CGHC010445412025 2026:CGHC:46240-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

FA(MAT) No. 375 of 2025

Smt. Ritu Shrivas W/o Narendra Singh Darshan Aged About 33 Years R/o 27 Kholi Vikash Nagar, Bilaspur, Police Station - Civil Line, Tehsil And District - Bilaspur (C.G.)

... Appellant (s)

versus

Narendra Singh Darshan S/o Bhagwat Prasad Shrivas Aged About 42 Years Profession Training Officer ITI Bhilai, Through - Principal Industrial Training Institute Bhilai, Tehsil And District - Durg (C.G.) Present R/o (Not Mention In Impugned Order) Ward No. 12 Village Hanfa Tahsil Sakri, District - Bilaspur (C.G.)

... Respondent(s)

For Appellant	:	Mr. Hemant Kesharwani, Advocate with Mr. Swapnil Keshari, Advocate
For Respondent	:	Mr. Rakesh Kumar Thakur, Advocate with Mr. Satyendra Srivas, Advocate

D.B. : Hon'ble Shri Justice Parth Prateem Sahu &
Hon'ble Smt. Justice Sushma Sawant

Judgment on Board

02/11/2026

Per **Parth Prateem Sahu, J.**

1. This appeal under Section 19(1) of the Family Courts Act, 1984 is directed against the judgment and decree dated 08.09.2025 passed by

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learned Principal Judge, Family Court, Bilaspur, District- Bilaspur in Civil Suit No. 556-A of 2023, whereby application preferred by appellant/applicant (wife) under Section 13(1)(i-a) and 13(1)(i-b) of the Hindu Marriage Act, 1955 (for short, "*the Act of 1955*"), seeking dissolution of marriage by a decree of divorce on the ground of cruelty and desertion, has been dismissed.

2. Facts necessary for disposal of the present appeal are that the appellant/applicant (wife) filed an application/suit under Sections 13(1)(i-a) and 13(1)(i-b) of the Act of 1955, before the Family Court, Bilaspur, seeking dissolution of her marriage with the respondent/non-applicant (husband) pleading therein that their marriage was solemnized on 21.05.2013 in accordance with Hindu rites and rituals, and a son was born out of the wedlock on 10.12.2014. She pleaded that after birth of their son, non-applicant/husband subjected her to mental and physical cruelty by neglecting her and their son, taunting her for bringing insufficient dowry, abusing and confining her, restricting her movements and suspecting her character. She further pleaded that in September 2017, husband and his family members, after harassing her, left her at her parental home and thereafter made no sincere effort to resume cohabitation. She also alleged that non-applicant/husband levelled false allegation regarding her character during the proceedings under Section 125 of the Cr.P.C., thereby causing her further mental harassment. On these grounds, she sought dissolution of the marriage and a decree of divorce.

3. In his written statement, non-applicant/husband denied all allegations of cruelty and dowry demand and pleaded that he had

always maintained the applicant and their son, including payment of child's school and bus transportation fees, as admitted by the applicant in her statement under Section 125 Cr.P.C. He pleaded that, soon after marriage, applicant started quarrelling with him and his elderly parents over trivial issues, behaved indecently and threatened to implicate them in false dowry cases. He further denied that his sisters-in-law had ever harassed the applicant or that he had ever doubted her character. But it is the applicant herself who mentally harassed the non-applicant by making derogative remarks about his age and expressing her unwillingness to continue the marital relationship. He contended that the applicant had voluntarily left the matrimonial home in September 2017 along with their minor son and, despite his repeated efforts, refused to return. He further relied upon the proceedings before the Women's Police Station, Bilaspur, and the applicant's statements in the proceedings under Section 125 Cr.P.C., to contend that she had declined reconciliation and had made no complaint of harassment before the said authority. In his additional pleadings, non-applicant further pleaded that the applicant frequently visited her parental home and, whenever he objected to such visits, she quarrelled with him and threatened to commit suicide and implicate him and his family members in false cases. He reiterated that he had never subjected her to cruelty and pleaded that dissolution of the marriage would adversely affect the future, welfare and development of their minor son. Therefore, application/suit filed by the applicant be dismissed.

