IN THE HIGH COURT OF JHARKHAND AT RANCHI
Civil Review No. 63 of 2026

Sangeet Kumar Dubey, aged about 42 years, son of Late Ramesh Kumar Dubey, by faith Hindu, permanent Resident of YB 339, Anandam NTPC SAS Ltd. Near AWHO Township, Sector-6, Omega-I, Greater Noida, Kasana, Gautam Buddha Nagar, P.O. & P.S.-Gautam Buddha Nagar, District-Greater Noida, Uttar Pradesh-201310.

… … Petitioner

Versus

Kriti Tiwari alias Kriti Kumari, wife of Sangeet Kumar Dubey, by faith Hindu, having present residence in India at Shyam Nikunj, Circular Road, Bela Bagan, Near Satsang Chowk, Deoghar, P.O. & P.S.-Deoghar, District-Deoghar, Jharkhand-814112.

… ….Respondent

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

For the Petitioner : Mr. Rajeev Ranjan Tiwary, Advocate
Mr. Ranjit Kr. Tiwari, Advocate

C.A.V. on 03rd August, 2026 **Pronounced on: 3rd September, 2026**

Per Sujit Narayan Prasad, J.

1. The instant civil review has been filed under Section 114 read with Order 47 Rule 1 of the Civil Procedure Code for reviewing the judgment dated 04.08.2025 passed in F.A. No.50 of 2025, whereby and whereunder, the first appeal filed by the petitioner has been dismissed.

2. Before proceeding to examine the principle of review as to whether the same is applicable in the facts and circumstances of the present case or not, it needs to refer herein the factual background in short which are as under.

2.1 The marriage of the petitioner was solemnized with the respondent herein according to Hindu Rites and ceremonies on

08.03.2019. After the marriage, i.e., just after four days, the respondent stated before the petitioner that she is not happy with the marriage and further started denying the petitioner normal matrimonial pleasure and even got her bed separated to ensure that there will be no physical contact between the two. The treatment of respondent towards the family members and relatives of the petitioner also became stern, she also on several time/occasion attacked the petitioner and caused physical assault, even during Raksha Bandhan she damaged the petitioner glasses and slapped him hard due to which the petitioner's face was swollen and the behaviour of the respondent towards the petitioner was very destructive and further she never took her household responsibility seriously.

2.2 The barbaric act of the respondent started from 01.01.2020 when during petty fight all of a sudden, the respondent slapped the petitioner so hard that his ear drum was damaged and the petitioner had to rush to the hospital for checkup and the in-laws of the petitioner, who came on the next day and the respondent created a scene, due to stress of the same the father of the petitioner died on 03.01.2020.

2.3 On 17.06.2020 the respondent give birth to baby male child and due to Corona Pandemic and ailments, the petitioner could not come to Deoghar, but despite the birth of child, the behaviour of respondent never changed and accordingly, the petitioner has filed petition under section 13 (1) (i-a) of Hindu Marriage Act,

1955 for decree of divorce before the Court of Learned District Judge, Surajpur, Greater Noida, which was numbered as H.M.A No. 100 of 2020.

2.4 After institution of the said case, the respondent had moved before the Hon'ble Supreme Court by filing the Transfer Petition (Civil) No. 2038 of 2021, which was finally disposed of by the Hon'ble Supreme Court transferring the said case before the Learned Family Court, Deoghar and the said case after transfer was renumbered as Original Suit No. 16 of 2023.

2.5 In the said case, the respondent appeared and filed her written statement, wherein, she denied the allegations made by the petitioner and further she asserted that the relationship between the parties has become stern due to demand of dowry of Rs. 10 lakhs from the petitioner's side, further she asserted that the suit has been filed by the appellant only to get rid from the respondent by hook or crook further she denied had ever refused physical relationship rather she asserted that due to physical relationship, she conceived and gave birth to a male child.

