IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No.40 of 2025

Suman Kumar Mandal aged about 43 yrs. S/o Late Ishwar Mandal, R/o Quarter No.668/B Railway Colony, Bekarbandh, P.O.&P.S.&Dist. Dhanbad.

Appellant

Versus

Kumari Rashmi Sinha, aged about 32 yrs. W/o Suman Kumar Mandal, D/o Sri Nageshwar Prasad Sinha, Present Add. Shastri Colony, Jamui, P.O., P.S.&Dist. Jamui (Bihar). Permanent Address Quarter No.668/B Railway Colony, Bekarbandh, P.O., P.S.&Dist. Dhanbad.

… … Respondent

With

F.A. No.252 of 2024

Kumari Rashmi Sinha, aged about 32 years, wife of Suman Kumar Mandal, daughter of Sri Nageshwar Prasad Sinha, present address: Shastri Colony, Jamui, P.O. and P.S. Jamui, District Jamui, Bihar, permanent address: Quarter No.668/B, Railway Colony, Bekarbandh, Dhanbad, P.O. and P.S. Dhanbad, District Dhanbad, Jharkhand.

… … Appellant

Versus

Suman Kumar Mandal aged about 43 yrs. S/o Late Ishwar Mandal, R/o Quarter No.668/B Railway Colony, Bekarbandh, Dhanbad, P.O. and P.S. Dhanbad, District Dhanbad, Jharkhand

… … Respondent

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

F.A. No.40 of 2025

For the Appellant : Mrs. Arpita Sinha, Advocate
For the Respondent : Mr. Aman Ali, Advocate

F.A. No.252 of 2024

For the Appellant : Mr. Aman Ali, Advocate
For the Respondent : Mrs. Arpita Sinha, Advocate

CAV on 31/08/2026 ***Pronounced on 30/10/2026***

Per Sujit Narayan Prasad, J.

1. At the outset, it needs to refer herein the order dated 31st August, 2026, whereby and whereunder, the following order was passed: -

> ***"11/31st August, 2026***
>
> 1. *At the outset, learned counsel appearing for the appellant in F.A. No.252 of 2024 has submitted that the appeal has been preferred against the issue of dissolution of marriage.*
> 2. *He has further submitted that he is contesting the issue of dissolution of marriage.*
> 3. *This Court, therefore, is of the view that the issue of dissolution of marriage is being contested by filing the appeal and as such, the F.A. No.252 of 2024 is to be heard first for the reason that the outcome of the same will govern the first appeal being F.A. No.40 of 2025 wherein the appellant has challenged the part of the impugned judgment pertaining to issue of alimony by which a sum of Rs.12,00,000/- has been directed to be paid by the appellant in F.A. No.40 of 2025 in favour of the respondent in F.A. No.40 of 2025 (appellant in F.A. No.252 of 2024).*
> 4. *The Court has heard both the appeals.*
> 5. *Arguments concluded.*
> 6. *Judgment Reserved."*

Prayer

2. The present appeal, being F.A. No. 40 of 2025, has been preferred by the appellant-husband under Section 19(1) of the Family Courts Act, 1984, assailing the judgment dated 12.06.2024 and decree drawn on 18.06.2024 (seal and signed on 21.06.2024) passed by the learned Principal Judge, Family Court, Dhanbad in Original Suit No.761 of 2018. By the said judgment, while decreeing the suit for dissolution of marriage, the Family Court has directed the appellant-husband to pay a sum of ₹12,00,000/- (Rupees Twelve Lakhs) as permanent alimony to the respondent-wife. The present appeal is confined only to that part of the order which pertains to payment of the aforesaid permanent alimony.

3. The appeal being F.A. No.252 of 2024 preferred by the appellant-wife against the judgment dated 12.06.2024 and decree signed dated

21.06.2024 passed in Original Suit No.761 of 2018 by the learned Principal Judge, Family Court, Dhanbad, whereby and whereunder, the petition filed by the respondent-husband under Section 13(i-a) of the Hindu Marriage Act, 1955 for grant of decree of divorce against his appellant-wife, has been allowed.

4. It appears that the issue of dissolution of marriage is being contested by filing the appeal and as such, F.A. No.252 of 2024 is to be dealt with first for the reason that the outcome of the same will govern the first appeal being F.A. No.40 of 2025, wherein, the appellant-husband has challenged the part of the judgment pertaining to issue of alimony by which a sum of Rs.12,00,000/- has been directed to be paid by the husband in favour of the respondent-wife.

5. This Court, taking into consideration the ground which has been taken for dissolution of marriage on merit, i.e., the ground of cruelty, hence, is of the view that appeal being F.A. No.252 of 2024 is to be considered first.