4. On the basis of the pleadings made by the parties, learned Family Court framed following main issues for determination:

> "1. Whether the non-applicant subjected the applicant to physical and mental cruelty?
>
> 2. Whether the non-applicant deserted the applicant without reasonable cause ?
>
> 3. Whether the applicant is entitled to obtain a decree of divorce from the non-applicant? "

5. Learned Family Court upon appreciation of the pleadings and oral as well as documentary evidence adduced by the parties, answered the aforesaid issues in negative and held that the applicant/wife failed to prove the allegation of cruelty and desertion against the non-applicant/husband. Consequently, the application filed under Section 13(1)(i-a), 13 (1) (i-b) of the Act of 1955 was dismissed by the impugned judgment which is under challenge by the appellant/applicant in the present appeal.

6. Assailing legality, validity, and correctness of the impugned judgment and decree, learned counsel for the appellant/wife (applicant), submits that learned Family Court committed manifest illegality and perversity in rejecting the application filed by the appellant/applicant for decree of divorce. He submits that learned Family Court passed the impugned judgment and decree without properly appreciating the facts, circumstances and evidence available on record. It is contended that the Family Court failed to consider the applicant's testimony regarding repeated demands for money and dowry, as well as physical assault by

her husband and in-laws, resulting in injuries. It is further argued that the Family Court overlooked the order dated 24.12.2024 passed in Misc. Criminal Case No. 281/2022 under Section 125 Cr.P.C., whereby maintenance was granted to the appellant, recognizing sufficient grounds for her separate residence. Learned counsel submitted that the testimony of the appellant/applicant (AW-1) was not properly appreciated and that she had sufficient reasons to live separately, particularly when the non-applicant/husband made no sincere effort to bring her back to the matrimonial home. Accordingly, the impugned judgment and decree are liable to be set aside.

7. Per contra, learned counsel for the respondent/husband (non-applicant) would submit that the learned Family Court, after proper appreciation of the pleadings, oral and documentary evidence available on record, has rightly dismissed the divorce petition, as the appellant/wife (applicant) failed to establish the grounds of cruelty and desertion under Section 13(1)(i-a) and 13(1)(i-b) of the Act of 1955. It is contended that the allegations of dowry demand, physical assault and mental harassment are vague, unsubstantiated and unsupported by any cogent evidence. Merely because maintenance was awarded to the appellant/applicant under Section 125 Cr.P.C., it cannot be presumed that the respondent/husband had subjected her to cruelty or that she was justified in withdrawing from his company. It is further submitted that the appellant/applicant voluntarily left the matrimonial home in September 2017 along with their minor son and, despite repeated efforts made by the respondent for reconciliation, she refused to resume cohabitation. Her refusal to return to the matrimonial home is also evident from the counselling proceedings before

the Women's Police Station and her statements recorded in the maintenance proceedings. Learned counsel would further submit that the appellant has failed to establish any legally sustainable ground warranting dissolution of marriage. Learned Family Court has committed no illegality or perversity in passing the impugned judgment and decree. Accordingly, the appeal, being devoid of merit, deserves to be dismissed.

8. We have considered the rival submissions made by learned counsel for the parties and have carefully perused the record of the Family Court.

9. The appellant/wife has challenged the impugned judgment and decree whereby learned Family Court dismissed the application filed by her under Section 13(1)(i-a) and Section 13 (1) (i-b) of the Act of 1955 seeking decree of divorce from respondent/husband on the ground of cruelty and desertion. The factum of marriage is not in dispute. It is an admitted position that the marriage between the parties was solemnized on 21.05.2013 in accordance with Hindu rites and rituals.