2.6 Thereafter, both the parties have adduced respective oral as well as documentary evidence, whereas, on behalf of petitioner, altogether three witnesses P.W.-1 namely Sangeet Kumar Dubey (petitioner here), P.W. 2 Shivani Dubey (sister of petitioner), P.W. 3 Soni Dubey (Sister of Petitioner) apart from the aforesaid oral evidence, the petitioner has filed the

photocopy of some message chat, also which has been marked as Ext. X. The respondent has examined altogether three witnesses namely D.W.-1 Karunesh Kumar Tiwari, D.W.-2 Rajnikant Mishra and D.W.-3 Kriti Kumari (respondent herein).

2.7 Thereafter, the said Original Suit No. 16 of 2023 was disposed of vide Judgment dated 22.10.2024 passed by learned Principal Judge, Family Court, Deoghar, whereby and whereunder, the Learned Court has dismissed the said original suit.

2.8 Thereafter, the petitioner being aggrieved by the said Judgment dated 22.10.2024 passed by the leaned Principal Judge, Family Court, Deoghar, moved before this Court by filing First Appeal, which was numbered as F.A. No. 50 of 2025 which has also been dismissed, against which the present civil review has been filed by the petitioner.

3. It is evident on the basis of the factual background that the marriage of the petitioner was solemnized with the respondent on 08.03.2019. After the marriage, quarrel started between them due to one reason or the other, as has been stated by the parties in the first appeal being F.A. No. 50 of 2025.

4. The petitioner, thereafter, filed petition under section 13 (1) (i-a) of Hindu Marriage Act, 1955 for decree of divorce before the Court of Learned District Judge, Surajpur, Greater Noida, which was numbered as H.M.A No. 100 of 2020. After the institution of the said case, the respondent had moved before the Hon'ble Supreme Court by filing the Transfer Petition (Civil) No. 2038 of 2021,

which was finally disposed of by the Hon'ble Supreme Court transferring the said case before the Learned Family Court, Deoghar and the said case after transfer was renumbered as Original Suit No.16 of 2023.

5. In the said case, the respondent appeared and filed her written statement, wherein, she denied all the allegations made by the petitioner and further she asserted that the relationship between the parties has become stern due to demand of dowry of Rs. 10 lakhs from the petitioner's side.

6. Thereafter, both the parties have adduced respective oral as well as documentary evidence and considering the same, the said Original Suit No.16 of 2023 was disposed of vide Judgment dated 22.10.2024 passed by learned Principal Judge, Family Court, Deoghar, whereby and whereunder, the Learned Court has dismissed the said original suit.

7. Thereafter, the petitioner being aggrieved by the said Judgment dated 22.10.2024 passed by the leaned Principal Judge, Family Court, Deoghar, moved before this Court by filing First Appeal, which was numbered as F.A. No. 50 of 2025 which has also been dismissed vide judgment dated 04.08.2025, which is the subject matter of the present civil review petition. The operative part of the said judgment, i.e., F.A. No. 50 of 2025 is being reproduced as under:

> *"...*
> ***29.*** *Besides oral evidence, documentary evidences were also adduced, which were marked as exhibits.*

30. *From the testimony, as referred hereinabove, it is evident that the appellant-husband has been examined as P.W.1 before the Family Court, who in his deposition has mainly taken the ground of bad behaviour of his wife, threats for getting the family members implicated in the false cases. He has deposed that his wife has misbehaved with him and treated him with cruelty.*

31. *In cross-examination, he has deposed that even if his wife desires to live and stay with him with good behaviour and attitude then also he would not keep his wife with him because he has no faith and confidence upon her.*

32. *From the aforesaid testimony of the appellant-husband it is evident that though cruelty has been pleaded by him in his petition, but no cogent evidence has been produced by him to prove these allegations.*

33. *The respondent-wife has been examined as DW.3 who has stated that her marriage was solemnized as per Hindu rites and customs with the petitioner and after her marriage, she went to her Sasural along with the petitioner and there the conjugal relations between the couple were established and they began to lead a married life and the OP is still very keen and desirous to stay and spend her entire life with the petitioner-husband.*

