Neutral Citation No. (2026:JHHC:32541-DB)

IN THE HIGH COURT OF JHARKHAND AT RANCHI
First Appeal No. 206 of 2018

Dr. Amrit Kejriwal, aged about 48 years, son of Dr. N. L. Kejriwal, resident of Bakshi Compound, Bariatu, P.O. & P.S. Bariatu, District Ranchi, at present residing at D-6, Jeevan Sagar, Sector-II, Kharghar, Navi Mumbai, P.O. & P.S. Navi Mumbai, District Mumbai (Maharashtra).

... ... Appellant

Versus

Dr. Jaya Kejriwal, Wife of Dr. Amrit Kejriwal, Daughter of P.P. Khemka, Resident of Plot No.88-A, Co-operative Colony, Bokaro, P.O & P.S. Bokaro Steel City, District Bokaro.

… … ... Respondent

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANOJ PRASAD

For the Appellant : Mr Mahesh Tewari, Advocate
Mr Sanjay Kumar Pandey, Advocate
For the Respondent : Mr Srijit Choudhary, Advocate

Reserved On : 06/10/2026 **Pronounced On: 05 /11/2026**

Per: Manoj Prasad, J.

1. Heard Mr Mahesh Tewari, for the appellant, who appears with Mr Sanjay Kumar Pandey and Mr Srijit Choudhary, for the respondent.

2. The present appeal has been filed by the petitioner-appellant Dr. Amrit Kejriwal, impleading his wife as respondent who was opposite party before the Court below.

3. This appeal is directed against the judgment dated 28th March 2018 and decree dated 05th April 2018 passed by the Court of learned Principal Judge, Family Court, Bokaro in Title

(Matrimonial) Suit No. 204 of 2012, which was filed under Sections 13(1) (i-a) & (i-b) of the Hindu Marriage Act, 1955 for dissolution of marriage on the grounds of cruelty and desertion. The learned Trial Judge by the impugned Judgment and Decree, dismissed the suit of the petitioner-appellant, holding that the case of cruelty and desertion was not made out.

4. Before coming to the facts of the case, it is important to mention that the application for dissolution of marriage was filed before the Principal Judge, Family Court, Ranchi, registered as M.T.S. Case No. 112 of 2008. Consequent to an order passed by this Court in Transfer Petition (C) No.19 of 2008, arising out of M.T.S. Case No. 112 of 2008 on 07.08.2012. The case was transferred from the Court of the Principal Judge, Family Court, Ranchi to the Court of the Principal Judge, Family Court, Bokaro and thereafter by order dated 24.08.2012, on receipt of the record by the Principal Judge, Family Court, Bokaro, it was re-registered as Title Matrimonial Suit No. 204 of 2012 and the suit was proceeded before the Principal Judge, Family Court, Bokaro and decided by the said Court by the impugned judgment and decree.

5. The petitioner-appellant instituted the suit for dissolution of marriage on the ground of cruelty, i.e. under Section 13(1) (i-a) of the Hindu Marriage Act, alleging inter-alia that the respondent lived with the appellant for about a month and thereafter, left the appellant and went to Bokaro to stay with her parents. In course of time, the appellant had to move to Delhi for his education and subsequently, he joined Escorts Heart Institute at Delhi. In the year

