suit. He stated that on the demand of petitioner he gave money to him for the purpose of saving matrimonial life of his daughter. He also stated that he made entire expenses of the trip of petitioner to other places. His daughter has got a child from her

conjugal life with the petitioner and his daughter wants to lead her matrimonial life with him.

In the cross-examination also he stated that he made entire expenses of the marriage of his daughter. He further stated thathe wanted to purchase vehicle at the time of marriage in the name of petitioner but the petitioner himself requested him to purchase in his name as he is in Government Service. He stated that he made some payment to the petitioner in cash and some payment in Bank Account of the brother of petitioner. He further stated that he several times tried to get the matrimonial dispute resolved. He stated that he wants that his daughter should settle in her house and he made effort for settlement in Mahila P.S. also. His daughter has filed 498A case and a case of Domestic Violence against the petitioner and all these cases have filed after institution of present divorce suit.

**38.** The learned Family Judge has gone into the interpretation of the word "cruelty". For ready reference the relevant portion of the impugned judgment is referred herein below :-

> *" From perusal of the aforesaid evidence and material available on the record it appears that petitioner has sought divorce on the ground of cruelty. He has alleged in his petition that his wife just after marriage came to his house at Jhamritilaiya, Koderma, where she lived peacefully for a week but she never followed any ritual and her behaviour towards him and his family members was not proper. He also stated that after marriage they went for Darjeeling trip where also her behaviour was not appropriate and she started saying to him that she has married under pressure and she wanted to make her career. The petitioner has further mentioned about ill behaviour of respondent on eve of Holi festival when he applied colour on her face.*
>
> *He stated in his petition that on 23rd March 2019 his wife/ respondent abused him and started quarreling with him on every petty matters but from the evidence of petitioner it appears that he stated in his cross-*

*examination that at the time of marriage and even one week after marriage there was cordial relation between both of them. He also stated that after two weeks of marriage he went to his Sasural where he stayed for two days and during this period the behaviour of his wife/ respondent was quite normal with him. This statement of the petitioner contradicts his entire statement as he mentioned in his plaint. In the plaint he stated that after marriage his wife went to his house at Jhumritilaiya but was not following customs and traditions of the family and started quarreling with him but in evidence at para-51 he has given altogether a different statement. In para-52 also he stated that he and his wife/ respondent after two weeks of marriage went to Darjeeling where they stayed for six days and everything was normal in Darjeeling also. This statement is also in contradiction to his plaint. He has given a different statement and contradicted his own plaint. The other witnesses examined on behalf of the petitioner are also not much acquainted about the relation of the petitioner with hiswife as P.W.-1 is friend of petitioner and he also lives at a different place and he stated in his cross-examination that he met with the wife of petitioner and saw that relation between them is quite normal and never any incident took place between them in his presence. P.W.-2 is own brother of the petitioner and from his evidence also it transpires that there is no such evidence which shows that respondent committed so much cruelty with the petitioner as a result of which petitioner was compelled to file this divorce suit. He further admitted that in matrimonial relation sometimes disputes takes place but it is not proper to seek divorce on these grounds. P.W.-4 appears to be a hired-witness and he has also not given any such evidence from which any inference of cruelty alleged to be committed by the respondent against the petitioner may appear.*

*It further transpires from the evidence of respondent and her father that they categorically stated that no such cruelty as alleged by petitioner has ever been committed by respondent. It has been consistently stated that petitioner himself under the effect of liquor assaulted the respondent and also threw her two months baby from bed. It further appears from the evidence of respondent and her witnesses that petitioner was never willing to take the responsibilities of respondent and her son and petitioner was continuously making demand of additional dowry. Evidence adduced on behalf of respondent further shows that father of respondent several times fulfilled the demand of petitioner for saving the matrimonial life of respondent with petitioner and efforts were made for settlement of matrimonial disputes between them also. The respondent is though living in her Maika from 29.08.2021 but she did not file any case*

*against the petitioner. The respondent got notice of divorce and thereafter she filed case u/s 498A IPC and Domestic Violence Act which supports the version of respondent that she wanted to continue her matrimonial relation. The petitioner stated that respondent during Holi and other festival misbehaved with him when he applied colour on her face but respondent to contradict the claim of the petitioner filed several photographs of Holi festival for the purpose of showing that everything was normal on the day of Holi. The joint photograph of petitioner and respondent filed on behalf of respondent has been marked as X and X/1 for identification. It appears that from photographs that both are in colour of Holi and they are in smiling mood.09. Section 13(1)(i-a) of Hindu Marriage Act uses the word "treated the petitioner with cruelty". The word "cruelty" has not been defined. Indeed it could not have been defined. It has been used in relation to human conduct or human behaviour. It is the conduct in relation to or in respect of matrimonial duties and obligations. It is a course of conduct of one which is adversely affecting the other. The cruelty may be mental or physical, intentional or unintentional. If it is physical the court will have no problem to determine it. It is a question of fact and degree. If it is mental the problem creates difficulty. Firstly. the inquiry must begin as to the nature of the cruel treatment. Second the impact of such treatment in the mind of the spouse. Whether it caused reasonable apprehension that it would be harmful or injurious to live with the other. Ultimately, it is a matter of inference to be drawn by taking into account the nature of the conduct and its effect on the complaining spouse. There may, however, be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect on the other spouse need not be inquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted.*