34. *The learned Principal Judge, from the statements of the witnesses so produced on behalf of the parties, has come to the conclusion that plaintiff/petitioner (appellant herein) has miserably failed to prove the grounds of alleged cruelty.*

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

36. *In the context of the aforesaid factual aspect only seminal issue has to be decided herein that "Whether the plaintiff is entitled to get divorce dissolving the marriage of the petitioner/appellant with OP/wife U/s 13(1) (i-a) of the Hindu Marriage Act, 1955?*

37. *It needs to refer herein that so far the allegation of cruelty is concerned, the 'cruelty' as has been defined by Hon'ble Apex Court in the judgment rendered in Dr. N.G. Dastane Vs. Mrs. S. Dastane [(1975) 2 SCC 326], wherein it has been held that the Court is to enquire as to whether the charge as cruelty, is of such a character, as to cause in the mind of the petitioner, a reasonable apprehension that, it will be harmful or injurious for him to live with the respondent.*

38. *The cruelty has also been defined in the case of Shobha Rani Vs. Madhukar Reddi [(1988) 1 SCC 105], wherein the wife alleged that the husband and his parents demanded dowry. The Hon'ble Apex Court emphasized that "cruelty" can have no fixed definition.*

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

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

41. *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.*

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

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

44. *The Hon'ble Apex Court in the case of Vidhya Viswanathan v. Kartik Balakrishnan, (2014) 15 SCC 21 has specifically held that cruelty is to be determined on whole facts of the case and the matrimonial relations between the spouses and the word 'cruelty' has not been defined and 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 and one which is adversely affecting the other.*

45. *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.*

46. *Now adverting to the fact of the instant case. It is evident from the record that the petitioner/appellant has not brought any such specific instance on record from which it can be said that the respondent had committed cruelty towards him and whatever assertions have been made by the petitioner against the respondent are of quite general and omnibus nature. The parties have lived together in a hotel even during the pendency of this suit for a considerable period of three days and two days which clearly goes to show that there is no such danger of life, limb or health of the petitioner/appellant in living with the respondent.*

47. *As regards the oral testimony of the P.W.2 Shiwani Dubey is concerned, this witness has herself admitted that she had not*

participated in the marriage of petitioner and further she had not come on the death of her father. Similarly, the P.W.3 Soni Dubey has stated that she does not reside in her Naihar permanently and she used to visit Naihar occasionally. Thus, this Court finds that the oral testimony of these witnesses cannot be relied upon safely on the point of the alleged incident between the petitioner and respondent.

48. *As regards the filing of partition suit and other proceeding by the respondent is concerned, of course the respondent has admitted this fact that she has filed altogether five cases against her husband but the petitioner/appellant has not been able to bring any such document on record from which it can be said that the said proceedings were launched by the respondent prior to filing of the divorce suit by the petitioner.*

49. *It appears that earlier the suit for dissolution has been preferred was filed by the petitioner/appellant Sangeet Kumar Dubey before the Court of learned Principal Judge, Family Court, Budh Nagar on 27.11.2020 and it was numbered as the Original Suit No. 100/2020, whereas all the cases filed by the respondent against the petitioner are of the year 2021. The respondent Kriti Kumari (D.W.3) has herself disclosed about the said cases in her examination-inchief which goes to show that all these cases are of the year of 2021 and thus, this Court finds that approaching to the Court by a wife against her husband for saving her interest and getting the relief available to her under the law cannot be termed as cruelty.*

50. *This Court, based upon the aforesaid discussions on the issue of cruelty, is of considered view that the issue of cruelty as has been alleged by the appellant-husband against his wife could not be proved because no concrete evidence to that effect has been produced by the appellant.*

51. *Thus, as per the discussions made hereinabove and law laid down by Hon'ble Apex Court which has also been referred herein above this Court has no reason to take different view that has been taken by the learned Family Court proving the ground of cruelty.*

52. *This Court, on the basis of discussions made hereinabove, is of the view that the appellant husband has not been able to prove the ground of desertion for one of the grounds for divorce before the*

learned Family Court. As such, we have no reason to take a different view that has been taken by the learned Family Court.

