IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 243 of 2024

Jai Shankar Pathak, aged about 29 years, son of Pramod Kumar Pathak, R/o Village-Kishunpur, P.O. & P.S.-Tandwa, Distt.-Chatra (Jharkhand).

… … Appellant/Applicant

Versus

Anshu Bala, W/o Jai Shankar Pathak, D/o Dayanand Pandey, R/o Village-Pandeydih, PO + PS-Rajpur, Distt.-Chatra (Jharkhand).

… … Respondent/Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mrs. Jyoti Nayan, Advocate
For the Respondent : None

CAV/Reserved on 21.09.2026 **Pronounced on: 29.10.2026**

Per Sujit Narayan Prasad, J.

1. The instant appeal under Section 19(1) of the Family Courts Act, 1984 is directed against the order/judgment dated 07.09.2024 and decree signed on 20.09.2024 passed by the learned Principal Judge, Family Court, Chatra in Original Suit No. 79 of 2021, whereby and whereunder, the learned court has dismissed the aforesaid suit filed under Section 13(1) (i-a) & (iii) of the Hindu Marriage Act, 1955 for dissolution of marriage with the respondent-wife.

Factual Matrix

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

2.1 The appellant/petitioner-husband and respondent-wife are legally married wife and husband, and their marriage was solemnized on 31.01.2016 according to Hindu rites and customs at Chatra. After

marriage, appellant and respondent lived together as husband and wife in the parental house of appellant at Chatra and for sometimes at Kota, Rajasthan where the appellant was posted in CISF. Out of the wedlock, the couple were blessed with a son who is now aged about five years.

2.2 It has been further mentioned that the respondent-wife has never brought any happiness to the appellant or to his parents. The only happy feature of the marriage has been the birth of the child but barring that, the period of the marriage has been a story of tragedy for the appellant arising mainly due to the stubborn, egoistic, erratic, cruel and psychopathic disorder of the respondent. After marriage, appellant came to know that the respondent has some illness, short tempered and erratic behaviour.

2.3 He has further averred that from the very first day of marriage, the behaviour of respondent was very strange. She came out rushing from her room and started laughing loudly in front of all the relatives and kept talking to herself. Further, after taking bath she used to come out without proper dress in front of elders and strangers which was very embarrassing and even after repeated request, she did not change this act rather she used to become very aggressive. After Gauna, one day while her mother called on her mobile phone, she started screaming on the phone and suddenly threw the phone and damaged it.

2.4 Thereafter, appellant went to join his place of service at Kota and after some time the parents of appellant brought the respondent to Kota but during the entire journey by train, the respondent behaved abnormally without managing properly her dress due to which the co-passengers

were uncomfortable and even after reaching at Kota, her behaviour was not changed. The parents of appellant returned but due to abnormal behaviour of respondent, the agony of appellant increased. Respondent used to come out from quarter in half dress and she used to sleep the whole day. Appellant has to cook food and perform other household chores. After using toilets, she never used flush water. She was shouting and laughing without any reason. One day appellant returned from his service, he found the door locked inside. He kept knocking due to which the neighbourers came and after great exercise, she opened. She was laughing as a child. Appellant informed his father-in-law, who was also shocked to see her abnormal behaviour. On 13.12.2016, she gave birth of a child but there was no change in her behaviour. She had been a patient of clinical mental depression from before her marriage which was concealed by her parents. She used to behave abnormally. Appellant apprehended that she was thinking of suicide. In the month of May 2017, at the time of ceremony of new born child, she behaved abnormally in the presence of relatives and most shocking episode was that during the unfortunate death of her younger brother in September 2018 when every person was weeping, she was laughing.

2.5 He has further mentioned that Psychiatrist was consulted but she could not be treated and quite often she used to beat her child and ultimately on request of appellant, the father of respondent took her to neurologist at Ranchi, who referred her to psychiatrist finding some serious mental issues but he was not serious then the father of appellant took the

respondent to Ranchi to Dr. M. Jalil, mental disease specialist, who after proper test reported that respondent was mentally retarded with schizophrenic type of mental disorder. Thereafter, respondent was taken to another Dr. Ratnendra Kumar who conducted test and found the same thing. Appellant tried his level best and with a hope that respondent after medical treatment might recover but all his hopes have shattered as there is no chance of her complete recovery. In such a situation, it is not possible for appellant to lead conjugal life with respondent.

2.6 He has further mentioned that the physical relationship was sporadic and devoid of any feeling on the part of respondent and things continued in this manner and during this period the appellant made several attempts to discuss and find solution to his unending misery but did not find any solution and when he desired to seek divorce, his in-laws started to abuse and showing their true colour by threatening to implicate him in numerous false criminal cases. In the mean time, respondent kept coming and going to her parental house but since 17.09.2020 she has been living in her *Naihar.* He has further stated that the cause of action arose on several dates commencing in February 2016 when respondent started to behave abnormally and cruelly and the appellant had never even one day on peace due to her impulsive aggressive temper and the numerous act of cruelty which has broken down the marriage irretrievably and is not possible for appellant to continue, hence, the appellant filed the suit before learned Family

Court for dissolution of his marriage by divorce U/s 13(1) (ia) & 13(1) (iii) of the Hindu Marriage Act.