10. Section 13 of the Act of 1955 provides for grant of decree of divorce in certain cases. It enacts that any marriage solemnized whether before or after the commencement of the Act may be dissolved on a petition presented either by the husband or by the wife on any of the grounds specified therein. Clause (i-a) of sub-section (1) of Section 13 envisages that a decree of divorce may be passed by a Court on the ground that after solemnization of marriage, opposite party has treated the petitioner with cruelty. Expression ‘cruelty’ includes both (i) physical cruelty; and (ii) mental cruelty. Cruelty is not defined in the Act of 1955. Physical cruelty can be proved by oral and documentary evidence. As far as mental cruelty

is concerned, the same has to be decided based on the facts and circumstances of each case taking into consideration the social standing of the parties.

11. Section 13(1)(i-b) of the Act of 1955 provides desertion as a legal ground for divorce. It allows either spouse to file for the dissolution of marriage if the other party has deserted them for a continuous period of at least two years right before filing the petition.

12. In order to examine the act of cruelty, the principles laid down by the Hon'ble Supreme Court in **Samar Ghosh v. Jaya Ghosh** reported in **(2007) 4 SCC 511,** would be a relevant guideline wherein the Court has indicated certain illustrative instances at para 101 whereby the inference of mental cruelty can be drawn. Para 101 reads as under :-

> **"101.** No uniform standard can ever be laid down for guidance, yet we deem it appropriate to enumerate some instances of human behaviour which may be relevant in dealing with the cases of "mental cruelty". The instances indicated in the succeeding paragraphs are only illustrative and not exhaustive:
>
> (*i*) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.
>
> (*ii*) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party.

(*iii*) Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable.

(*iv*) Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of other for a long time may lead to mental cruelty.

(*v*) A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse.

(*vi*) Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty.

(*vii*) Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty.

(*viii*) The conduct must be much more than jealousy, selfishness, possessiveness, which causes unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty.

(*ix*) Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day-to-day life would not be adequate for grant of divorce on the ground of mental cruelty.

(*x*) The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill conduct must be persistent for a fairly lengthy period, where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty.

(*xi*) If a husband submits himself for an operation of sterilisation without medical reasons and without the consent or knowledge of his wife and similarly, if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty.

(*xii*) Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty.

(*xiii*) Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.

(*xiv*) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.”

13. In support of her case before the learned Family Court, appellant/applicant (wife) examined herself as AW-1, whereas, non-applicant/husband examined himself as NAW-1.

14. In the present case, appellant/wife (applicant) has alleged several instances of physical and mental cruelty on the part of respondent/husband. In her affidavit filed under Order 18 Rule 4 of the CPC, she reiterated the allegations made in her plaint/application. However, during her cross-examination, particularly in paragraph- 15 thereof, she admitted that she had not lodged any complaint regarding the alleged harassment pleaded in paragraph -3 of her affidavit. She further admitted that she had not produced any evidence in support of her allegations that, after the birth of their son, respondent neglected her care and treatment; criticised her for not performing household work properly; taunted her for having brought insufficient dowry; deprived her of food and other necessities; confined her in a room; or that her sisters-in-law taunted her and the respondent abused and behaved indecently with her, thereby causing her mental and physical harassment. Further, in paragraph- 16 of her cross-examination, applicant (AW-1), admitted that she is an educated woman and holds qualifications of B.Com., M.Com., B.Ed. and M.A. in English. She also admitted that the respondent/husband had initiated reconciliation proceedings before the Women's Police Station, Bilaspur. Copy of the proceedings conducted before the Women's Police Station, Bilaspur, has been exhibited as Ex. D-1.

15. Thus, the testimony of the appellant/applicant/wife Ritu Srivas (AW-1), particularly her admissions made during cross-examination, indicates that she did not lodge any complaint against the respondent/husband or his