53. *Accordingly, issue as framed by this Court is decided against the appellant-husband and it is held that the learned Family Court had rightly not granted the decree of divorce in favour of the appellant husband on the ground of cruelty under Section 13(1)(ia) of the Hindu Marriage Act as such same is requires no interference by this Court.*

54. *This Court, on the basis of discussions made hereinabove, is of the view that the judgment passed on 22.10.2024 and decree signed on 13.11.2024 by the learned Principal Judge, Family Court, Deoghar whereby and whereunder the Original Suit No.16 of 2023 filed by the petitioner-appellant-husband under Section 13(1), (i-a), of the Hindu Marriage Act, 1955 for a decree of divorce has been dismissed, requires no interference by this Court.*

55. *Accordingly, the instant appeal fails and is dismissed."*

Submission on behalf of the petitioner:

8. Learned counsel for the petitioner has taken the following grounds for reviewing the judgment passed in F.A. No. 50 of 2025:

(i) It has been submitted that the Court has failed to take into consideration that during pendency of the divorce suit, the respondent has lodged several cases, which shows that there was no initial integration.

(ii) It has also been submitted that the document which was marked as Ext. 'X', is chat sent by the respondent to the sister of the petitioner wherein she used filthy language and the same has been admitted by the respondent but the same has not been considered by this Court.

(iii) It has also been submitted that this Court has not taken into consideration that the respondent has occupied the residential

house of the petitioner, by force, after removing the tenants from that place and is not even permitting the petitioner and his sister to enter the said house which shows her cruel behaviour.

(iv) It has categorically been submitted that this Court has decided the appeal being F.A. No. 50 of 2025 vide judgment dated 04.08.2025 even without calling for the Trial Court Records.

9. Learned counsel for the petitioner, on the aforesaid grounds, has submitted that the judgment impugned in this civil review petition dated 04.08.2025 passed in F.A. No. 50 of 2025 is fit to be reviewed.

Analysis:

10. Heard the learned counsel for the petitioner.

11. The instant civil review petition has been filed for reviewing the judgment dated 04.08.2025 passed in F.A. No.50 of 2025, whereby and whereunder, the first appeal filed by the petitioner has been dismissed by holding that the judgment passed on 22.10.2024 and decree signed on 13.11.2024 by the learned Principal Judge, Family Court, Deoghar whereby and whereunder the Original Suit No.16 of 2023 filed by the petitioner-husband under Section 13(1), (i-a) of the Hindu Marriage Act, 1955 for a decree of divorce has been dismissed, requires no interference by this Court.

12. This Court has perused the prayer made in this civil review petition which is being referred as under for ready reference:

> *"**1.** That the present review is being filed for reviewing the Judgment dated 04.08.2025 passed in F.A. No.50 of 2025 passed by the Hon'ble Mr. Justice Sujit Narayan Prasad and the Hon'ble Mr. Justice Arun Kumar Rai, whereby and whereunder, the Hon'ble Court have pleased to dismiss the appeal without considering the facts, materials and evidences available on record and as such the said Judgment is required to be reconsidered and reviewed by the Hon'ble Court for doing conscionable justice to the petitioner.*
>
> *AND/OR*
>
> *Pass any other appropriate order/orders as Your Lordships may deem fit and proper in the fact and circumstances of this case for doing conscionable justice to the petitioner."*

13. This Court before proceeding to examine as to whether the order which is being sought to be reviewed can be reviewed on the grounds upon which the present review has been filed for which settled position of law for the purpose of exercising the power of review needs to be referred herein, as has been settled by the Hon'ble Apex Court in ***Moran Mar Basselios Catholicos and Anr. vs. Most Rev. Mar Poulose Athanasius and Ors., [AIR 1954 SC 526]***, particularly at paragraph-32 which is being referred as hereunder: -