3. In pursuance of notice by the learned Family Court, the respondent-wife appeared on 06.01.2022 through video conferencing. However, in tune with the provisions of Family Court Act, to explore the possibilities of an amicable solution between the parties to this matrimonial discord, the Court took endeavor to bring about reconciliation between the parties and also referred their dispute to the Mediation Centre, Chatra in accordance with law, but the reconciliation and the mediation yielded no positive result.

4. Respondent-wife filed her written statement contending therein that the petition filed by appellant is not maintainable and liable to be dismissed, because the same is based on false and concocted story. Respondent has denied all the averment of the petition regarding her abnormal behaviour and she has stoutly denied that she had stubborn, egoistic, erratic and cruel attitude and further that she had shown ever disregard towards the appellant and his family members. Admitting the content of para 1, she has mentioned that her marriage was performed with appellant on 31.01.2016 and out of the said wedlock, a son was born on 31.12.2016. She has further mentioned that her husband is doing work in CISF. Denying the contents of other paragraphs of petition, she has mentioned that after marriage the appellant and his family members subjected her to cruelty for the demand of Rs.5,00,000/- and when the demand was not fulfilled, she was tortured and she was falsely alleged that she used to sell the items of the house. She has been falsely alleged that she used to run and laugh in the room without any reason. Denying the contents of Para 2(b), she has submitted that the

maternal uncle of the father of appellant namely Sridhar Pandey is her co-villager and he played important role in performance of the marriage of the parties, so the allegation that any fact was concealed is totally false. She has further submitted that she used to respect her elders in her Sasural and she was always properly dressed in her Sasural and she never behaved abnormally. All the allegation in this regard are totally false and fabricated. She has denied all the allegation mentioned in different paras of the petition and has submitted that she was brought to Kota, where appellant tortured her physically and mentally. Appellant has falsely alleged that she was not properly dressed while traveling in train and was not normal. The allegation that her behaviour was not normal, is totally false rather all these allegations have been made when the demand of Rs. 5 Lakh was not fulfilled. She was blessed with a son on 13.12.2016 and she has been taking care of her son properly and presently she is living in her *Naihar* along with her son. Denying the allegation that she was laughing at the time of death of her brother, she has submitted that all the allegation alleged against her that she was abnormal and her mental condition was not good is totally false and fabricated. She has no mental illness rather a false prescription has been filed by the appellant that she is suffering from schizophrenia. She has further mentioned that considering the allegation of the appellant, she was sent to RINPAS, Kanke, Ranchi by this Court for her medical examination by constituting a Medical Board, where it was found that there is nothing abnormal in her behaviour. She has further mentioned that all the allegation regarding her abnormal behaviour is false and baseless rather the respondent was subjected to cruelty and torture for the demand of five lakh

rupees and on 26.11.2021 she was driven out from her matrimonial house along with her son after snatching her entire clothes and ornaments and she was forcibly sent to her *Naihar* with a threatening that they would not keep her until the demand is fulfilled and thus since 26.11.2021 she has been living in her *Naihar* and in the meantime appellant never came to see her and had never given any monetary support. She is always ready to live with appellant and to lead her conjugal life. She always respected her husband and his family members, but it is the appellant who had driven her from her matrimonial house and filed this case on the basis of false and concocted story.

5. The learned Family Judge based upon the aforesaid pleadings framed altogether seven issues which are as follows:

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

(2) Whether the petitioner has valid cause of action for the suit?

(3) Whether the action of the respondent after solemnization of marriage, as alleged in plaint amounts to treating the petitioner with cruelty?

(4) Whether the action of respondent-wife has been abnormal and she is incurably of unsound mind or has been suffering continuously or intermittently from mental disorder as alleged in plaint due to which the petitioner cannot reasonably be expected to live with her?

(5) Whether the petitioner was kept in dark and was not disclosed regarding the alleged fact of unsound mind of respondent, if any or not?

(6) Whether the petitioner is entitled for decree of divorce by dissolving the marriage?

(7) Whether the petitioner is entitled for relief or reliefs?

6. The evidences have been made on behalf of both the parties. Thereafter, the judgment has been passed dismissing the suit by holding that the appellant has not been able to prove his case against the defendant even to the extent of preponderance of probabilities, which is the subject matter of the present appeal.

Submission of the learned senior counsel for the appellant/husband:

7. It has been contended on behalf of the appellant/husband that the factual aspect which was available before the learned court supported by the evidences adduced on behalf of the appellant/husband has not properly been considered and as such, the judgment impugned is perverse, hence, not sustainable in the eyes of law.

8. The ground has been taken that the learned court has failed to take into consideration that the respondent is suffering from mental disorder, i.e., Schizophrenia and she used to behave abnormally on various occasions which is a kind of mental cruelty which has been taken into consideration.

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

10. None is present to represent the respondent-wife.

Analysis:

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

12. The case has been heard at length. The admitted fact herein is that the suit for dissolution of marriage had been filed by filing an application under Section 13(1)(i-a) & (iii) of the Hindu Marriage Act, 1955 and accordingly, issues have been framed by the learned Family Court wherein primarily issue nos.3, 4 & 5 pertains to whether the marriage of the appellant/appellant and respondent-wife is fit to be dissolved on the ground of cruelty; whether the action of the respondent-wife has been abnormal and she is incurably of unsound mind or has been suffering from mental disorder as alleged in plaint and; whether the petitioner was kept in dark and was not disclosed regarding the alleged fact of unsound mind of respondent.