F.A. No.252 of 2024

Factual Matrix

6. The brief facts of the case, as per the plaint of plaintiff (respondent herein), which required to be enumerated, needs to be referred as under:

7. It is the case of the plaintiff/husband (respondent herein) that his marriage was solemnized with the defendant Kumari Rashmi Sinha (appellant herein) on 07.07.2006 at Jamui as per Hindu Rites and Customs. After marriage, she came to his house and they started leading happy conjugal life with each other. During their coverture, they got

blessed with two children namely Sanskriti Suman, aged about 9 and Sanskar Suman, aged about 6 respectively. He has further asserted that four years back, they were living separately in the same quarters, in different rooms and there was no physical relation between them due to denial of the respondent. She always said to him several times that she did not like or love him. She frequently talked to her boyfriend on mobile phone.

8. It is the further case that the respondent-wife was trying to get him murdered and to get appointment in railway in his place and to fulfil that purpose, she always subjected him to mental and physical cruelty. He has further asserted that on 04.10.2018, the respondent-wife attempted to murder him by administering some toxic substance to him.

9. It is the further case that it is impossible to lead future life with the respondent-wife and from the last 5 to 6 years, the relation between them has completely broken down and the same cannot be retrieved, therefore, marriage solemnized between them on 07.07.2006 may be dissolved and by dissolving the marriage a decree of divorce may be granted in his favour.

10. After receiving the summon, the defendant/wife has appeared and contested the suit by filing a written statement stating therein that the present suit is not maintainable either in law or in fact. She has further asserted that the petitioner has got no cause of action for the suit and the suit is bad for suppression of material facts. The suit barred under the limitation act as well as by the provisions of the Contract Act. The Suit barred under the principles of waiver, estoppel and acquiescence. The

affidavit in support of the plaint is incomplete and not in accordance with the provisions laid down under order XIX CPC. She has further asserted that the petitioner has not come up before the court with clean hands and guilty of suppression of material facts and, therefore, the petitioner has not entitled to any relief in the suit. The documents in support of the plaint having not been filed with the plaint, the suit is bad under order VII Rule 14 CPC. All the material allegations made in the plaint are false fictitious and self-contradicting besides being untenable and impressible as per law. She has further asserted that the petitioner lodged several criminal cases against her, vide C.P Case No. 3363/2018, C.P Case No. 165/2020 and Dhanbad P.S Case No. 435, dated 28.10.2020, U/s 326 & 326 (A) IPC and in the said case, she was arrested and sent to jail and when she came out from jail, she came to know that her husband has filed criminal case against her only to divorce her. She has further asserted that she loves the petitioner very much and she cannot live without him and as such, on so many occasions, she was regularly talking with the petitioner. She has further asserted that she is willing to live with her husband, therefore, she prayed to dismiss the suit.

11. On the basis of pleadings made on behalf of the parties, the learned Family Judge has framed the following issues for proper adjudication of the suit, which are as follows:

(i) *Whether the suit is maintainable in it's present form?*

(ii) *Whether the petitioner has got valid cause of action for the suit?*

(iii) *Whether the respondent has treated the petitioner with cruelty?*

(iv) *Whether the petitioner is entitled for any other relief?*

12. In order to prove and substantiate the case, the respondent/plaintiff (husband) has produced and examined four witnesses in support of his case, i.e., P.W.1-Yaswant Kumar, P.W.2-Sumitra Devi (Mother of the plaintiff), P.W.3-Shanskriti Suman (Daughter of the plaintiff and the respondent) and P.W.4-Suman Kumar Mandal (the plaintiff himself).

13. Apart from the above, the plaintiff/husband has filed the following documents:-

Ext.-1	Application dated 15.11.2018 of Suman Kumar Mandal.
Ext.-2	Application of 13.10.2018 to O/C Dhanbad P.S.
Ext.-3	Certified copy of complaint Case No.3363/2018
Ext.-4	Application to O/C Mahila P.S, dated 18.12.2019
Ext.-5	Discharge Ticket of Patliputra Medical College Hospital dated 20.12.2011
Ext.-6	Report of C.T. Scan dated 19.12.2019 of Suman Kumar Mandal
Market X for identification	Xerox copy of Medical treatment of Mahila P.S. dated 18.12.2019
X/1	Xerox copy of application to S.S.P, Dhanbad dated 10.01.2020
Ext.-7	Order passed in Dhanbad P.S. Case No.435/2020
Ext.-8	FIR of Dhanbad P.S. Case No.435/2020
Ext.-9	Charge-sheet of Dhanbad P.S. Case No.435/2020
Market X/2 to X/3	Photographs
Material ext. M (electronic)	Pen Drive
Mark X/4	Photographs
Mark X/5 to X/8	Photographs
Ext.-10	Certified copy of petition of A.B.P No.2732/2020

14. On the other hand, the defendant-wife (appellant herein) has examined the witness in order to rebut and contradict the claim of plaintiff, i.e. D.W.1-Kumari Rashmi Sinha (the defendant herself/appellant herein), D.W.2-Nageshwar Prasad (father of the defendant)) and D.W.3-Manish Kumar (brother of the defendant).