> *"**32.** Before going into the merits of the case it is as well to bear in mind the scope of the application for review which has given rise to the present appeal. It is needless to emphasis that the scope of an application for review is much more restricted than that of an appeal. Under the provisions in the Travancore Code of Civil Procedure which is similar in terms to Order XL VII, Rule I of our Code of Civil Procedure, 1908, the Court of review has only a limited jurisdiction circumscribed by the definitive limits fixed by the language used therein. It may allow a review on three specified, grounds, namely (i) discovery of new and important matter or evidence which, after the exercise of due*

> *diligence, was not within the applicant's knowledge or could not be produced by him at the time when the decree was passed, (ii) mistake or error apparent on the face of the record and (iii) for any other sufficient reason."*

14. Likewise, in the case of ***Col. Avatar Singh Sekhon Vrs. Union of India (1980) Supp. SCC 562***, the Hon'ble Apex Court observed that a review of an earlier order cannot be done unless the court is satisfied that the material error which is manifest on the face of the order, would result in miscarriage of justice or undermine its soundness. The observations made are as under:

> *"**12.** A review is not a routine procedure. Here we resolved to hear Shri Kapil at length to remove any feeling that the party has been hurt without being heard. But we cannot review our earlier order unless satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. In Sow Chandra Kante v. Sheikh Habib 1975 1 SCC 674 this Court observed:*
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> > *'A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. ..... The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality."*

15. Further, the Hon'ble Apex Court in the case of ***Kamlesh Verma v. Mayawati,*** reported in ***(2013) 8 SCC 320*** has observed that review proceedings have to be strictly confined to the scope and ambit of Order XLVII Rule 1, CPC. As long as the point sought to be raised in the review application has already been dealt with and answered, parties are not entitled to challenge the impugned judgment only because an alternative view is possible. The principles for exercising review jurisdiction were succinctly summarized as under:

*"**20.** Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:*

***20.1.** When the review will be maintainable:*

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" has been interpreted in Chajju Ram v. Neki, and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasiusto mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd.,.

***20.2.** When the review will not be maintainable:—*

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

> *(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."*

16. It is evident from the aforesaid proposition of law that the jurisdiction of the Court who is to review the order, is very limited and the same can only be exercised if there is error apparent on the face of the order or any facts could not have been brought to the notice of the Court in spite of due diligence.

17. This Court is now proceeding to examine the factual aspect along with the grounds based upon which the present review petition has been filed.

18. It has been found by the Court from the review petition that the grounds which are being taken up for reviewing the judgment dated 04.08.2025 are that the Court has failed to take into consideration that during pendency of the divorce suit, the respondent has lodged several cases, which shows that there was no initial integration and the document which was marked as Ext. 'X', i.e., that chats sent by the respondent to the sister of the petitioner wherein she used filthy language and the same has been admitted by the respondent, the same has not been considered by this Court.

19. The ground has also been taken that the respondent has occupied the residential house of the petitioner, by force, after removing the tenants from that place and is not even permitting the petitioner and his sister to enter the said house which shows her cruel behaviour.

20. The main limb of argument is based upon the ground that the appeal being F.A. No. 50 of 2025 has been decided vide judgment dated 04.08.2025 even without calling for the Trial Court Records.

21. Learned counsel for the petitioner, resting upon the aforesaid grounds, has instituted the present review petition, wherein the order dated 04.08.2025 passed in F.A. No. 50 of 2025 has been sought to be reviewed.

22. In the backdrop of the aforesaid settled principles governing the scope of review jurisdiction, as well as the factual matrix of the present case, the pivotal issue that arises for consideration is whether the errors pointed out by learned counsel for the review petitioner in the judgment rendered in the First Appeal can legitimately be characterized as errors apparent on the face of the record, or as constituting sufficient cause within the meaning of Order XLVII of the Code of Civil Procedure, thereby warranting exercise of this Court's review powers.