13. The learned Family Judge has considered the evidence adduced by the party and this Court in order to appreciate the aforesaid rival submission before entering into the legality and propriety of the impugned judgment needs to discuss herein the relevant part of the evidences adduced on behalf of the appellant-husband wherein the element of cruelty and the ground of unsoundness of mind of the respondent-wife has been taken.

14. During the trial, the appellant-husband has exhibited some documents which are being referred as under for ready reference:

Exhibit	Documentary Evidence
1	The psychological testing report dated 26.10.2018 of Anshu Bala
2&2/1	The prescriptions of Dr. U.N. Choudhary dated 15.08.2019 & 25.10.2018.
3	The prescription of Dr. Ratnendra Kumar dated 04.06.2020.

15. Now adverting to the factual aspect of the case.

16. It is evident that the evidences have been led on behalf of both the parties before the Family Court. For better appreciation, the evidences led on behalf of the appellant/husband are being referred as under:

(i) **P.W-1**, is the appellant himself. He has stated in examination-in-chief that on 31.01.2016 his marriage was performed with respondent Anshu Bala and out of the said wedlock, a son was born namely Vishnu Shankar @ Arnav aged about seven years, He has further stated that the behaviour of respondent has never been good towards him and his parents since the time of marriage, as she used to quarrel with them. Her mental status was not good since the time of marriage and by concealing the fact, the marriage was performed. He further deposed that the respondent used to scream and laugh without any reason and she often comes out of the house without proper dress and once she had broken mobile while talking with her mother. He is a Constable in CISF and once he was taking her to Kota, Rajasthan by train but she behaved in the train abnormally. On 13.12.2016, she gave birth to a male child even then her behaviour was not changed. Her father came and took her away but the father of the appellant took the respondent to mental disease specialist Dr. M. Jalil at Ranchi who after conducting test opined that she was suffering from schizophrenic type of mental disorder. Dr. Ratnendra Kumar has also opined the same. The appellant got her treated but she could not be cured and there is no chance of her recovery due to which the appellant was deprived of his conjugal life and at the same time the

parents of respondent were conspiring to file false case against him, hence he filed the case for divorce.

In his cross-examination, he has stated that the maternal uncle of his father namely Sridhar Pandey is the resident of Pandeydih where his marriage was performed. His father-in-law and the said Sridhar Pandey has sweet relation. His father used to go to the house of his maternal uncle Sridhar Pandey, who was the mediator of his marriage. Sridhar Pandey disclosed everything good about the respondent. He has further stated that before the birth of the child, respondent was abnormal, but he did not get her treated. He has further stated that on his allegation, the respondent Anshu Bala was sent to RINPAS, Ranchi for the examination of her mental illness and she was examined there by Medical Board. He has denied that respondent was tortured for demand of dowry and was driven from the matrimonial house.

(ii) **P.W.-2**, is Ram Pravesh Pathak who has stated the similar facts in his examination-in-chief what P.W.-1 has stated.

In his cross-examination, he stated that he is the relative of Jai Shankar Pathak. He has further stated that respondent Anshu Bala was blessed with a son after one year of marriage. He has further stated that Anshu Bala was taken to the doctors at Ranchi, but he cannot tell about the content of prescription.

(iii) **P.W.-3**, is Awadh Nandan Mishra who has also deposed the similar fact in examination-in-chief what P.W.-1 has stated.

In his cross-examination, he has stated that he had never gone to the clinic of Dr. Jalil and Dr. Choudhary during the course of treatment of Anshu Bala. He cannot tell that when Anshu Bala was taken to these doctors. He has further stated that he cannot tell that on which date the respondent had quarreled. He has denied that respondent Anshu Bala was demanded dowry and she was driven out in non-fulfilment of the same. He has stated that Anshu Bala was sent before Medical Board by the order of the Court. He has denied that Anshu Bala has no illness.

(iv) **P.W.-4**, Pramod Kumar Pathak is the father of petitioner. He has stated in examination-in-chief that the marriage of his son was solemnized with respondent on 31.01.2016. After marriage, the behaviour of his daughter-in-law has not been good towards him and his family members. She used to scream and laugh without any reason. She used to come outside of the house without proper dress. Once she broke the mobile by throwing it. Her behaviour was strange. His son was taking her to Kota, Rajasthan, but in the train she was behaving unusually. Sometimes she used to open her dress and sometimes she used to quarrel with the passenger. He got her treated by Dr. U. N. Choudhary, Dr. M. Jalil, a mental disease specialist and Dr. Ratnendra Kumar and he has identified their prescriptions. He has further stated that the doctor has opined that she was suffering from schizophrenic type of mental illness. He has further stated that he was getting her treatment but her father had

taken her away and he did not want to send her daughter, hence the appellant has filed the case for divorce.

In his cross-examination, he has stated that the marriage of his son was performed on 31.01.2016 and at the time of ring ceremony, he came to know that the girl was not normal but the marriage was performed with the consent of both the parties. After marriage, respondent came to her Sasural and thereafter she went to Kota, Rajasthan where she stayed with the appellant. Her behaviour was not normal. On 13.12.2016, respondent was blessed with a son. He has further stated that he used to go to the house of his maternal uncle, who is co-villager of respondent. Prior to marriage, he went to the house of Dayanand Pandey. He had seen the respondent in her childhood. He has further stated that the parents of respondent were not present when he got the treatment of respondent by Dr. M. Jalil, Dr. Ratnendra Kumar and Dr. U. N. Choudhary, He has denied that medical certificate, issued by these doctors are forged. He has denied that respondent Anshu Bala was subjected to cruelty for the demand of five lakh rupees.