2002, the appellant came to Ranchi to join a family function. The respondent misbehaved with the parents of the appellant and despite interference of the appellant, such behavior continued. In the meantime, the respondent had also completed her internship and the appellant brought the respondent with him to Delhi and stayed with the brother's family but within a few days, finding the behavior with the other family members not to be compatible, the appellant along-with his wife shifted to Noida so as to maintain peace and avoid conflicts in the family. It is stated that the respondent became ill in the year 2003 and was suffering from Jaundice and as such, she was hospitalized and when the parents of the respondent came, allegation was leveled against the accused-appellant for making their daughter ill, and for not taking proper care of their daughter. This all caused great mental cruelty to the present appellant. The appellant further alleges that the petitioner was scheduled to go to U.K. in May 2003 but before going abroad when he came to Ranchi and was with his parents, the respondent also accompanied him but she picked-up quarrel with her parents and this all caused mental cruelty to the present appellant. Such behavior of the respondent compelled the appellant to return from U.K. in November 2003. In December 2003, the appellant went to Mumbai and joined MGM Medical College as a Lecturer. The respondent also came to Mumbai with her father and joined Rajiv Gandhi Medical College but shifted to a hostel and relationship between the husband and wife became bitter as the respondent did not allow access to the present appellant and she

continued living in a hostel. In the year 2006, the respondent after clearing her D.G.O. Examination vacated the hostel and remained with the appellant, but there was no improvement in her behavior and attitude. In September 2006, the respondent informed the appellant of some illness, for which, she was admitted to a hospital and finally, the appellant brought back the respondent to Ranchi for better treatment with the help of his family members, particularly his father, who was also a doctor at Ranchi. Subsequently, the respondent returned to Bokaro where she also gave birth to a child with no information to the appellant. On 27.10.2007 the respondent along with her sister and cousin came to the residence of the appellant at Mumbai and stayed there for two days to collect some certificates from the institute. During her stay, her behavior with the appellant was rude and even during that period, did not maintain any matrimonial relationship with the appellant and she insisted that if the appellant want to restore the conjugal life, he has to stay with the respondent at Bokaro. It is stated that such acts of the respondent amounted to cruelty and also desertion on the appellant and hence, cause of action of the suit arose for dissolution of marriage. Prior to instituting the suit for dissolution of marriage on the grounds of cruelty and desertion, a notice was sent through the lawyer of the appellant for dissolution of marriage by mutual consent on 21.04.2008, but the respondent replied to the said notice, denying the statements made by the appellant therein and also threatened the appellant of implication in criminal cases, resultantly, the present suit was instituted for dissolution of

marriage by a decree of divorce on the grounds of cruelty and desertion on 9th June, 2008.

6. The respondent after appearance filed a written statement, denying the entire allegations made by the appellant and also denying the allegations of erratic behavior of present respondent. On the contrary, she alleges that the appellant along-with his family members behaved in a very rude manner with the present respondent. The respondent further states that on account of negligence by the present appellant, she suffered Jaundice and other illnesses. It is also stated that with the assistance of the father of the respondent, the appellant went to U.K., but without completing his course, he returned from U.K. and the entire other contrary allegations were denied by this respondent. Further, she alleges that she studied at Mumbai at the expenses of her father and the appellant did not bother to pay a single penny towards the expenses of the present respondent. The respondent admittedly cleared her DGO examination and vacated the hostel and remained with the appellant, who neglected to take care of the present respondent. The appellant deliberately, with an intention to leave the respondent at Bokaro, but in absence of any direct flight from Mumbai to Bokaro, came to Ranchi and considering the medical emergency admitted the respondent in a hospital for a day and on the very next day, moved the respondent to Bokaro. The entire allegations of cruelty and desertion are denied. On the contrary, allegations of cruelty are leveled by the respondent on the present appellant. It is alleged that the respondent along-with her sister and

cousin had come to Mumbai to the house of the appellant but they were misbehaved and ousted from the house and other contrary allegations are denied. The respondent never wanted to live separately, rather wanted to restore the conjugal life and reply a was given to the advocate's notice, given on behalf of the appellant to the respondent. The prayer was made to dismiss the suit of the appellant.

TRIAL COURT FINDINGS

7. Learned Principal Judge, Family Court, Bokaro, based on the pleadings, framed the following issues: -

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

(ii)Whether there is any valid cause of action for filing of the suit?

(iii)Whether after solemnization of marriage, the respondent treated the plaintiff-petitioner/present appellant and his family members with cruelty and also deserted the plaintiffs-petitioner without any reasonable cause?