23. In order to duly appreciate the submissions advanced by learned counsel for the review petitioner, this Court has carefully examined the judgment dated 04.08.2025 rendered in F.A. No. 50 of 2025, the relevant portion whereof already stands extracted and adverted to in the preceding paragraphs.

24. From perusal of the aforesaid order, it is manifest that this Court, while adjudicating the appeal, had duly considered the entirety of the submissions advanced by learned counsel for the petitioner and,

upon comprehensive appreciation of every relevant aspect, proceeded to dismiss the said appeal.

25. It is manifest from the several paragraphs of the judgment rendered by this Court in the appellate jurisdiction that, while adjudicating upon the appeal, this Court has undertaken a detailed scrutiny of the testimony of the appellant as well as of other witnesses, the same being duly reflected in the impugned order. Such appreciation of evidence is demonstrably evident from paragraph 27 of the judgment, wherein the Court has adverted to the depositions at length.

26. Furthermore, from perusal of paragraph-30 of the judgment, which has already been quoted and referred to hereinabove, it is evident that this Court has duly taken note of the testimony of P.W.-1. In his deposition, P.W.-1 alleged that the respondent-wife exhibited bad behaviour towards him, asserting that she threatened to have the petitioner's family members falsely implicated in criminal cases.

27. Further from paragraph-48 of the judgment, it is evident that this Court has taken note of admission of the respondent-wife wherein she has admitted that she has filed altogether five cases against her husband.

28. This Court while taking note of the aforesaid fact has categorically observed in the same paragraph that the petitioner/appellant has not been able to bring any such document on record from which it can be said that the said proceedings were launched by the

respondent/wife prior to filing of the divorce suit by the petitioner/husband.

29. In paragraph-49 it has further been observed by this Court that *earlier the suit for dissolution has been preferred was filed by the petitioner/appellant before the Court of learned Principal Judge, Family Court, Budh Nagar on 27.11.2020 and it was numbered as the Original Suit No. 100/2020, whereas all the cases filed by the respondent against the petitioner are of the year 2021. The respondent Kriti Kumari (D.W.3) has herself disclosed about the said cases in her examination-in chief which goes to show that all these cases are of the year of 2021 and thus, this Court finds that approaching to the Court by a wife against her husband for saving her interest and getting the relief available to her under the law cannot be termed as cruelty.*

30. Thus, in the light of the aforesaid categorical findings recorded by this Court while exercising the appellate jurisdiction, it is not open to the petitioner to contend that the Court failed to consider the fact that during pendency of the divorce proceedings the respondent-wife had instituted several criminal cases, which shows that there was no initial integration.

31. Since from paras-48 and 49 of the judgment it is evident that the aforesaid aspect was duly adverted to, and thus, the said plea of "absence of initial integration" cannot now be resurrected under the guise of review.

32. Accordingly, upon a comprehensive appraisal of the discussion hereinabove, this Court is of the considered view that the contention advanced by learned counsel for the petitioner, forming the foundation of the present review, does not constitute a valid ground within the meaning of Order XLVII CPC. The said contention stand already examined and addressed by this Court while dismissing the appeal, and no error apparent on the face of the record is discernible. The review petition, therefore, fails on this score.

33. Insofar as the plea regarding non-calling of the Trial Court Record (TCR) is concerned, it is manifest from the judgment under review that the same was dictated in open Court while exercising appellate jurisdiction. At that juncture, the petitioner did not raise any objection or grievance touching upon the non-production of the TCR. Consequently, this omission cannot now be resurrected as a ground for review. The principle is well-settled that a party cannot be permitted to raise, at the stage of review, a contention which was never urged when the judgment was pronounced. On this score also, therefore, the petitioner's plea is untenable.