(v) **P.W.-5**, Dr. M. Jalil has stated that he is a clinical psychologist in Ranchi. He has further stated that on 26.10.2018, the psychological testing report of Anshu Bala was issued by him, who was referred by Dr. Umesh Narayan Choudhary. He has identified his testing report in his signature which has been marked as Ext. 1. He has stated that he found that Anshu Bala was suffering from schizophrenic type of mental disorder. He has identified the prescription of Dr. U. N.

Choudhary related with Anshu Bala which have been marked Ext. 2 & 2/1. He has identified the prescription of Dr. Ratnendra Kumar which has been marked as Ext. 3.

In his cross-examination he has stated that Anshu Bala was brought by her father-in-law, but he has not mentioned the name of his father-in-law. The parents of Anshu Bala were not present. He has not mentioned any mark of identification of Anshu Bala in his report and even no signature of Anshu Bala is there on his report. He has further stated that schizophrenia can be due to hormonal imbalance. He has further stated that the testing report of Anshu Bala is not lying before him rather the report prepared on the basis of test is lying before him. He has further stated that Dr. U. N. Choudhary and Dr. Ratnendra Kumar are alive. He has further stated that he has been brought by the father-in-law of Anshu Bala and he has borne all the expenditure of his traveling

17. The evidences led on behalf of the respondent/wife are being referred as under:

(i) **R.W.-1**, is the respondent Anshu Bala. She has stated in examination-in-chief that her marriage was performed with appellant on 31.01.2016 according to Hindu religion. In her marriage, her father gifted all the items and four lakh rupees to the mother of appellant. The marriage was negotiated by the maternal uncle of the father of the appellant, who is her co-villager and the appellant and his family members had seen and met her and they became ready for marriage. The appellant used to come to the house of the maternal

uncle of his father and she was known to him from before her marriage. After marriage, she was blessed with a son on 13.12.2016 but thereafter the appellant and his family members began to pressurize her to bring five lakh rupees and in non-fulfillment she was subjected to physical and mental torture and they started saying that she was insane and mentally ill and ultimately, she was driven out from her matrimonial house with threatening to not return until the demand was fulfilled. She has denied that she has any mental illness. She has stated that she was sent to RINPAS, nothing abnormal was found by the Medical Board. She has further stated that she was driven out from her matrimonial house, hence she has filed this maintenance case and complaint case for the demand of dowry and torture.

In her cross-examination, she has stated that her husband is a constable in CISF. She cannot tell the date on which her treatment was done by Dr. Ratnendrea Kumar. She used to take medicine. Doctor had told that she has schizophrenic illness. She had gone to Kota, Rajasthan. Her father had brought from there. Her father had not got her treatment; she has further stated that she did not file any case prior to this case. She has filed the case of dowry demand and maintenance case after this case. Her husband does not give any money for her treatment.

(ii) **R.W.-2**, Dayanand Pandey is the father of respondent. He has stated the similar facts in his examination-in-chief what the R.W.-1 stated.

In his cross-examination, he has stated that he is a teacher and he is maintaining his entire including his daughter Anshu Bala. He did not bring his daughter from Rajasthan. He had never gone to Ranchi for the treatment of his daughter but by the order of the Court, he went to RINPAS, Ranchi along with daughter. Report was not prepared in his presence. Report of RINPAS was not given to Anshu Bala. He has further stated that his wife, son-in-law and Samadhi had also gone to RINPAS by the order of the Court. He has further stated that demand of dowry was started after birth of child. He has denied that his daughter was suffering from schizophrenic type of illness and he performed her marriage by concealing this fact.

(iii) **R.W.-3** Bhuneshwari Devi **& R.W.-4** Rambriksh Singh have also stated the similar facts in their examination-in-chief what R.W.-2 has stated.

In the cross-examination of R.W.-3, she has stated that she cannot tell the date when respondent was demanded dowry. She cannot tell the date when she was dropped by the appellant. She has stated that she knows that the husband of respondent has filed the case on the ground of her insanity.

In cross-examination of R.W.-4, he has stated that he is the neighbour of Dayanand Pandey. He cannot tell what had happened with Anshu Bala in her Sasural.

18. The learned Family Judge has appreciated the evidences led on behalf of the parties as also the submission made in the pleading, i.e., plaint and written statement, and on consideration of the aforesaid, has dismissed the

suit filed under Section 13(1)(i-a) & (iii) of the Hindu Marriage Act, 1955 by the appellant against the respondent for dissolution of marriage on the ground of cruelty and insanity.

19. The learned counsel for the appellant/husband has argued that the evidence led before the learned Family Court has not properly been considered and as such, the judgment suffers from perversity, hence, not sustainable in the eyes of law.

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

> ***"24.*** *The expression "perverse" has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court observed that the expression "perverse" means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.*

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

26. *In M.S. Narayanagouda v. Girijamma [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough [(1878) 1 LR 1r 331] the Court observed that a "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In Godfrey v. Godfrey [106 NW 814] the Court defined "perverse" as turned the wrong way, not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.*

27. *The expression "perverse" has been defined by various dictionaries in the following manner:*

1. Oxford Advanced Learner's Dictionary of Current English, 6th Edn.

"Perverse.—Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable."