(iv)Whether the plaintiff petitioner and his family members have treated the respondent with cruelty and she was driven out of the matrimonial house in the month of October 2007?

(v)Whether the plaintiff petitioner is entitled to get the relief as prayed for by him?

8. After framing of issues, the appellant examined four witnesses including himself, his brother, sister and one Vimal Kant Jha. Three documents were marked as exhibit being the legal

notice to Dr. Jaya Kejriwal through the advocate for the appellant marked as Exhibit-1, Exhibit-2 is the reply to the legal notice and Exhibit-3 is the certified copy of the complaint case No.372 of 2008 filed by Dr. Jaya Kejriwal against Dr. Amrit Kejriwal and others in the Court of the C.J.M., Bokaro. On behalf of the respondent, six witnesses were examined namely Sushil Lachi Ramka, Kamleshwar Prasad Choudhary, Nageshwar Singh, Sheela Khemka, the mother of the respondent, Parmeshwar Prasad Khemka, the father of the respondent and Dr. Jaya Kejriwal, the respondent herself. No documentary evidence is there on behalf of the respondent.

9. The learned Trial Court, thereafter, took up Issue Nos. 3 and 4 for determination, i.e., the issue as to whether the respondent had meted out cruelty on the appellant and had deserted the appellant and secondly, whether the appellant and his family members had treated the respondent with cruelty and the respondent was driven out of her matrimonial house in the month of October, 2007.

10. The learned Trial Court, after discussing the oral and documentary evidence on behalf of the parties and considering that cruelty, though not defined under the Hindu Marriage Act, has varied dimensions and no straight-jacket definition can be given, held that, in every case, the aspects of cruelty have to be examined. After discussing these aspects of the case, the learned Principal Judge, Family Court, concluded that, in the facts of the present case, the appellant himself had created such a situation which compelled the respondent to leave her matrimonial home,

and that the respondent's leaving the matrimonial home under such circumstances cannot be categorised as either cruelty or desertion. Regarding Exhibits 1 and 2, the learned Trial Court concluded that, in the reply notice given by the present respondent, she expressed her desire to live with the appellant, and instead of making efforts for restitution of conjugal rights, an application for dissolution of marriage was filed. The learned Trial Court, therefore, concluded that no case of cruelty was proved. The appellant failed to prove that the respondent committed acts of cruelty against the appellant.

11. Considering the ground of desertion, the learned Principal Judge, Family Court observed that desertion for a continuous period of two years immediately preceding the presentation of the petition without reasonable cause and without the consent or against the wish of the appellant was necessary to be established to make out a case. It has also been observed that mere physical act of departure by one spouse does not necessarily make that spouse the deserting party. The desertion has to be both actual act of separation, coupled with an intention, it is the *animus deserendi* to live separately with an intention not to cohabit or restore conjugal life. The party alleging desertion must prove intentional permanent abandonment of one spouse by the other, without that others consent and without reasonable cause. Thus, there should be total repudiation of the obligation of marriage. In the facts of the present case, it was observed that the parties last resided together till 29.10.2007, which fact is admitted by the present appellant while the suit for divorce was filed on 09.06.2008 and thus, the statutory

requirement of continuous desertion for a period of not less than two years was not fulfilled and accordingly, the case of desertion was also not made out.

12. Thus, the learned Principal Judge, Family Court dismissed the suit for dissolution of marriage filed by the present appellant, holding that the appellant failed to make out a case under Section 13(1) (i-a) & (i-b) of the Hindu Marriage Act.