34. Moreover, the petitioner has nowhere demonstrated or even pleaded what specific prejudice has been occasioned to him on account of the non-calling of the Trial Court Record. In the absence of any averment or showing of prejudice, it is apparent that this ground has been raised merely for the sake of creating a foundation for review. Such a contention, being devoid of substance, cannot be entertained as a valid ground under Order XLVII CPC.

35. It is apposite to note that, in Indian legal parlance, the expression *"prejudice"* connotes harm, injury, or detriment occasioned to a party's legal rights or interests. It signifies an adverse impact upon one's legal position, rather than a mere bias or inconvenience. The doctrine of prejudice is well-settled: an infraction of law or procedure does not ipso facto vitiate an order or inquiry unless the aggrieved party is able to demonstrate that actual prejudice or injustice has been caused. In the present case, however, the petitioner has failed to establish or even plead that any such prejudice has resulted from the non-calling of the Trial Court Record. In the absence of proof of actual prejudice, this contention cannot be sustained as a valid ground for review.

36. However, the mere fact that the lower court record was not called for by the appellate court does not automatically establish prejudice. The petitioner must demonstrate *how* the absence of the record, and the consequent inability of the appellate court to consider the evidence contained therein, has specifically harmed their legal rights or affected the outcome of the appeal. For instance, if the petitioner can show that crucial evidence presented before the lower court, which was essential for their case, was not considered by the appellate court due to the non-availability of the record, then a case for prejudice can be made. Conversely, if the appellate court could adequately decide the appeal based on the available material without the physical record, and no specific detriment to the petitioner's rights can be shown, then the argument of prejudice may not succeed.

37. Further, it is the settled position of law that, while exercising appellate jurisdiction, this Court is required to examine whether the judgment impugned suffers from perversity. Only when such perversity is conspicuous and demonstrable can interference be warranted. In the present case, upon a careful perusal of the judgment rendered by the learned Family Court, this Court found no element of perversity in the order or reasoning adopted therein and accordingly, no interference was called for, and the appellate jurisdiction was exercised to affirm the impugned judgment.

38. It is further evident from the judgment passed by this Court in appellate jurisdiction that, while deciding the appeal, the Court thoroughly examined the impugned judgment of the learned Family Court and duly considered the submissions advanced by learned counsel for the appellant (petitioner herein). Based upon such consideration, and after due appreciation of both the factual matrix and the law laid down by the Hon'ble Apex Court on the issue of cruelty, the appeal was dismissed. Therefore, the petitioner now cannot be permitted to contend that all aspects of cruelty were not considered by this Court, as the record itself demonstrates otherwise.

39. Therefore, all the contentions advanced by learned counsel for the petitioner, sought to be pressed into service as grounds for review of the order passed by this Court in appellate jurisdiction, are found to be wholly untenable. None of the pleas raised disclose any error apparent on the face of the record, nor do they constitute

circumstances warranting interference under Order XLVII CPC. Consequently, the grounds urged are not fit to be accepted.

40. It needs to refer herein that an application for review under Order 47 Rule 1 of the Code of Civil Procedure, 1908 (CPC), in the context of a High Court First Appeal concerning matrimonial issues, is a remedial procedure that allows the High Court itself to re-examine its own decree or order. This power of review is not an inherent power but is conferred by Section 114 read with Order 47 of the Civil Procedure Code.

41. The grounds for seeking such a review are strictly limited to: (1) the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the applicant's knowledge or could not have been produced at the time the decree was passed; (2) a mistake or error apparent on the face of the record; or (3) any other sufficient reason analogous to the first two grounds. It is crucial to understand that a review is not an appeal in disguise and cannot be used to re-argue the case, re-open settled issues, or substitute a different view on the merits of the First Appeal.

42. Further, there is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the later only can be corrected by exercise of the review jurisdiction.