2. Longman Dictionary of Contemporary English, International Edn.

Perverse.—Deliberately departing from what is normal and reasonable.

3. The New Oxford Dictionary of English, 1998 Edn.

Perverse.—Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.

4. The New Lexicon Webster's Dictionary of the English Language (Deluxe Encyclopedic Edn.)

Perverse.—Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.

5. Stroud's Judicial Dictionary of Words & Phrases, 4th Edn.

> *"Perverse.—A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.""*

21. In the background of aforesaid factual aspect this Court is adverting to appreciate the issue of cruelty.

22. 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.

23. 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 husband and his parents demanded dowry. The Hon'ble Apex Court emphasized that "cruelty" can have no fixed definition.

24. 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."

25. 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."

26. 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.

27. 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".

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

29. 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.

30. 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.

31. Before entering into the issue of cruelty, it needs to refer herein that it is settled position that a proceeding under Hindu Marriage act is not criminal proceeding where proof beyond reasonable doubt is required rather "preponderance of probability" is enough.

32. Here, in the present case, it is admitted fact that the marriage of the appellant with respondent was solemnized on 31.01.2016 according to Hindu rites and custom. It is also admitted fact that after marriage respondent came to the house of the appellant and both parties cohabited and lived their conjugal life and out of the said wedlock, the parties were blessed with a son namely Arnav Kumar. It is also admitted fact that both parties had met with each other prior to the marriage. The appellant has admitted that the maternal uncle of his father namely Sridhar Pandey is the co-villager of

respondent and said Sridhar Pandey was the mediator of the marriage of the parties. The father of the appellant namely Pramod Kumar Pathak has taken oath as P.W.-4 and he has admitted that he has been going to the house of his maternal uncle Sridhar Pandey at village Pandeydih since his childhood and in that course, he had gone several times to the house of the respondent prior to the marriage of his son. He has also admitted that he had seen the respondent from her childhood. The appellant has also admitted that his father used to go to the house of his maternal uncle at Pandeydih where his Sasural is situated.

33. Thus, the learned court, on consideration of the aforesaid fact has opined that the respondent was not a stranger and unknown to the family of the appellant rather the evidences clearly reveal that both parties knew each other before their marriage and hence the allegation of the appellant that the so called abnormal behaviour and illness of respondent was concealed, does not appear to be true.

34. It is apparent from the impugned judgment/order that the learned court on perusal of the pleading and evidences, has taken note that the appellant has alleged that from the very beginning the behaviour of respondent was strange and she used to laugh without any reason and she used to come outside of the house without proper dress and her behaviour was extremely abnormal and embarrassing, but admittedly after the marriage, respondent lived with the appellant and both the parties cohabited and led their conjugal life and out of the said wedlock, respondent was blessed with a son on 31.12.2016 and is presently living with his mother.

35. It has further been taken note that neither the appellant nor his father has ever told that respondent had ever abused and misbehaved them. There is no allegation that respondent had ever used force or had assaulted the appellant or his family members. The appellant and his witnesses have nowhere stated that the respondent had ever injured herself or had attempted to commit suicide. No specific instance of cruelty with sufficient particularity the time and place of the acts alleged have been witnessed by any person rather general and vague allegation has been made against her. Thus, it appears that no cogent and reliable material has been brought on record regarding the cruelty committed by the respondent.

36. 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.

37. So far as the issue of mental illness is concerned it is evident from the impugned order that the learned Family Court has categorically held that no cogent evidence has been adduced by the appellant-husband in order to prove the mental illness of respondent-wife and therefore the Family Court has also decided this issue against the appellant/husband.

38. In the aforesaid context, it needs to refer herein Section 13(1) (iii) of the Act 1955 which reads as under:

> *"13. Divorce. — (1) Any marriage solemnized, whether before or after the commencement of the Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party—*
>
> ----------

> *(iii) has been incurably of unsound mind, or has suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.*
>
> *Explanation- In this clause—*
>
> *(a) the expression "mental disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and include schizophrenia;*
>
> *(b) the expression "psychopathic disorder" means a persistent disorder or disability of mind (whether or not including subnormality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the other party and whether or not it requires or is susceptible to medical treatment; or……"*

39. The aforesaid provision shows that there are two separate grounds in the provision viz. (a) incurable unsound mind; and, (b) respondent spouse has been suffering continuously or intermittently from mental disorder and the disorder is of such kind and of such extent that the petitioner cannot reasonably be expected to live with the respondent.

40. From the wording of the aforesaid provision, it can be said that the mental condition like incurable unsound mind mentioned in the first part or the mental disorder mentioned in the second part needs to be proved by expert evidence and that evidence needs to satisfy the Court that such mental condition exists.

41. From the wording of the provision, it can be said that the second part of the provision has wide scope. For this part, it is not necessary that mental disorder is incurable. However, the mental disorder must be of such kind and extent that the Court needs to be satisfied that it is not advisable to ask the petitioner to live with the respondent. The scope shows that there is no limit to the kind of mental disorder as no specific kind is mentioned. However, the term "has been suffering" shows that the period of illness

must not be too short or the petition should not be based on one or two instances showing such mental disorder.

42. The term "intermittently" cannot be misread in this provision to infer that the mental illness returns after the treatment within few days. The term "extent" is also important and on that also the Court needs to be satisfied to come to the conclusion that the petitioner cannot be reasonably expected to live with the husband.