family members in respect of the alleged acts of cruelty. Although she sought to explain the absence of any such complaint by stating that she had refrained from taking recourse to legal proceedings in order to protect her family, the explanation does not inspire confidence, particularly when she has admittedly been living separately from the respondent since 2017. No material has been brought on record to demonstrate that, during the prolonged period of separation, she made any attempt to report or otherwise substantiate the alleged acts of cruelty. Further, the appellant has admitted the proceedings conducted before the Family Counselling Centre, Women's Police Station, Bilaspur, which have been exhibited as Ex. D-1. A perusal of the said proceedings reveals that no allegation of physical or mental cruelty against the respondent or his family members was made by her during the counselling proceedings. Though the appellant/applicant stated in paragraph-18 of her cross-examination that she had apprised the Mahila Police Station of the alleged harassment, no such allegation finds mention in Ex. D-1, which bears her signature. Thus, her admission regarding non-filing of any complaint, coupled with the absence of any reference to the alleged acts of cruelty in the relevant counselling proceedings, assumes significance while assessing the credibility of her allegations. These circumstances, when considered cumulatively, create a serious doubt regarding the veracity of the allegations of cruelty subsequently made by the appellant against the respondent and his family members.

16. In the light of the aforesaid discussion, we find that the allegations of physical and mental cruelty levelled by the appellant/wife against the respondent/husband and his family members have not been established

by any cogent and reliable evidence. Accordingly, we are of the considered opinion that the appellant/wife has failed to discharge the burden of proving cruelty as contemplated under Section 13(1)(i-a) of the Act of 1955.

17. So far as the ground of desertion under Section 13(1)(i-b) of the Act of 1955 is concerned, applicant/wife (AW-1), in paragraph 5 of her affidavit filed in evidence, stated that in September 2017, the respondent/husband and his family members subjected her to harassment and left her at her parental home situated at 27, Kholi, Vikas Nagar, Bilaspur, against her wishes. She further alleged that, thereafter, the respondent made no effort to bring her back to the matrimonial home or resume cohabitation. However, during his cross-examination, particularly in paragraph-15 thereof, when respondent/husband (NAW-1) was questioned as to why he had not lodged any complaint with the police if the appellant had left the matrimonial home in September 2017, he stated that the applicant had left the matrimonial home on the pretext that she intended to pursue her B.Ed. studies and, therefore, he did not consider it necessary to lodge any police complaint. Thus, the testimony of the respondent/husband indicates that, according to him, the appellant had left the matrimonial home on her own volition for the purpose of pursuing her studies.

18. Further, perusal of the proceedings recorded by the Family Counselling Centre, Women's Police Station, Bilaspur, Chhattisgarh, exhibited as Ex. D-1, does not disclose any assertion on the part of the appellant that she had been forcibly sent to or left at her parental home by the respondent in September 2017. On the contrary, the said proceedings indicate that the appellant/applicant expressed her unwillingness to return to the

matrimonial home on the grounds that she had completed her B.Ed. qualification, the respondent was unable to provide her with suitable residential accommodation and the house did not have the requisite facilities. She also expressed her desire to reside at Bilaspur. These statements, recorded during the counselling proceedings, assume significance while examining the circumstances in which the parties started living separately and the question as to which of them withdrew from the matrimonial relationship.

19. Thus, the material available on record, particularly the testimony of the respondent/husband (NAW-1) and the proceedings exhibited as Ex. D-1, does not substantiate the appellant's/applicant’s assertion that she was forcibly sent to her parental home against her wishes by the respondent in September 2017. Rather, the aforesaid material indicates that the appellant/applicant was unwilling to return to the matrimonial home and had expressed her preference to reside separately at Bilaspur on account of her educational and residential comforts and considerations. Consequently, the appellant's version that the respondent had driven her out of the matrimonial home and thereafter deserted her is not supported by the evidence on record. These circumstances are, therefore, relevant in determining whether the essential ingredients of desertion, including the factum of separation and the requisite intention to bring cohabitation permanently to an end by the respondent/non-applicant, have been established in the present case.

20. In view of the aforesaid discussion and the evidence available on record, we find that the appellant/wife has failed to establish that the respondent/husband had driven her out of the matrimonial home or left her

at her parental home against her wishes in September 2017, as alleged by her. Rather, the material on record indicates that she was unwilling to return to the matrimonial home and had expressed her preference to reside separately at Bilaspur. Thus, the appellant's assertion that the respondent had compelled her to live separately and thereby deserted her is not borne out by the evidence on record. Consequently, the appellant has failed to establish that the respondent/husband had deserted her within the meaning of Section 13(1)(i-b) of the Act of 1955.