ARGUMENTS

13. Learned counsel appearing on behalf of the appellant submits that the learned Trial Court failed to consider the oral and documentary evidence in the proper perspective. Much reliance is placed on Exhibit-2, i.e., the respondent's reply, and it is emphasised that the language of the reply would predominantly show the respondent's intention and the threat meted out by the respondent to the appellant, which is evidence of cruelty. Apart from that, other acts of cruelty were also present, which were not considered by the learned Trial Court. The deposition of the witnesses on behalf of the appellant supported the appellant's contention regarding cruelty, which was not considered by the learned Trial Court. Similarly, the learned Trial Court failed to appreciate the ambit and scope of the expression 'desertion'. It is true that the respondent came to Mumbai in October 2007, but the mere physical act of coming to the appellant's house does not amount to the restoration of conjugal life when there was no restitution of conjugal rights; rather, the respondent had come only

to obtain her documents. Learned counsel submits that, in appropriate cases, desertion can also be considered even where the husband and wife are living under the same roof, but there is no restitution of matrimonial obligation between the parties and no restoration of conjugal life between the parties. The learned Trial Court has taken a hyper-technical view in holding that merely because the respondent had come to Mumbai and stayed in the appellant's house for two days, the case of desertion was not proved. Under the circumstances, learned counsel submits that the impugned judgment and decree are fit to be set aside.

14. Learned counsel, during the course of the arguments, has also submitted that an interlocutory application has been filed for the maintenance of the daughter. The present appellant proposed to pay one-time maintenance towards the daughter's educational and other expenses to the tune of Rs.15 Lakhs, but this was not agreed upon. The appellant has also filed salary documents showing the salary received by him. However, learned counsel submits that, as no settlement was arrived at, no order was passed in the said petition.

15. *Per contra*, learned counsel appearing on behalf of the respondent submits that since no decree for dissolution of marriage was passed, no order of alimony was required to be passed, qua the present respondent, but the daughter was entitled to interim maintenance and surprisingly, a meager amount of Rs.15 Lakhs was offered, which was not settled between the parties. Thus, prayer is made to pass appropriate order on the interlocutory

application for interim maintenance of the daughter, for which, I.A. No.702 of 2021 was filed and is pending.

16. However, on the merits of the appeal, learned counsel submits that, except for a vague allegation of cruelty and desertion, no material has been brought on record to substantiate the same. It has been stated that the learned Principal Judge, Family Court, Bokaro, has discussed at length the evidence of the parties and the documents brought on record by the present appellant, and has also considered the mandate of law. Learned counsel further submits that the protection of marriage is the mandate of law, and marriage can be dissolved only on the grounds contained in the provisions of the Hindu Marriage Act. Though cruelty has no standard definition, to dissolve the marriage on the ground of cruelty, the appellant was bound to establish such acts on the part of the respondent that made the continuation of matrimonial life impossible.

17. Under the circumstances, the finding of the learned Trial Court that no ground of cruelty is made out does not require any interference. Similarly, the basic requirement for instituting a suit on the ground of desertion was not met, and therefore the dismissal of the suit for want of a cause of action for dissolution of marriage on the ground of desertion was rightly decided by the learned Trial Court. The prayer is made to dismiss the present appeal.

18. Written arguments have also been filed on behalf of the appellant, which are on record, reiterating the oral arguments made

earlier. They state that on 25. 02. 25.02.2001, the marriage was solemnised, and in February 2002, the respondent began misbehaving with the present appellant. In March 2003, due to the respondent' s jaundice, she was admitted to hospital for treatment, but subsequently her parents brought her back to Bokaro. In May 2003, the appellant went to England for education. In December 2003, the appellant joined MGM Medical College, Mumbai, as a lecturer, and the respondent was working at Rajiv Gandhi Medical College, Mumbai, but was residing in the college hostel. In 2006, after completing her education, the respondent came to the appellant' s residence, and they lived together. In September 2006, the respondent became pregnant. Thereafter, they came to Ranchi, stayed with the appellant' s parents, and she was admitted to hospital on 12. 10. 2006. She then went to Bokaro with her parents and stayed at her parents’ house, where she gave birth to a female child. On 27. 10. 27.10.2007, the respondent came to Mumbai to the appellant' s house to collect her educational certificates. She stayed there for two days, but her behaviour towards the appellant remained rude and cruel, and during this period there was no restoration of conjugal life between the parties. In April 2008, a legal notice was sent by the appellant' s advocate seeking dissolution of marriage by mutual consent. A reply was sent to the said legal notice, withdrawing the notice with a threat of filing a criminal case, and on 09. 06. 09.06.2008, the present matrimonial suit was instituted for dissolution of marriage on the ground of cruelty and desertion. On 14. 07. 14.07.2008, Complaint Case No.