43. Thus, it is evident that the relief is discretionary and while using discretion, the Court is expected to keep in mind the aforesaid things as mentioned above. Further, the burden to prove mental disorder mentioned as second part of the aforesaid provision or the burden to prove incurable unsound mind lies on the party who seeks to use the ground.

44. It needs to refer herein that Psychiatrist is an expert but in view of provision of section 45 of the Evidence Act, it is up to the Court to either rely on the opinion or to refuse to do so. Further, he being a witness, his credibility can be impeached like the credibility of any other witnesses and his veracity can be tested as provided in section 146 and other provisions of Evidence Act. As psychiatrist is expected to give evidence on the basis of the examination of the patient done by him, the symptoms noted by him, the treatment and the follow up treatment given by him and the record created by him needs to be considered both for corroboration and contradiction purpose. <u>In such a case the evidence of other witnesses or the circumstances which relates to the behaviour of the respondent can be considered by the Court as that can help strengthening the opinion or create probability that the opinion has no justification and it is weak.</u>

45. The Hon'ble Apex Court in the case of ***Kollam Chandra Sekhar v. Kollam Padma Latha, (2014) 1 SCC 225*** has categorically observed that the ideas of unsoundness of 'mind' and 'mental disorder' occur in the section as grounds for dissolution of a marriage, require the assessment of the degree of the 'mental disorder'. Its degree must be such that the spouse seeking relief cannot reasonably be expected to live with the other. All mental abnormalities are not recognised as grounds for grant of decree. If the mere existence of any degree of mental abnormality could justify dissolution of a marriage few marriages would, indeed, survive in law. For ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

> *"22. The relevant portions with regard to "unsoundness of mind" and "mental disorder" from the case referred to supra are extracted hereunder: (Ram Narain Gupta case [(1988) 4 SCC 247] , SCC pp. 254-56, paras 20-24)*
>
> *"20. The context in which the ideas of unsoundness of 'mind' and 'mental disorder' occur in the section as grounds for dissolution of a marriage, require the assessment of the degree of the 'mental disorder'. Its degree must be such that the spouse seeking relief cannot reasonably be expected to live with the other. All mental abnormalities are not recognised as grounds for grant of decree. If the mere existence of any degree of mental abnormality could justify dissolution of a marriage few marriages would, indeed, survive in law.*
>
> *21. The answer to the apparently simple—and perhaps misleading—question as to 'who is normal?' runs inevitably into philosophical thickets of the concept of mental normalcy and as involved therein, of the 'mind' itself. These concepts of 'mind', 'mental phenomena', etc. are more known than understood and the theories of 'mind' and 'mentation' do not indicate any internal consistency, let alone validity, of their basic ideas. Theories of 'mind' with cognate ideas of 'perception' and 'consciousness' encompass a wide range of thoughts, more ontological than epistemological. Theories of mental phenomena are diverse and include the dualist concept—shared by Descartes and Sigmund Freud—of the separateness of the existence of the physical or the material world as distinguished from the non-material*

mental world with its existence only spatially and not temporally. There is, again, the theory which stresses the neurological basis of the 'mental phenomenon' by asserting the functional correlation of the neuronal arrangements of the brain with mental phenomena. The 'behaviourist' tradition, on the other hand, interprets all reference to mind as 'constructs' out of behaviour. 'Functionalism', however, seems to assert that mind is the logical or functional state of physical systems. But all theories seem to recognise, in varying degrees, that the psychometric control over the mind operates at a level not yet fully taught to science. When a person is oppressed by intense and seemingly insoluble moral dilemmas, or when grief of loss of dear ones etch away all the bright colours of life, or where a broken marriage brings with it the loss of emotional security, what standards of normalcy of behaviour could be formulated and applied? The arcane infallibility of science has not fully pervaded the study of the non-material dimensions of 'being'.

22. Speaking of the indisposition of science towards this study, a learned author says:

'... we have inherited cultural resistance to treating the conscious mind as a biological phenomenon like any other. This goes back to Descartes in the seventeenth century. Descartes divided the world into two kinds of substances: mental substances and physical substances. Physical substances were the proper domain of science and mental substances were the property of religion. Something of an acceptance of this division exists even to the present day. So, for example, consciousness and subjectivity are often regarded as unsuitable topics for science. And this reluctance to deal with consciousness and subjectivity is part of a persistent objectifying tendency. People think science must be about objectively observable phenomena. On occasions when I have lectured to audiences of biologists and neurophysiologists, I have found many of them very reluctant to treat the mind in general and consciousness in particular as a proper domain of scientific investigation.

... the use of the noun 'mind' is dangerously inhabited by the ghosts of old philosophical theories. It is very difficult to resist the idea that the mind is a kind of a thing, or at least an arena, or at least some kind of black box in which all of these mental processes occur.' [John R. Searle, Minds, Brains and Science-Reith Lectures (Harvard University Press, 1984), pp. 10 and 11.]

23. Lord Wilberforce, referring to the psychological basis of physical illness said that the area of ignorance of the body-mind relation seems to expand with that of knowledge. In McLoughlin v. O'Brian [(1983) 1 AC 410 : (1982) 2 WLR 982 : (1982) 2 All ER 298 (HL)] , the learned Lord said, though in a different context: (AC p. 418 B : All ER p. 301)

'... Whatever is unknown about the mind-body relationship (and the area of ignorance seems to expand with that of knowledge), it is now accepted by medical science that recognisable and severe physical damage to the human body and system may be caused by the impact, through the senses, of external events on the mind. There may thus be produced what is as identifiable an illness as any that may be caused by direct physical impact. It is safe to say that this, in general terms, is understood by the ordinary man or woman who is hypothesised by the courts….'