15. After perusal of the evidence led by the parties, the learned Family Judge, vide judgment dated 12.06.2024 has allowed the suit in favour of the respondent-husband, against which, the present appeal being F.A. No.252 of 2024 has been preferred by the appellant-wife.

Submission of the learned counsel for the appellant-wife

16. It has been contended on behalf of the appellant-wife in F.A. No.252 of 2024 that the factual aspect which was available before the learned Family Judge supported by the evidences has not properly been considered and as such, the judgment impugned is perverse, hence, not sustainable in the eyes of law.

17. It has been submitted by the learned counsel for the appellant-wife that her husband has love for other unknown lady and he solemnized marriage with her and started leading conjugal life.

18. It has also been submitted that respondent-husband has never paid due love and affection to her but she continued to lead her conjugal life with a hope that after birth of child, all would be well.

19. It has been contended that the respondent-husband has filed O.S. No.761 against her and filed C.P. Case No.157 and C.P. Case No.3363 as also lodged the case vide Dhanbad P.S. Case No.435 of 2020 and in the

said case, she was arrested and sent to Jail at that time, she was in her quarters. Thereafter, she came out from jail and came to know that the respondent-husband had filed criminal case against her only to divorce her.

20. It has also been contended that the learned Family Court has not taken into consideration that the allegations as have been made by respondent/husband was false and fabricated.

21. It has been contended that there is nothing to show that the appellant has ever instigated the respondent-husband to commit suicide.

22. The learned Family Court has not taken into consideration the fact that the marriage is of the year 2006 and the children are also aged about 6 and 9 years and at this point of life, the dissolution of marriage will seriously hamper the proper development of the children.

23. The learned Family Court has also not taken into consideration that the respondent-husband has not brought any material to suggest that the appellant-wife is having any relation with any boy with whom she used to talk as alleged by respondent-husband.

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

Submission of the learned counsel for the respondent-husband

25. *Per contra*, learned counsel appearing for the respondent-husband, while defending the impugned judgment, has submitted that there is no error in the impugned judgement so far as the issue of cruelty is

concerned. The learned Family Judge has considered all aspects of the matter in right perspective in granting a decree of divorce in favour of the respondent-husband.

26. It has been contended that the respondent-husband has never subjected the appellant-wife or her family members with cruelty nor he had done any such act which can be treated as a cause of action for filing a suit for divorce.

27. Learned counsel, based upon the aforesaid grounds, has submitted that the impugned judgment cannot be said to suffer from an error.

Analysis:

28. We have heard the learned counsel for the parties, gone through the Trial Court records, the impugned judgment, the testimonies of the witnesses and the documents exhibited therein.

29. The admitted fact herein is that the suit for divorce has been filed by the respondent-husband (plaintiff before the learned Family Court) on the grounds of cruelty, i.e., by filing an application under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 and accordingly, issues have been framed wherein the primary issue, i.e., issue no.(iii) which pertains to cruelty.

30. The evidences have been led on behalf of both the parties, i.e., the plaintiff-husband (respondent in F.A. No.252 of 2024) and the respondent-wife (appellant in F.A. No.252 of 2024).

31. The plaintiff-husband has examined four witnesses in support of his case, i.e., P.W.1-Yaswant Kumar, P.W.2-Sumitra Devi (Mother of the

plaintiff), P.W.3-Shanskriti Suman (Daughter of the plaintiff and the respondent) and P.W.4-Suman Kumar Mandal (the plaintiff himself).

32. On the other hand, the defendant-wife (appellant in F.A. No.252 of 2024) has examined three witnesses, i.e., D.W.1-Kumari Rashmi Sinha (the defendant herself/appellant herein), D.W.2-Nageshwar Prasad (father of the defendant)) and D.W.3-Manish Kumar (brother of the defendant).

33. For ready reference, the evidences led on behalf of the parties are being referred as under: -

P.W.4, namely, Suman Kumar Mandal (the plaintiff himself) has deposed in his examination-in-chief that he has brought this suit for divorcing his wife. His marriage was solemnized with the respondent Kumari Rashmi Sinha on 07.07.2006, but the respondent was unhappy with that marriage and she had become ready for her marriage with him on the pressure of her parents and in reality, she was willing to marry her lover. She used to threaten him to drag him in false cases. Any way on consummation of their marriage she delivered a daughter namely Sanskriti Suman, aged about 14 and son Sanskar Suman aged about 11.

He has further testified that from the last 5 to 6 years they have been living separately in the same quarters but in different rooms and has never been physical relation between them due to denial of the respondent. Her denial from establishing physical relation with him and living separately are compelling him to take food in hotel. He has further testified that the respondent was trying to get him murdered and to get appointment in railway in his place and to fulfil that purpose, she always subjected him to mental and physical cruelty. On 15.11.2018, he

submitted an application regarding the above facts before the Sr. Divisional Finance Manager, East Central Railway, Dhanbad.