*The expression "cruelty" has an inseparable nexus with human conduct of human behaviour. It is always dependent upon the social strata or the milieu to which the parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status. Moreover, to establish cruelty, it is not necessary that physical violence should be used. Concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, tradition, religious belief, human values and their values system. Apart from this the concept of mental cruelty cannot remain static, it is bound to change with passage of time or vice versa. There can never be any*

*straight jacket formula or fixed parameters for determining mental cruelty in matrimonial matters.* ***(AIR 2012 SC 2586: (2012)7 SCC 288 Viswanath Sitaram Agrawal v. San Sarle Vishwanath Agrawal.)***

*To constitute cruelty, the conduct complained of should be* ***'grave and weighty'*** *so as to come to the conclusion that the petitioner spouse cannot be reasonably expected to live with the other spouse. It must be something more serious than 'ordinary wear and tear of married life'.* ***(vide 2005 AIR (SC) 534 A. Jayachandra versus Aneel Kaur).*** *In* ***Suman Ghosh Vs. Jaya Ghosh (2007) 4SCC 511,*** *Court has given certain illustrative examples where from inference of mental cruelty can be drawn, but these examples have been said to be not exhaustive. It was observed that on consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other would come within the broad parameters of mental cruelty.*

*The Hon'ble Supreme Court of India have been pleased to observe in* ***AIR 2009 SC 557 Gaurav Nagpal vs Sumedha Nagpal****, that it is disturbing phenomenon that large numbers of cases are flooding the Courts relating to divorce or judicial separation. An apprehension is gaining ground that the provisions relating to divorce in the Hindu Marriage Act has led to such a situation. In other words, the feeling is that the statute is facilitating breaking of homes rather than saving them. The provisions relating to divorce categorise situations in which a decree for divorce can be sought for. Merely because such a course is available to be adopted, should not normally prove incentive to persons to seek divorce, unless the marriage has Irretrievably broken. People rushing to Courts for breaking up marriage should come as a last resort, and unless it has an inevitable result, Courts should try to bring about conciliation. There should be efforts to protect the institution of marriage. Emphasis should be on saving the marriage and not breaking it. Every effort should be made to save the institution of marriage. In the case of* ***Naveen Kohli Vs. Neelu Kohli*** *reported in (2006) 4 558 it has been observed that public interest demands not only that the married status should as far as possible and whenever possible be maintained. The* ***Hon'ble Supreme Court in the case of Jaichandra Vs Anil Kaur (2005) 2 SCC 22*** *has reiterated that legal cruelty has to be found out, not merely as a matter of fact, but as the affect on the mind of the complainant spouse because of the act or omission of the other. It has been observed that cruelty should be grave and weighty and that too of such a nature that petitioner spouse can not be reasonably expected to live with the other spouse, it must be something*

*more serious than ordinary wear and tear of married life and it has to be examined much carefully for reaching on the conclusion that it amounts to cruelty in matrimonial law. In an another case, in the case of* ***N.G. Dastane Vs. S. Dastane reported in (1975) 2 SCC 326****, Hon'ble Supreme Court has observed that enquiry by the court in a case where cruelty is alleged must be as to whether the conduct charged as cruelty is of such a character as to cause in themind of the petitioner, a reasonable apprehension that it will be harmful or injurious for him/her to live with the respondent."*

**39.** Learned Family Court after assessing the evidences led on behalf of the parties as also the submission made in the pleading, i.e., plaint and written statement, has found that the element of cruelty could not have been established.

**40.** The learned counsel for the appellant/plaintiff has argued that the evidence of cruelty has not properly been considered and as such, the judgment suffers from perversity, hence, not sustainable in the eyes of law.

**41.** While on the other hand, argument has been advanced on behalf of the respondent/defendant that the judgment is well considered one.

**42.** 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."*

**43.** Since herein, the ground for divorce has been taken of cruelty by the plaintiff/appellant, therefore it would be apt to discuss the word cruelty.