372 of 2008 was filed by the respondent before the Court of the Chief Judicial Magistrate, Bokaro, with allegations under Section 498 A of the IPC, and on 25. 11. 25.11.2008, cognizance was taken of the said offence against the present appellant and his parents. He alleges that the present appellant' s parents died during the pendency of the said criminal case due to shock caused by the criminal case. He further alleges that the complaint was dismissed for non- filing of necessary requisites. On 07. 08. 07.08.2012, the case was transferred from the Court of the Principal Judge, Family Court, Ranchi, to the Principal Judge, Family Court, Bokaro. Thereafter, the written arguments mention the oral evidence examined on behalf of the parties.

FINDINGS

19. Having heard the learned counsel for the parties in the rival contentions raised therein, the following points for determination fall for our consideration.

Whether the appellant had proved a case for cruelty or desertion by the respondent so as to entitle him to a decree of divorce under Sections 13(1) (ia) & (ib) of the Hindu Marriage Act.

20. Before coming to the facts of the present case, we would like to mention that there is no standard definition of cruelty under the Hindu Marriage Act. Even if some definition is provided in certain judgments of the Hon’ble Apex Court, it is subject to the rider that such aspects of cruelty were considered in the facts of those cases,

and therefore, cruelty for the purpose of divorce has to be determined on the basis of the facts of each case itself.

21. In **Shobha Rani Vs. Madhukar Reddi, reported in (1988) 1 SCC, 105,** the Hon'ble Supreme Court held that cruelty is conduct in relation to or in respect of the matrimonial relationship, disregarding the matrimonial obligations. Such conduct should adversely affect the other spouse; it can be mental or physical, intentional or unintentional. Physical cruelty is less ambiguous and more a question of fact and degree of cruelty, while mental cruelty has to be determined on the respective conduct of the parties.

22. The Hon'ble Supreme Court in **Vijaykumar Ramchandra Bhate Vs. Neela Vijay Kumar Bhate, reported in (2003) 6 SCC 334,** observed that an allegation of 'unchaste' and indecent familiarity with a person outside wedlock may constitute cruelty. The Hon'ble Apex Court in **Joydeep Majumdar Vs. Bharti Jaiswal Majumdar, reported in (2021) 3 SCC 742,** held that, in order to judge whether conduct is cruel or not, what has to be seen is whether that conduct is sustained over a period of time and renders the life of the spouse so miserable as to make it unreasonable to live with the other.

23. The Hon'ble Supreme Court in **Samar Ghosh Vs. Jaya Ghosh, reported in (2007) 4 SCC 511,** while making certain illustrative but not exhaustive aspects of cruelty at Para-101 of the Judgment, observed as hereunder: -

*"**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 sterilization 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."*

24. With the mandate of the law in the background, we would like to examine the oral and documentary evidence on record, particularly the appellant's evidence. The appellant has been examined as the first witness, and in his examination-in-chief on affidavit, he has reiterated the case as pleaded. In his cross-examination at Para-42, he admits that he saw his daughter for the first time in October 2007, when his wife came to Mumbai with her sister and cousin brother, while his daughter was admittedly born in May 2007. Admittedly, from May 2007 to October 2007, he had not bothered to see his daughter. The remaining facts that have come up in the deposition are as per the respective parties' pleadings regarding illness, hospital admission, etc. In her evidence in examination-in-chief, the respondent once again reiterates the facts