21. It is well settled that matrimonial life necessarily involves certain differences, disagreements and adjustments between spouses. Mere differences relating to residence, financial circumstances or day-to-day household affairs, in the absence of conduct of sufficient gravity and persistence, cannot by themselves constitute cruelty within the meaning of Section 13(1)(i-a) of the Act of 1955.

22. In the present case, the appellant/wife (applicant) has made several allegations against the respondent/husband (non-applicant). However, the material on record does not establish, by cogent and reliable evidence, that the respondent's/non-applicant's conduct was of such a grave and persistent nature as to render the continuation of matrimonial life impossible or to make it unreasonable to expect the appellant to continue cohabitation with him.

23. Hon'ble Supreme Court in the case of **Anil Kumar Jain v. Maya Jain** reported in **(2009) 10 SCC 415** observed thus :

> **"27.** In all the subsequent cases, the Supreme Court invoked its extraordinary powers under Article 142 of

the Constitution of India in order to do complete justice to the parties when faced with a situation where the marriage ties had completely broken and there was no possibility whatsoever of the spouses coming together again. In such a situation, this Court felt that it would be a travesty of justice to continue with the marriage ties.

28. It may, however, be indicated that in some of the High Courts, which do not possess the powers vested in the Supreme Court under Article 142 of the Constitution, this question had arisen and it was held in most of the cases that despite the fact that the marriage had broken down irretrievably, the same was not a ground for granting a decree of divorce either under Section 13 or Section 13-B of the Hindu Marriage Act, 1955.

29. In the ultimate analysis the aforesaid discussion throws up two propositions. The first proposition is that although irretrievable breakdown of marriage is not one of the grounds indicated whether under Sections 13 or 13-B of the Hindu Marriage Act, 1955 for grant of divorce, the said doctrine can be applied to a proceeding under either of the said two provisions only where the proceedings are before the Supreme Court. In exercise of its extraordinary powers under Article 142 of the Constitution the Supreme Court can grant relief to the parties without even waiting for the statutory period of six months stipulated in Section 13-B of the aforesaid Act. This doctrine of irretrievable breakdown of marriage is not available even to the High Courts which do not have powers similar to those exercised by the Supreme Court under Article 142 of the Constitution. Neither the civil courts nor even the High Courts can, therefore, pass orders before the periods

prescribed under the relevant provisions of the Act or on the grounds not provided for in Sections 13 and 13-B of the Hindu Marriage Act, 1955."

24. Hon'ble Supreme Court in case of **Savitri Pandey Vs. Prem Chandra Pandey** reported in **(2002) 2 SCC 73,** while dismissing the appeal filed by appellant-wife seeking decree of divorce under Section 13 (1) (i-b) and 23 (1) of the Act of 1955, observed thus :

> **"11.** There is another aspect of the matter which disentitles the appellant from seeking the relief of divorce on the ground of desertion in this case. As desertion in matrimonial cases means the withdrawal of one party from a state of things i.e. the marital status of the party, no party to the marriage can be permitted to allege desertion unless he or she admits that after the formal ceremonies of the marriage, the parties had recognised and discharged the common obligation of the married life which essentially requires the cohabitation between the parties for the purpose of consummating the marriage. Cohabitation by the parties is an essential of a valid marriage as the object of the marriage is to further the perpetuation of the race by permitting lawful indulgence in passions for procreation of children. In other words, there can be no desertion without previous cohabitation by the parties. The basis for this theory is built upon the recognised position of law in matrimonial matters that no one can desert who does not actively or wilfully bring to an end the existing state of cohabitation. However, such a rule is subject to just exceptions which may be found in a case on the ground of mental or physical incapacity or other peculiar circumstances of the case. <u>However, the party seeking divorce on the ground of desertion is</u>

required to show that he or she was not taking the advantage of his or her own wrong. In the instant case the appellant herself pleaded that there had not been cohabitation between the parties after the marriage. She neither assigned any reason nor attributed the non-resumption of cohabitation to the respondent. From the pleadings and evidence led in the case, it is apparent that the appellant did not permit the respondent to have cohabitation for consummating the marriage. In the absence of cohabitation between the parties, a particular state of matrimonial position was never permitted by the appellant to come into existence. In the present case, in the absence of cohabitation and consummation of marriage, the appellant was disentitled to claim divorce on the ground of desertion.