In the year 2018, his wife fled away with household articles regarding which he filed a written complaint before the Dhanbad Police and he has proved a copy of the said application as Ext. 2. In the year 2018 itself once the respondent administered poison in his tea to kill him and regarding that occurrence, he filed a complaint in Dhanbad court on 15.10.2018. He has proved a certified copy of the same comprising seven pages proved as Ext.-3. Again on 18.12.2019, the respondent tried to put him to death and in this regard, he filed a written application before Mahila police station. He has proved the copy of the same as Ext.- 4. He has further filed a document marked X for identification which is an order to refer him to Dhanbad Medical College for his treatment. He has further testified that on 18.12.2019 he was admitted in Patliputra Medical College and Hospital, Dhanbad and he was discharged from the hospital on 20.12.2019 and has proved the discharge certificate as Ext. -5. During his treatment C.T Scan was done on 19.12.2019 by Dr. S. Baksi, the report of C.T Scan has been proved as Ext. 6.

He has further deposed that on 10.01.2020 he submitted an application before the S.S.P, Dhanbad against his mother-in-law which comprises two pages and the same has been marked as X/1 for identification. He has further testified that it has become impossible to lead future life with the respondent and actually from the last 5 to 6 years the relation between them has completely broken down and the same cannot be retrieved, therefore, marriage between them dated 07.07.2006

may be dissolved. He has further testified that his children were living with him one year ago and in his absence, the respondent took them to Patna and settled down at Kadam Kuan, Patna where she is an employee in an Ayurvedic College having a monthly income of Rs. 20,000/- to Rs. 25,000/-. He has further testified that due to extreme bitter relation between them on 10.08.2018 a bond was executed by them and in paragraphs No. 8&9 they decided that they would be living separately for a period of six months. In paragraph no. 3 it has been mentioned that bond was executed on the pressure of the respondent Kumari Rashmi Sinha. He has filed the said bond dated 10.08.2018 marked as X/4 for identification.

In paragraph 21 the petitioner has again categorically stated that in the year 2020, the respondent poured boiling water on him and tried to kill him by pouring the hot water on him, therefore, he lodged Dhanbad P.S Case No. 435/2015 which has already been marked as Ext. 8. In that case cognizance has already been taken by the learned CJM, Dhanbad vide Ext.-7 and charge-sheet has been proved as ext. 9. In paragraph no. 22 he has testified that the respondent tried to set him ablaze and he has got four photographs marked as X/5 X/6, X/7, X/8 respectively. Lastly, he has asserted that he cannot lead his conjugal life with the respondent, therefore, he is praying to dissolve the marriage and to grant a decree of divorce in his favour. He has further testified that in support of the facts mentioned in paragraph 10 regarding his wife's attempt to put him to death, he has filed two photographs in which his head was bandaged. Both the photographs have been marked as X/2 and X/3 for identification. He has further testified that the respondent used to

send Whatsapp massages with vituperative languages from mobile Nos. 8298xxx637 and 9199xxx935 on mobile No. 9304xxx1486 and he has produced a Pen-drive which has been marked as material Ext. M.

He has further testified regarding the bond dated 10.08.2018 and has filed a photocopy of the same comprising 3 pages which were singed by two witnesses from each side and the same has been marked as X/4 for identification.

During his cross-examination, in paragraph-31 he has disclosed that his wife is not living with him and the children are with him, but they are in the school hostel. In paragraph no. 33 he has disclosed that his wife has been living separately from the last 6 to 7 years. In paragraph no. 34 he has admitted that he has been making payment of education fee of his children who are pursuing their education in Narayan School, Andal, Durgapur. In paragraph no. 37 he has asserted that prior to filing of the case, his wife did not file any criminal case against him. He has also not filed any case for restitution of conjugal rights. He has admitted that he is an employee in railway and has disclosed that he lived with her from the year 2006 to 1st February 2021, after which his wife has been living separately in his quarters. In paragraph 53 he has disclosed that once he gave information to his authority regarding separate stay of his wife in his quarters, but the documents cannot be procured because, by breaking his Almirah his wife has taken away all the relevant documents. He has admitted to have entered his wife's name in his service book and he got a railway pass issued in the name of his wife and can prove this fact. In paragraph No. 61 he has testified that even if the respondent be ready to

live with him, he cannot keep her anymore because, she will kill him. He has already filed a case of attempt to murder which was numbered as G.R No. 627/2021 and now the same has been pending in the court of CJM, Dhanbad. He has denied that due to the illicit relation with other ladies he is willing to divorce his wife.

P.W.1, Yaswant Kumar and P.W.2, Sumitra Devi mother of the plaintiff have stated nothing new in their evidence and have simply reproduced the evidence that has been given by the P.W.4.

P.W.3, namely, Shanskriti Suman (daughter of the plaintiff) has completely buttressed and supported the assertions and contentions of the plaintiff. She has further testified in her examination-in-chief that her mother quarreled with her father and compelled him to take food in hotel. She has further testified that her mother poured boiling water on her father and tried to kill him by pouring the hot water on him.