as per the pleadings. She says that at present she is working at BGH and has been a regular employee there since 2010. She admits to having replied to the notice received from her husband. After receiving the notice, she tried to contact her husband and even spoke with him on the telephone. Efforts were made by all the family members and even common friends, as mentioned at Para 24 of the cross-examination, and then she denied the suggestions of having meted out cruelty or deserted her husband. Exhibits 1 and 2 are significant. In the notice sent to the present respondent through the advocate of the present appellant, the allegation of misbehaviour with the family members since February 2002 is set out. The notice also alleges desertion and cruelty and demands a decree for divorce by mutual consent. In the reply notice, which is marked Exhibit-2, it is categorically stated that the allegations of cruelty and desertion are false, and that the respondent was treated with cruelty by the husband and other family members. The date of birth of the child mentioned in the notice is also stated to be wrong, which shows his apathy for the family.

25. The allegation of dowry demand is also there, and it is stated that, for non-fulfilment of the dowry demand, she was tortured by the husband and his family members. The allegation of ousting the respondent from the appellant's house in Mumbai along with her sister is also stated. Despite this, no legal action was taken, and the respondent still desired to restore conjugal life. The allegation of taking away the jewellery and other belongings of the respondent is also denied, and finally it is stated that, if such a legal notice is not

withdrawn, the respondent would be compelled to file an appropriate case before a Court of competent jurisdiction. It was categorically stated that the respondent was not ready to take any divorce and would contest any such application made by the present appellant.

26. On evaluation, we agree with the learned trial court's view that no case of cruelty was made out by the appellant to be entitled to a decree of divorce. With the facts and the mandate of law, the Filing of a complaint cannot be considered to be an act of cruelty, and the allegation that the parents of the appellant died due to shock on account of a complaint filed by the respondent is also misplaced. No evidence regarding cause of death of the parents of the appellant has been brought on record. It is admitted that in the said complaint filed by the present respondent, cognisance of the offence was taken, which *prima facie* establishes the correctness of the allegation.

27. The complaint was dismissed not on the allegation that it was false or unsubstantiated; rather, it was dismissed for non-filing of requisites, i.e., on account of non-prosecution. Thus, mere filing of a complaint and its dismissal for non-filing of requisites under Section 204(4) of the Cr.P.C. will not amount to cruelty on the husband. *As the aspects of cruelty have not been proved, we are of the considered view that no interference with the findings qua cruelty, as returned by the learned Principal Judge, Family Court, Bokaro, is required*. Hence, it is concluded that no case of cruelty was established by the appellant-husband.

28. Coming to the case of desertion, since the Trial Court record is available before us and on perusal of the same, it appears that the suit was not instituted on the ground of desertion, rather it was instituted only on the ground of cruelty under Section 13(1) (i-a) of the Hindu Marriage Act. However, in the application for dissolution of marriage, the ground of desertion was also taken, but there was no specific pleading as to when the respondent had deserted the appellant; still, the trial Court framed the issue, and evidence was taken on behalf of the parties. The learned Trial Court concluded that sufficient evidence showed the respondent had lived with the appellant till October 2007; thus, the cause of action for filing an application for dissolution of marriage on the ground of desertion was premature.

29. We are of the considered view that the learned Trial Court's findings on these aspects also do not require any interference. Moreover, if Exhibit-2, as brought on record on behalf of the appellant, is considered, it is apparent that the respondent, in her reply to the notice issued by the appellant's advocate, categorically stated that she was still desirous of restoring conjugal life. Thus, the *Animus Deserendi* was completely lacking.