24. But the illnesses that are called 'mental' are kept distinguished from those that ail the 'body' in a fundamental way. In Philosophy and Medicine, Vol. 5 at p. X the learned editor refers to what distinguishes the two qualitatively:

'Undoubtedly, mental illness is so disvalued because it strikes at the very roots of our personhood. It visits us with uncontrollable fears, obsessions, compulsions and anxieties….

… This is captured in part by the language we use in describing the mentally ill. One is an hysteric, is a neurotic, is an obsessive, is a schizophrenic, is a manic-depressive. On the other hand, one has heart disease, has cancer, has the flu, has malaria, has smallpox….'"

The principle laid down by this Court in the aforesaid case with all fours is applicable to the fact situation on hand wherein this Court has rightly referred to Section 13(1)(iii) of the Act and Explanation to the said clause and made certain pertinent observations regarding "unsound mind" or "mental disorder" and the application of the same as grounds for dissolution of marriage. This Court cautioned that Section 13(1)(iii) of the Act does not make a mere existence of a mental disorder of any degree sufficient in law to justify the dissolution of marriage.

35. In the English case of Whysall v. Whysall [1960 P 52 : (1959) 3 WLR 592 : (1959) 3 All ER 389] , it was held that a spouse is "incurably of unsound mind" if he or she is of such mental incapacity as to make normal married life impossible and there is no prospect of any improvement in mental health, which would make this possible in future. The High Court of Judicature of Calcutta, in Pramatha Kumar Maity v. Ashima Maity [AIR

1991 Cal 123] has held that mental disorder of the wife, even if proved, cannot, by itself, warrant a decree of divorce and it must be further proved that it is of such a nature as the husband could not be expected to live with the wife.

38. We are of the view that the High Court in exercise of its appellate jurisdiction has rightly come to a different conclusion that the respondent is not suffering from the ailment of schizophrenia or incurable unsoundness of mind. Further, the High Court has rightly rejected the finding of the trial court which is based on Ext. B-10 and other documentary and oral evidence by applying the ratio laid down by this Court in Ram Narain Gupta v. Rameshwari Gupta [(1988) 4 SCC 247] referred to supra. A pertinent point to be taken into consideration is that the respondent had not only completed MBBS but also did a postgraduate diploma in Medicine and was continuously working as a Government Medical Officer and had she been suffering from any serious kind of mental disorder, particularly, acute type of schizophrenia, it would have been impossible for her to work in the said post. The appellant husband cannot simply abandon his wife because she is suffering from sickness. Therefore, the High Court allowed both the CMAs and dismissed OP No. 203 of 2000 filed by the appellant for divorce and allowed OP No. 1 of 1999 filed by the respondent for restitution of conjugal rights wherein the High Court granted decree of restitution of conjugal rights in favour of the respondent."

46. The Hon'ble Apex Court in the aforesaid judgment has categorically held that marriage is highly revered in India and we are a nation that prides itself on the strong foundation of our marriages, come hell or high water, rain or sunshine. Life is made up of good times and bad, and the bad times can bring with it terrible illnesses and extreme hardships. The partners in a marriage must weather these storms and embrace the sunshine with equanimity. Any person may have bad health, this is not their fault and most times, it is not within their control, as in the present case, the respondent was unwell and was taking treatment for the same. The illness had its fair share of problems. Can this be a reason for the appellant to abandon her and seek dissolution of marriage.

47. Thus, the Hon'ble Apex Court cautioned that Section 13(1)(iii) of the Act does not make a mere existence of a mental disorder of any degree sufficient in law to justify the dissolution of marriage.

48. Now adverting fact of the instant case regarding the issue of mental illness/disorder.

49. The appellant has mainly focused on the allegation that the respondent was abnormal from very beginning and the father of respondent did not get her treated and the appellant and his father got the respondent treated by the consultant psychiatric Ratnendra Kumar of Ranchi and Dr. M. Jalil who has submitted his report that respondent is mentally retarded with schizophrenic type of mental disorder and the said psychological testing report has been marked as Ext. 1. The appellant has mainly focused that the abnormal, impulsive and aggressive behaviour of respondent, caused cruelty to him and it was not possible for him to live with her. The respondent has strongly denied that she has any such type of mental illness and it has been submitted on behalf of respondent that she has never shown disregard to appellant and his family members and no specific instance of disrespect by the respondent has been shown by appellant rather she was subjected to torture and the said report has been obtained by the appellant and his father deliberately in order to get rid of her.

50. It has further been taken note that, as had been submitted on behalf of respondent that on the allegation of mental illness of respondent, the Predecessor Court sent the respondent to RINPAS, Ranchi for her examination by the Medical Board and in the presence of both the parties, the Medical Board examined her and found no such mental disorder in the

respondent and the real fact is that respondent has no such illness and she has always been ready to live with the appellant but she was subjected to cruelty for the demand of dowry of Rs. 5,00,000/-.