Apart from the above, now it needs to refer herein the witnesses examined on behalf of the defendant-wife.

D.W.-1, namely, Kumari Rashmi Sinha (defendant herself) has deposed in her examination-in-chief that she had information that though her husband had love for other unknown lady, he solemnized marriage with her with a grand wedding and started leading happy conjugal life. But he never paid due love and affection to her, but she continued to lead her conjugal life with a hope that after birth of children all would be well. In the mean time she delivered two children. She has further testified that due to his hard nature, sometimes he used to stop giving maintenance to her and her children. But for appeasement of her

husband, she tolerated all sorts of torture from the hands of her husband, but once he got her signature on a bond comprising three papers in non-judicial stamp papers. She has further testified that she came to know that he managed his daughter to become a witness to the bond and got her signature on the same. She has further stated that the petitioner never took her to any party and never introduced her to his relatives. The petitioner/husband has filed O.S No. 761 on 19.11.2018 against her and filed C.P Case No. 157 dated 31.01.2020 and C.P Case No. 3363 on 15.03.2020 and has also lodged case on 28.10.2020 vide Dhanbad P.S Case No. 435/2020 and in the said case she was arrested and was sent to jail at that time she was in her quarters. She came out from jail and came to know about the case and also came to know that her husband had filed criminal case against her only to divorce her. She has denied to have tried to give poison to him and has asserted that the petitioner has cohabited with her in the recent days in her quarters and on some occasions, whenever he showed his willingness to make love with her, she went to his residence/quarters and let him cohabit with her and this fact is known to their children also. She has further testified that she does not know Abhishek and no Panchayati was convened on the topic of Abhishek, and their marriage was solemnized with free consent of both of them and still she is willing to live with her husband and her both the children. She has denied to have treated her husband with cruelty.

Further, in her cross-examination, this witness has deposed that she has admitted that she is employee of an Aurbedic College, Patna. In paragraph-24 she has admitted that right from the very beginning of their marriage, there had been quarrel and skirmishing between her and her

husband and her husband has filed altogether four cases. She has also admitted to have filed three cases against her husband in Samastipur out of which one is for restitution of conjugal rights, one of Domestic violence Act and one is for maintenance. She has further admitted to have filed a case of torture for dowry against her husband, but has denied to have filed all the above cases only to harass her husband. She has admitted that at present she has been living at Kadam Kuan, Patna near Uma Cinema. She has denied to have any illicit relation with Abhishek Sinha. She has admitted to be an M.A and skilled in computer Science and is disclosed that at the time of marriage, she was B.A and after marriage she has pursued the education of M.A and training of computer and she is skilled in computer science also. She has denied that during exchange of hot words with her husband, she wanted to kill her son and uttered that she would force her daughter for prostitution. She has admitted that her husband neither had love for her nor has any love for her. At present there had been strained relation between them from the year 2018. She has admitted that in C.P Case No. 3363/2020 her husband made an allegation against her that she inflicted injury on the head of her husband, the petitioner. She has showed her ignorance regarding admission of her husband in hospital, therefore, she did not go to hospital to see him. She has further admitted that to get bail in Dhanbad P.S Case No. 435/2020, she had filed an anticipatory bail application. The entire copy of the bail application has been proved as Ext. 10.

During her cross-examination, the same questions were put by the petitioner himself. During the question and answer, the respondent has denied to have given teeth bite to her husband and has also denied that any

panchyati was held on the matter of Abhishek. She has denied that she always told him that she was married to him by force. She has further denied that she used to throw dirty rugs smeared with blood of periods on him when he used to remain in puja. She has also denied to have given teeth bite and to have scratched him on his offer to cohabit with her. She has denied to have cohabited with other persons due to the petitioner's failure to satisfy her. She has also denied that the case is genuine case and her husband is entitled get a decree of divorce.

D.W.2, namely, Nageshwar Prasad (father of the defendant) and D.W.3, namely, Manish Kumar (brother of the defendant) have also completely supported the assertions and averments made by the defendant-wife in their evidence before the Court.

34. The learned Family Judge has appreciated the entire evidence as well as the documents exhibited on behalf of both the parties and after formulating a specific issue, whether the plaintiff-husband is entitled for a decree of divorce under Section 13(1) (i-a) of the Hindu Marriage Act, 1955, has allowed the suit filed by the husband, which is under challenge in the instant appeal being F.A. No.252 of 2024.

35. It needs to refer herein that since appellate jurisdiction has been invoked herein, therefore, before entering into merit of the case, at this juncture it would be purposeful to discuss the appellate jurisdiction of the High Court.

36. It needs to refer herein that under section 7 of the Family Courts Act, the Family Court shall have and exercise all the jurisdiction exercisable by any District Court or any Sub- ordinate Civil Court under any law for the

time being in force in respect of suits and proceedings of the nature which are described in the explanation to section 7(1).