12. No evidence was led by the appellant to show that she was forced to leave the company of the respondent or that she was thrown away from the matrimonial home or that she was forced to live separately and that the respondent had intended animus deserendi. There is nothing on record to hold that the respondent had ever declared to bring the marriage to an end or refused to have cohabitation with the appellant. As a matter of fact the appellant is proved to have abandoned the matrimonial home and declined to cohabit with the respondent thus forbearing to perform the matrimonial obligation.

13. In any proceedings under the Act whether defended or not the court would decline to grant relief to the petitioner if it is found that the petitioner was taking advantage of his or her own wrong or disability for the purposes of the reliefs contemplated under Section 23(1) of the Act. No party can be permitted to carve out the ground for destroying the family which is

> the basic unit of the society. The foundation of the family rests on the institution of a legal and valid marriage. Approach of the court should be to preserve the matrimonial home and be reluctant to dissolve the marriage on the asking of one of the parties.**"**

25. In case of **Gurbux Singh v. Harminder Kaur**, reported in **(2010) 14 SCC 301**, Hon'ble Supreme Court, while considering an appeal arising out of the dismissal of an application filed by a spouse under Section 13 of the Hindu Marriage Act, 1955, seeking a decree of divorce, observed as under:

> "**16**. The married life should be assessed as a whole and a few isolated instances over certain period will not amount to cruelty. The ill conduct must be precedent for a fairly lengthy period where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, one party finds it extremely difficult to live with the other party no longer may amount to mental cruelty. Making certain statements on the spur of the moment and expressing certain displeasure about the behaviour of elders may not be characterised as cruelty. Mere trivial irritations, quarrels, normal wear and tear of married life which happens in day to day life in all families would not be adequate for grant of divorce on the ground of cruelty. Sustained unjustifiable and reprehensible conduct affecting physical and mental health of the other spouse may lead to mental cruelty. Both the appellant and the respondent being highly qualified persons, the appellant being Principal in ITI College, the respondent working as a Librarian in a government institute, an isolated friction on some occasion like festival of lohri even in the presence of others cannot be a valid ground for dissolving the marriage.**"**

26. The burden of establishing the allegations of cruelty was upon the appellant/applicant-wife. Apart from the oral assertions made by the appellant/applicant, no cogent and reliable documentary evidence has been brought on record to substantiate the allegations of “cruelty” as well as “desertion” against the respondent/non-applicant-husband.

27. The appellate Court, while considering an appeal against a judgment based upon appreciation of evidence by the Family Court, is required to examine whether the findings recorded by the trial Court are supported by the evidence on record and whether such findings suffer from perversity, illegality or any material error of law.

28. Upon consideration of the entire material available on record, we find that the learned Family Court has considered the pleadings as well as the oral and documentary evidence adduced by the parties and has recorded a reasoned finding that the appellant/applicant failed to establish the allegations of “cruelty” and “desertion” against the respondent/non-applicant.

29. The findings recorded by the learned Family Court are based upon proper appreciation of the evidence on record and cannot be said to be perverse or contrary to the evidence. No material illegality or error of law has been demonstrated warranting interference by this Court in exercise of its appellate jurisdiction.

30. In view of the foregoing discussions and having regard to the principles laid down by the Hon'ble Supreme Court in the decisions referred to

hereinabove, we are of the considered view that the appellant/applicant failed to establish that she was treated with “cruelty” and “deserted” by the respondent /non-applicant (husband).

31. Accordingly, the appeal, being devoid of merit, is dismissed. Impugned judgment and decree is hereby affirmed.

32. Let a decree be drawn accordingly.

Sd/-
(Parth Prateem Sahu)
Judge

Sd/-
(Sushma Sawant)
Judge

Praveen