51. It has also been taken note in the impugned judgment that the appellant has filed some medical prescription of the respondent of the year 2018 including the psychological testing report of Dr. M. Jalil, the mental disease specialist, which has been marked as Ext. 1. The said Dr. M. Jalil has also been produced by the appellant who has taken oath as P.W.-5 and he has stated that after examination he found that Anshu Bala is mentally retarded with schizophrenic type of mental disorder, but on perusal of the prescription and report submitted on behalf of the appellant, it transpires that the doctors have nowhere reported and mentioned any certificate that the illness of respondent is not curable rather the said Dr. M. Jalil has reported in his psychological testing report that *"there was no any fundamental disturbance in her process of attention and concentration,"* Although he has mentioned her intellectual development is below average but has further reported *"that there was no any convincing evidence of defective visual motor coordination. Rorschach protocol reveal some mild perceptual abnormality"*. Thus, the report of the doctor itself shows that there is some mild abnormality and the doctor himself has not mentioned in clear words that she is suffering from schizophrenia. Moreover, after filing of the case on the ground of unsoundness mind of respondent, the Predecessor Court issued Letter of request to the Director, RINPAS, Kanke, Ranchi for constitution of a Medical Board for examination of respondent Anshu Bala and thereafter the respondent was sent before the Medical

Board and admittedly in the presence of both the parties, the Medical Board examined the respondent and submitted its report to the Family Court through the Letter No. 1146 dated 10.05.2022 of the Director, RINPAS, Kanke, Ranchi, which have been marked in this case as Ext. C & C/1. The Medical Board which comprised two psychiatrist doctors and one medical superintendent, has given its report and from perusal of the report, it transpires that the Medical Board after examination of the mental status of respondent Anshu Bala has concluded that *"no abnormal psychopathology could be elicited, hence on the basis of clinical history, mental status examination and psychological evaluation, Smt. Anshu Bala does not appear to have any psychiatric illness"*, thus, the said report of Medical Board clearly reveals, that the respondent does not have any psychiatric illness.

52. It has further been taken note in the impugned judgment that although, the appellant had filed an objection against the said report at much belated stage mentioning that without examination of Anshu Bala, the said report was submitted by the Medical Board and the said report was prepared by the doctor under the influence of Anshu Bala, but it has been observed that the objection raised on behalf of appellant has no leg to stand as the appellant and his father have admitted that by the order of the Court, Anshu Bala was sent before the Medical Board, RINPAS for her examination and in presence of both the parties, the respondent Anshu Bala was examined by the Medical Board, RINPAS.

53. In view of the above, it has been observed that the report was submitted much earlier and the said report was seen by the predecessor court and had

been attached with the record visible to both the parties. So, the plea that the appellant had no knowledge earlier about the said report and the said report was prepared by Medical Board without examination of Anshu Bala and under her influence, is not tenable at all. Further, the appellant has never prayed before the Court to call for any member of Medical Board for his cross-examination in order to question the said report regarding the nature and illness of the respondent and in want of the said prayer, the medical report prepared by the said Medical Board of RINPAS, Ranchi after examination of Anshu Bala in presence of both the parties, is said to be a significant document which clearly negates the allegation of the appellant.

54. It is also apparent that after marriage, both parties cohabited and out of the said conjugal relation, a son was born on 31.12.2016 namely Arnav Kumar and the respondent had been taking care of her son at her parental house. Admittedly, the appellant has admitted in his evidence that he has not been paying any rupee to his wife and child for their maintenance and admittedly the respondent has filed a case of maintenance against her husband. The appellant has also admitted that prior to the birth of his son, he did not get the respondent treated by any of the specialist. Further, although he has stated that he wanted to continue the treatment of the respondent but her father had taken her away, but at the same time there is no material on record that he had ever attempted to bring back his wife and son in order to restore his matrimonial life rather his wife-respondent has pleaded and submitted that she has always been ready to live with her husband-appellant and under compulsion she has filed the case of maintenance.

55. It has also been taken note that the respondent Anshu Bala has filed her written statement and at the trial she has been cross-examined at length and during her cross-examination she has answered in a very natural, proper and balanced manner considering all the questions put to her and further the record shows that she has been taking care of her son at her parental house and there is no evidence that she was not able to discharge her matrimonial obligation.

56. Thus, on perusal of the entire evidences, the learned court has come to the conclusion that the appellant had not brought sufficient material to prove that the respondent has treated him with cruelty and she has been incurable of unsound mind or has been suffering to such mental order of such a kind that the appellant cannot reasonably be expected to live with her. Therefore, the said issue has also been decided against the appellant along with the issue of cruelty.

57. This Court, on consideration of the finding arrived at by the learned Family Judge and based upon the aforesaid discussion, is of the view that the judgment and decree passed by the learned Family Judge is not coming under the fold of perversity, since, the conscious consideration has been made of the evidences, both ocular and documentary, as would be evident from the impugned judgment.

58. Accordingly, the order/judgment dated 07.09.2024 and decree signed on 20.09.2024 passed by the learned Principal Judge, Family Court, Chatra in Original Suit No. 79 of 2021, whereby and whereunder, the learned court has dismissed the original suit filed under Section 13(1)(ia) & (iii) of the

Hindu Marriage Act, 1955 for dissolution of marriage with the respondent-wife, warrants no interference.

59. Accordingly, the instant appeal fails and is dismissed.

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

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

(Pradeep Kumar Srivastava, J.) **(Pradeep Kumar Srivastava, J.)**

29th October, 2026

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

Uploaded on 30.10.2026