37. Sub-section (1) to section 19 of the Family Courts Act provides that an appeal shall lie from every judgment or order not being an interlocutory order of a Family Court to the High Court "both on facts and on law". Therefore, section 19 of the Family Courts Act is parallel to section 96 of the Code of Civil Procedure, the scope of which has been dealt with by the Hon'ble Apex Court in series of judgments.

38. The law is well settled that the High Court in a First Appeal can examine every question of law and fact which arises in the facts of the case and has powers to affirm, reverse or modify the judgment under question. In ***"Jagdish Singh v. Madhuri Devi" (2008) 10 SCC 497*** the Hon'ble Supreme Court observed that it is lawful for the High Court acting as the First Appellate Court to enter into not only questions of law but questions of fact as well and the appellate Court therefore can reappraise, reappreciate and review the entire evidence and can come to its own conclusion. For ready reference the relevant paragraph of the said judgment is being quoted as under:

> *"It is no doubt true that the High Court was exercising power as the first appellate court and hence it was open to the Court to enter into not only questions of law but questions of fact as well. It is settled law that an appeal is a continuation of suit. An appeal thus is a rehearing of the main matter and the appellate court can reappraise, reappreciate and review the entire evidence--oral as well as documentary--and can come to its own conclusion."*

39. Further, it needs to refer herein that under section 3 of the Indian Evidence Act a fact is said to be proved when the Court either believes it to exist or considers its existence so probable that a prudent man under the circumstances would proceed on the supposition that such fact really

exists. Therefore, the normal rule of preponderance of probability is the rule which governs the civil proceedings like this.

40. The expression "preponderance of probability" is not capable of exact definition nor can there be any strait-jacket formula or a weighing machine to find out which side the balance is tilted. The preponderance of probability would imply a positive element about possibility of existence of a fact. This means a higher degree of probability of happening of something and existence of a fact.

41. In ***"A. Jayachandra v. Aneel Kaur" (2005) 2 SCC 22*** the Hon'ble Apex Court has observed that the concept, a proof beyond the shadow of doubt, is to be applied to criminal trials and not to civil matters and certainly not to matters of such delicate personal relationship as those of husband and wife.

42. Since this Court is exercising the power of appeal as referred hereinabove and as per the settled position of law which require the consideration of the appellate Court is that the order/judgment passed by the appropriate Forum, if suffers from perversity, the same is to be taken as a ground for its reversal.

43. At this juncture, it needs to refer herein that 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.*
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> ***25.*** *In* ***Parry's*** *(Calcutta) Employees' Union v. Parry&Co. Ltd. [AIR 1966 Cal 31] the Court observed that "perverse finding" means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber&Plastics v. CCE [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.*
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> ***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.*
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> *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.*
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> ***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."*

44. Thus, from the aforesaid, it is evident that any order said to be perverse 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.

45. Thus, "perversity" refers to a finding or decision so unreasonable or irrational that no reasonable person acting judicially could have reached it. It signifies a gross and unreasonable assessment of evidence or law by a court.

46. Further Perversity is a high threshold for intervention, distinguishing it from a mere error of fact or law. The "safest approach on perversity is the classic approach on the reasonable man's inference on the facts but inadequacy of evidence or a different reading of evidence is not perversity, reference in this regard be made to the judgment rendered by

the Hon'ble Apex Court in the case of ***Damodar Lal v. Sohan Devi, (2016) 14 SCC 197.***

47. In the instant case, the ground for divorce has been taken on the ground of cruelty, therefore, it would be apt for this Court to discuss the element of cruelty in order to appreciate the claim of the husband that whether he has been subjected to cruelty by his wife.

48. 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.

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

50. 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."

51. 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."

52. 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.

53. 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".

54. 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.

55. It needs to refer herein that the Hon'ble Apex Court in ***Joydeep Majumdar v. Bharti Jaiswal Majumdar, (2021) 3 SCC 742***, has observed 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.

56. Thus, from the aforesaid, it is evident that for established act of cruelty the conduct complained of either by the spouse 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. Further it is evident from the interpretation of the word cruelty that the same is to be considered on different parameters depending upon the material, if available on record.

57. This Court, on the premise of the interpretation of the word "cruelty" has considered the evidences of the witnesses as has been incorporated by the learned trial Court in the impugned judgment and the same has been referred hereinabove in the preceding paragraphs.

58. It is admitted fact that the parties were married on 07.07.2006 and two children were born out of the wedlock, namely, a daughter, Sanskriti Suman, and a son, Sanskar Suman.

59. The case of the respondent-husband before the learned Family Court was substantially that the appellant-wife subjected him to mental and physical cruelty, denied him physical relationship, lived separately from him despite residing in the same quarter, threatened him, attempted to cause his death on different occasions, administered poison in his tea, poured

boiling water upon him, attempted to set him ablaze, and sent abusive messages through WhatsApp. It was further alleged that the appellant was interested in securing his railway employment after his death.