30. It is reiterated that no specific averment of the date of desertion has been made and merely arguing that the respondent joining the appellant in the month of October 2007 still did not amount to breaking of the period of desertion, as such living together, was without any intent to restore the conjugal life, is insufficient pleading and evidence on the point of desertion. The

child was born in May 2007, while the present suit for dissolution of marriage was instituted in June 2008. These facts negate the plea of desertion. *We are therefore of the considered view that no ground of desertion is made out and the finding of the learned Trial Court on this aspect is also affirmed.*

31. In view of the findings made hereinabove, *the point for determination formulated by this Court is decided in favour of the respondent and against the appellant and it is held that no case of cruelty by the respondent on the appellant or desertion by the respondent as alleged by the appellant was made out, sufficient for the purpose of granting a decree for dissolution of marriage under Section 13(1) (i-a) & (i-b) of the Hindu Marriage Act.*

I.A. No.702 of 2021

32. This I. A is still pending, which was filed under Section 24 of the Hindu Marriage Act for maintenance pendentilite for the respondent and her daughter, Baby Khushi, represented by the present respondent.

33. Rejoinder has also been filed to this I.A, where once again similar plea has been taken, as taken in course of arguments i.e. filing of a complaint case No.372 of 2008 and subsequent dismissal of the said case for non-filing of requisites, transfer of the case etc. The allegations are that such demand is arbitrary and excessive.

34. The affidavit in terms of the judgment of the Hon'ble Supreme Court in the case of **Rajnish Vs Neha, reported in (2021) 2 SCC 324**, has also been filed, which is on record. The

present record also reveals that on several occasions, efforts for settlement were made, but to no effect. Even the Coordinate Bench of this Court, while hearing this matter, had made efforts for reconciliation, having sittings in the chamber, but finally, all such efforts failed and the possibility of reconciliation in this case has come to an end.

35. Subsequently, the matter of alimony was also discussed, and maintenance for the daughter was also under consideration. The record shows that the directions were given to file salary statements by both the parties. In compliance thereof, the affidavits were also filed. The order No.42 dated 29th April 2025, shows that the appellant-husband was ready for settlement on payment of Rupees Fifteen Lakhs for the proper upbringing of the daughter and the cost which will be incurred in her marriage and education.

36. For the sake of convenience, the same is quoted as hereunder: -

Order No.42 / Dated : 29th April, 2025

1. *Heard Mr. Mahesh Tewari, the learned counsel appearing for the appellant-husband and Mr. Srijit Choudhary, the learned counsel appearing for the respondent-wife.*

2. *The learned counsel appearing for the appellant has submitted that the husband is ready for settlement on payment of Rs.15 Lakhs for proper upbringing of the daughter and the cost which will be incurred in her marriage and education.*

3. *The learned counsel appearing for the respondent-wife has not agreed for the same, however, he has submitted that he will come forth with the proposal of the respondent-wife on the next date of hearing.*

4. *Considering the same, let this matter be listed on 08.05.2025.*

37. Since no consensus was arrived at, on the point of *pendentilite* maintenance to be paid for the daughter and also considering the proposal made by the husband, we are of the considered view, *that while reserving the right to the parties to file proper application for maintenance which the daughter has against her father, the present appellant is directed to deposit Rupees Fifteen Lakhs before the Principal Judge, Family Court, Bokaro, which shall be deposited in her account to be opened in the name of minor daughter through her mother to be used for the education and other expenses of the minor daughter*.

38. This is without prejudice to the right of the child to claim maintenance under the appropriate provisions of law. However, any such final order of maintenance, if passed by a court of competent jurisdiction, shall consider the payment of Rupees Fifteen Lakhs, which shall be deposited by the present appellant in the name of his minor daughter. The respondent has not claimed any expenses for herself at this stage. Accordingly, with the above direction, I.A. No.702 of 2021 stands disposed of.

39. In view of the findings given above, it is held that the present appeal is meritless and the same is accordingly dismissed, without any costs.

40. Other I.As, if any pending, do not survive and also stand disposed of.

(M. S. Sonak, C.J.)

(Manoj Prasad, J.)

November, 5th, 2026
BS/-
A.F.R.