43. In the case of ***Perry Kansagra v. Smriti Madan Kansagra, (2019) 20 SCC 753,*** the Supreme Court held that review proceedings are not an appeal in disguise and must be strictly confined to the scope of Order 47 Rule 1 CPC. An error apparent on the face of the record

must be self-evident and not require a long process of reasoning to detect. The Hon'ble Apex Court observed that the High Court, in allowing the review, acted as if it was sitting in appeal over its earlier decision, which was an incorrect exercise of review jurisdiction.

44. In the case of ***Lily Thomas-vs.- Union of India, AIR 2000 SC 1650***, wherein the Hon'ble Apex Court observed that the dictionary meaning of the word 'review' is an act of looking, offering something afresh with a view to correction or improvement. Review is the creation of statute. The power of review can be exercised for correction of a mistake and not to substitute a view. Such power can be exercised within the limits of the statute dealing with the exercise of power. Review cannot be treated as an appeal in disguise. The mere possibility of two views on the subject is not a ground for review.

45. The Hon'ble Apex Court further held that an error contemplated under O. 47 R. 1 CPC must be such which is apparent on the face of the record and not an error which is to be fished out and searched. Error apparent on the face of the proceedings is an error which is based on clear ignorance or disregard of the provisions of law. It must be a patent error and not merely a wrong decision.

46. The Hon'ble Apex Court in the case of ***S. Bagirathi Ammal Vs. Palani Roman Catholic Mission (2009) 10 SCC 464*** has held that in order to seek review, it has to be demonstrated that the order suffers from an error contemplated under Order 47 Rule 1

CPC which is apparent on the face of record and not an error which is to be fished out and searched. A decision or order cannot be reviewed merely because it is erroneous.

47. The Hon'ble Apex Court in case of ***State of West Bengal Vs. Kamal Sengupta (2008) 8 SCC 612*** has held that *"The term "mistake or error apparent" by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position."*

48. In the case of ***Parsion Devi-vs.-Sumitri Devi, (1997) 8 SCC 715*** the Hon'ble Apex Court has observed that an error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power review under Order 47 Rule 1 CPC, for ready reference the relevant pargraph of the aforesaid judgment is being quoted as under:

> *"9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has limited purpose and cannot be allowed to be "an appeal in disguise."*

49. Thus, the law is well settled that to review the order passed by the Court is very limited and order of allowing review can only be passed in the circumstances of availability of certain conditions as

has been held by the Hon'ble Apex Court in the judgment rendered in ***Sanjay Kumar Agarwal Vrs. State Tax Officer (1) & Anr.***, reported in ***(2024) 2 SCC 362***, wherein the Hon'ble Apex Court while interpreting the provision of Order 47 Rule 1 of the C.P.C. which is *pari materia* to Rule 203 of the Jharkhand High Court Rules, wherein, the proposition has been laid down to entertain the review, has held at paragraphs-16.1 to 16.8 which is being reproduced as under for ready reference:-

> *"16.1. A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.*
>
> *16.2. A judgment pronounced by the court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.*
>
> *16.3. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record e justifying the court to exercise its power of review.*
>
> *16.4. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected".*
>
> *16.5. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise".*
>
> *16.6. Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.*
>
> *16.7. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.*
>
> *..."*

50. It is also settled that order is not to be reviewed in the garb of the appeal. Further settled position of law is that if the fact has been taken into consideration by the Court may be wrong consideration by the Court but the same cannot be a ground for review rather the

same will be a ground to prefer an appeal before the higher forum, if available.

51. In view of the foregoing reasons, and upon reliance on the judgments of the Hon'ble Apex Court referred to and quoted in the preceding paragraphs, as also keeping in perspective the settled principles governing the scope of review jurisdiction, this Court is of the considered opinion that the instant civil review petition is devoid of merit and is fit to be dismissed.

52. Accordingly, the instant civil review petition stands dismissed.

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

(Sujit Narayan Prasad, J.)

I agree,

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

3rd September, 2026

Saurabh/-

A.F.R.

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