60. The appellant-wife denied the allegations of cruelty and alleged, inter alia, that the respondent-husband had never extended due love and affection towards her, had neglected her and the children, and had himself been responsible for the strained relationship. She asserted that the allegations levelled against her were false and that she continued to be willing to reside with her husband and children.

61. The respondent-husband examined four witnesses, namely, P.W.1-Yaswant Kumar, P.W.2-Sumitra Devi, P.W.3-Shanskriti Suman, the daughter of the parties, and P.W.4-Suman Kumar Mandal, the respondent-husband himself.

62. The appellant-wife examined herself as D.W.1 and also examined her father, Nageshwar Prasad, as D.W.2, and her brother, Manish Kumar, as D.W.3.

63. The principal evidence in support of the allegations of cruelty is that of P.W.4, (respondent-husband) who has made several allegations against the appellant. P.W.1 and P.W.2 have substantially repeated the version of P.W.4. P.W.3, the daughter of the parties, has also supported the allegation that her mother quarreled with her father and that boiling water was poured upon him.

64. The appellant, in her evidence, has denied the allegations of poisoning, assault, pouring of boiling water, attempt to kill, abusive conduct and other allegations of cruelty. She has stated that the parties had strained

relations but has maintained that she was willing to resume matrimonial life with the respondent.

65. In the facts of the present appeal, the principal issues which arise for consideration are:

> *(i) Whether the evidence adduced by the respondent-husband establishes, on the preponderance of probabilities, that the appellant-wife had treated him with cruelty within the meaning of Section 13(1)(i-a) of the Hindu Marriage Act, 1955, so as to entitle him to a decree of divorce?*
>
> *(ii) Whether the impugned judgment and decree of dissolution of marriage rendered by the learned Family Court suffers from perversity or irrationality, thereby falling within the ambit of appellate interference.*

66. In the present case, the respondent-husband has made a large number of serious allegations against the appellant-wife. These include administering poison in tea, attempting to cause his death, pouring boiling water upon him, attempting to set him ablaze, and seeking to secure his employment after his death.

67. The seriousness of these allegations makes it necessary for the Court to examine the supporting evidence with due care. A mere assertion by the spouse seeking divorce cannot, by itself, be treated as proof of the occurrence alleged.

68. So far as the allegation regarding administration of poison in tea is concerned, the respondent has referred to a complaint allegedly filed before the competent court and has produced a certified copy thereof as Ext.3. However, the mere institution of a complaint or criminal proceeding does not establish the truth of the allegations contained therein. The fact that a criminal case or complaint has been instituted is a circumstance which may be noticed, but it cannot, without proof of the

underlying occurrence, be treated as conclusive proof of cruelty in matrimonial proceedings.

69. Similar is the position regarding the allegations concerning the alleged incident dated 18.12.2019, the hospitalization of the respondent/husband, and the medical documents produced by him. The discharge certificate and CT Scan report may establish that the respondent received medical treatment; however, the documents, by themselves, do not establish that the injuries or medical condition were caused by the appellant-wife.

70. The respondent has also relied upon criminal proceedings, including Dhanbad P.S. Case No. 435/2020, the order taking cognizance and the charge-sheet. It is important to distinguish between the existence of a criminal proceeding and proof of the allegation constituting the offence. The filing of an FIR, submission of a charge-sheet or taking of cognizance does not amount to a finding of guilt against the accused.

71. The same principle applies to the other complaints and applications relied upon by the respondent. They demonstrate that serious disputes existed between the parties, but the fact that complaints were made cannot, in the absence of adjudication establishing the allegations, automatically establish matrimonial cruelty.

72. The respondent has further relied upon the fact that the parties had been living separately. It is admitted from his own cross-examination that the appellant had been residing separately and that the relationship had become strained. However, the mere fact that spouses are living separately, particularly where their relationship has become strained, does not by itself establish that the wife treated the husband with cruelty

73. The respondent has alleged that the appellant refused to establish physical relations with him for several years. The appellant, on the other hand, has denied such allegation and has specifically stated that on several occasions, she had cohabited with the respondent and she is willing to live with him.

74. The evidence on the aforesaid aspect is therefore directly conflicting. No independent evidence has been brought on record which conclusively establishes the allegation of a continuous and unjustified refusal of matrimonial intercourse by the appellant. In such circumstances, the allegation cannot, merely on the basis of the husband's statement, be treated as conclusively established.

75. It is also significant that the respondent admitted during cross-examination that he had not instituted any proceeding for restitution of conjugal rights. While the absence of such proceedings is not, by itself, determinative of the matrimonial dispute, it is a relevant circumstance when the respondent simultaneously asserts that the appellant's refusal to cohabit was the main cause of the alleged cruelty.

76. The respondent further admitted that the appellant's name had been entered in his service book and a railway pass had been issued in her name. These circumstances, considered along with the fact that the parties had continued their matrimonial relationship for a considerable period and had two children, do not by themselves establish the allegations of cruelty levelled against the appellant.