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

**45.** This Court deems it fit and proper to take into consideration the meaning of 'cruelty' as has been held by the Hon'ble Apex Court in ***Shobha Rani v. Madhukar Reddi, (1988)1 SCC 10***5 wherein the wife alleged that the husband and his parents demanded dowry. The Hon'ble Apex Court emphasized that "cruelty" can have no fixed definition.

**46.** According to the Hon'ble Apex Court, "cruelty" is the "conduct in relation to or in respect of matrimonial conduct in respect of matrimonial obligations". It is the conduct which adversely affects the spouse. Such cruelty can be either "mental" or "physical", intentional or unintentional. For example, unintentionally waking your spouse up in the middle of the night may be mental cruelty; intention is not an essential element of cruelty

but it may be present. Physical cruelty is less ambiguous and more "a question of fact and degree."

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

**48.** The nature of allegations need not only be illegal conduct such as asking for dowry. Making allegations against the spouse in the written statement filed before the court in judicial proceedings may also be held to constitute cruelty.

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

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

**51.** The Hon‟ble Apex Court in ***Joydeep Majumdar v. Bharti Jaiswal Majumdar, (2021) 3 SCC 742***, has been pleased to observe that while judging whether the conduct is cruel or not, what has to be seen is whether that conduct, which is sustained over a period of time, renders the life of the spouse so miserable as to make it unreasonable to make one live with the other. The conduct may take the form of abusive or humiliating treatment, causing mental pain and anguish, torturing the spouse, etc. The conduct complained of must be "grave" and "weighty" and trivial irritations and normal wear and tear of marriage would not constitute mental cruelty as a ground for divorce.

**52.** It is, thus, evident that while judging whether the conduct is cruel or not, what has to be seen is whether that conduct, which is sustained over a period of time, renders the life of the spouse so miserable as to make it unreasonable to make one live with the other. The conduct may take the form of abusive or humiliating treatment, causing mental pain and anguish, torturing the spouse, etc.

**53.** Now this Court is going to the factual aspect of the instant case and it is evident there from that the main ground of cruelty has been taken of not taking care and always misbehaving with the appellant/plaintiff and the in-laws.

**54.** It has been stated that on 23rd March 2019 his wife/ respondent abused him and started quarrelling with him on every petty matter but from the evidence of petitioner/appellant it appears that he stated in his cross-examination that at the time of marriage and even one week after marriage there was cordial relation between both of them. He also stated that after two weeks of marriage he went to his Sasural where he stayed for two days

and during this period the behaviour of his wife/ respondent was quite normal with him. This statement of the petitioner contradicts his entire statement as he mentioned in his plaint. In the plaint he stated that after marriage his wife went to his house at Jhumritilaiya but was not following customs and traditions of the family and started quarrelling with him but in evidence at para-51 he has given altogether a different statement.

**55.** Further it evident from the testimony of other witnesses who had been examined on behalf of the petitioner/appellant were not much familiar about the relation of the petitioner with his wife as P.W.-1 is friend of petitioner and he also lives at a different place and he stated in his cross-examination that he met with the wife of petitioner and saw that relation between them is quite normal and never any incident took place between them in his presence. P.W.-2 is own brother of the petitioner and from his evidence also it transpires that there is no such evidence which shows that respondent committed so much cruelty with the petitioner as a result of which petitioner was compelled to file this divorce suit. P.W.-4 appears to be an employed-witness and he has also not given any such evidence from which any inference of cruelty alleged to be committed by the respondent against the petitioner may appear.

**56.** The aforesaid factual aspect has been taken into consideration by the learned Family Judge and further the learned Family Court has taken due consideration on the law relating to the Cruelty and has categorically observed in the impugned judgment that the plaintiff/appellant has not been able to discharge the burden of proving cruelty against the respondent/wife and as such, the issues were decided against the plaintiff and in favour of defendant.

**57.** Thus, on the basis of discussion made hereinabove it is evident that learned Family Court has appreciated meticulously each and every evidence available on record as such it is the considered view of this Court that there is complete absence of element of perversity in the impugned judgment.

**58.** The learned Family Judge, on consideration of the issues, has not found the ground of cruelty for dissolution of marriage and therefore, dismissed the suit.

**59.** This Court, based upon the aforesaid discussion, is of the view that the appellant/petitioner has failed to establish the element of perversity in the impugned judgment as per the discussion made hereinabove, as such, the instant appeal deserves to be dismissed.

**60.** Accordingly, the instant appeal fails and is dismissed.

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

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

**(Arun Kumar Rai, J.)** **(Arun Kumar Rai, J.)**

**22nd January, 2026**

Samarth**/A.F.R.**

**Uploaded on: 22 January, 2026**