77. Thus, from the aforesaid it is evident that the most serious allegations made by the respondent is the alleged attempts made by the appellant to cause his death. It is true that the respondent has referred to several

complaints and criminal proceedings in support of these allegations. However, the Court has to decide the matrimonial dispute on the evidence legally established before it. The existence of pending criminal proceedings cannot be equated with proof of the commission of the alleged acts.

78. The appellant/wife has consistently denied the allegations. Significantly, there is no final adjudication in the material placed before this Court establishing that the appellant was guilty of attempting to cause the death of the respondent.

79. The learned Family Court, while considering the evidence, appears to have attached substantial weight to the fact that complaints, medical papers, criminal proceedings and other documents had been brought on record. However, the crucial question was not merely whether such proceedings or documents existed, but whether the evidence as a whole established that the appellant had committed acts constituting cruelty within the meaning of Section 13(1)(i-a) of the Act.

80. Admittedly, P.W.3, the daughter of the parties, has supported the case of the respondent-husband and has stated that the appellant quarrelled with him and poured boiling water upon him.

81. The testimony of a child of the parties cannot be discarded merely because she is related to them. At the same time, where the matrimonial dispute is itself highly contested, such testimony has to be assessed along with the surrounding circumstances and the other evidence on record.

82. In the present case, the testimony of P.W.3, when considered along with the other evidence, does establish that the matrimonial relationship between the parties had become seriously strained. However, in the

absence of sufficiently corroborative and conclusive evidence connecting the appellant with the alleged acts of physical violence, the testimony, standing in the circumstances of the present case, does not furnish a safe basis for granting a decree of divorce on the ground of cruelty.

83. The appellant-wife has consistently denied the allegations made against her. More importantly, she has stated that she was willing to live with the respondent and the children.

84. The evidence of the appellant does reveal that the relationship between the parties had been strained for several years and that several proceedings had been instituted by both sides. Her admission that she had instituted proceedings for restitution of conjugal rights, maintenance and under the Domestic Violence Act, as well as a case relating to dowry torture, has to be viewed in its proper context.

85. The institution of matrimonial or criminal proceedings by a spouse does not, in every case, amount to cruelty. Whether the filing of a particular proceeding constitutes cruelty depends upon the facts and circumstances, including its nature, foundation and the manner in which it was pursued.

86. The appellant's statement that she was willing to resume matrimonial life is also a relevant circumstance. It does not by itself disprove the allegations made by the respondent, but it does bear upon the overall assessment of the matrimonial relationship and the question whether the respondent has established a case for dissolution of marriage on the ground of cruelty.

87. The respondent's assertion that he cannot live with the appellant/wife and the relationship has broken down, may demonstrate the seriousness of the

matrimonial discord, but it does not, standing alone, establish that the appellant treated him with cruelty.

88. Further, the principle that a matrimonial proceeding is civil in nature and the standard of proof is preponderance of probabilities does not dispense with the necessity of establishing the foundational facts. Even on the standard applicable to matrimonial proceedings, the Court must be satisfied that the conduct complained of is proved cogently and that such conduct is of the nature contemplated by Section 13(1)(i-a) of the Act. Thus, this Court, while exercising appellate jurisdiction under the Act, cannot convert the fact of a long-standing matrimonial dispute into proof of cruelty unless the statutory ingredients of the ground pleaded are established cogently.

89. On the basis of discussions made hereinabove, it is considered view of this Court that in the present case, the evidence, when considered as a whole, establishes matrimonial discord, separation and acrimony between the parties. It does not, however, sufficiently establish that the appellant-wife subjected the respondent-husband to such cruelty as would justify dissolution of the marriage under Section 13(1)(i-a) of the Act. Accordingly, the finding of the learned Family Court that the respondent-husband had established cruelty on the part of the appellant-wife cannot be sustained. As such, the judgment dated 12.06.2024 and decree passed by the learned Principal Judge, Family Court, Dhanbad in Original Suit No.761 of 2018 are hereby quashed and set aside.

90. Consequently, the present appeal, being F.A. No. 252 of 2024, stands allowed.

91. The judgment and decree passed by the learned Family Court whereby the matrimonial suit filed by the respondent-husband under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 was decreed and the marriage solemnized between the parties on 07.07.2006 was dissolved, are hereby quashed and set aside.

92. It is, however, clarified that this judgment shall not be construed as a finding upon the guilt or innocence of either party in any criminal proceeding pending between them. The criminal proceedings, if any, shall be decided by the competent criminal court independently in accordance with law.

F.A. No.40 of 2025

93. In consequence of allowing the prayer made in F.A. No.252 of 2024, the appeal being F.A. No.40 of 2025 stands dismissed.

94. Pending interlocutory applications, if any, stand disposed of.

(Sujit Narayan Prasad, J.)

I Agree

(Sanjay Prasad, J.)

(Sanjay Prasad, J.)

30/10/2026

Rohit/**A.F.R.**

Uploaded on 30.10.2026