

IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No.180 of 2023

Hari Lal Pramanik, aged about 41 years, son of Ramchandra Pramanik, resident of Village-Kounge, PO-Ranchi University, P.S-Kanke, District-Ranchi **Petitioner/Appellant**

Versus

Shivani Kumari, aged about 31 years, daughter of Sri Biren Pramanik, wife of Hari Lal Pramanik, resident of Village-Buruhatu, PO & PS-Ichagarh, District-Saraikela Kharsawan, Jharkhand
..... **Respondent/ Respondent**

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

For the Appellant : Mr. Rahul Pandey, Advocate
For the Respondent : Mr. Mahesh Tewari, Advocate
Mr. Abhishek Kumar Dubey, Advocate
Mr. Shwetang Kr. Tiwari, Advocate
Mr. Sanjay Kr. Saw, Advocate

C.A.V on 03.07.2026

Pronounced on 23/07/2026

Per Sujit Narayan Prasad, J.

1. The instant appeal under section 19(1) of the Family Courts Act, 1984 is directed against the judgment dated 06.05.2023 and the decree signed and sealed on 15.05.2023 passed in Original Suit No.194 of 2017 by the learned Principal Judge, Family Court, Ranchi (in short, Family Judge) whereby and whereunder the petition filed under section 13(1) (i-a) of the Hindu Marriage Act, 1955 by the appellant-husband against the respondent-wife has been dismissed.
2. The brief facts of the case as pleaded in the plaint having been recorded by the learned Family Judge, needs to be referred herein as:

- (i) The case of the petitioner/appellant is that he was married with the respondent on 11.05.2014 at Ichagarh, Saraikela-Kharsawan.
- (ii) After the marriage both the parties started living as husband and wife and out of the said wedlock, the couple was blessed with a female child namely, Deepa on 07.02.2015.
- (iii) It has been alleged that since the very inception of the marriage behaviour of the respondent-wife towards the petitioner-husband was very bad and cruel. During stay at matrimonial house behaviour of the respondent-wife was not cordial and she never cared to do household chores.
- (iv) The respondent-wife refused to cohabit as she was having illicit physical relations with number of people prior to her marriage and was not interested to cohabit with him.
- (v) The respondent-wife was not ready to live with her mother-in-law. She asked the petitioner that if a separate accommodation is provided then she is ready for cohabitation.
- (vi) Under compelling circumstances and quarrelsome nature of the respondent-wife, the petitioner husband shifted to a rented house at Gauri Shankar Nagar, North Office Para, Doranda, Ranchi leaving behind his widow mother alone in parental house but behaviour of the respondent-wife did not change and she was continued to talk with another person.
- (vii) The petitioner informed about the act of the respondent-wife to her parents to resolve the dispute but parents of the

respondent- wife told that *"HUMLOG TO SAB JANTE HAI KE MERI BETI KA PAHLE KAI LOGO SE GALAT RELATION HAI LEKIN AB HUMLOGO NE APANA PIND USKI (RESPONDENT) TUMEHRE SATH SADI KARKE CHURWA LIYA HAI AB HAMLOG KUTCH NAHI JANTE HAI AB TO TUMHEE USI KE SATH JIVAN NIBHANA HOGA"* which was very shocking for the petitioner.

- (viii) It has further been alleged that the respondent wife used to quarrel on petty matters and never take care of the petitioner-husband. Meanwhile the respondent-wife got pregnant and when the respondent- wife came to know that she is pregnant then started saying that she does not want to keep the baby and wanted to abort it.
- (ix) Surprisingly enough the respondent-wife started assaulting and abusing the petitioner- husband and she tried to commit suicide. The petitioner-husband again informed about behaviour of the respondent-wife to her parents, thereafter, his in-laws came to Ranchi to resolve the dispute but instead of resolving the disputes they aggravated the situation and threatened the petitioner-husband to implicate him and his family members in false and fabricates cases.
- (x) The situation became more assailable and in absence of the petitioner they took the respondent to their village Buruhatu without any reasonable excuse and consent of the petitioner husband.

- (xi) Thereafter, the petitioner along with some friends went to Saraikela-Kharsawan in the month of October, 2015 to bring back his wife Shivani Kumari but her parents assaulted the petitioner and his friends with *Lathi* and *Danda* and threatened them with dire consequences. The uncle of the respondent-wife said that he is a murderer of six persons. Somehow, they managed to escape from there and came to Ranchi. In spite of that the petitioner tried his best to pacify the matter but all went in vain.
- (xii) It has been stated that looking the turbulent attitude of the respondent-wife and her family members, the petitioner/appellant is very much apprehension of his life and limb from the hand of them. The petitioner/appellant/ husband has also apprehension that they will implicate him and his mother in false and fabricated case.
- (xiii) It has been stated that due to such harsh conduct and ill nature, intensity and persistence it is not possible for the petitioner to lead conjugal life with the respondent and if the petitioner leads conjugal life with the respondent would be caused harm or injurious not only for petitioner- husband but also for his entire family members.

3. On the aforesaid ground of cruelty, the appellant-husband has preferred a suit being Original Suit No. 194 of 2017 for dissolution of marriage before the learned Family Court wherein prayer has been made for a decree of dissolution of the marriage between him and the respondent-wife.

4. It needs to mention herein that in Original Suit No. 194 of 2017, upon issuance of the notices, the respondent-wife has appeared and filed a written statement denying all the allegations levelled against her by the appellant-husband.

5. In the written statement, the respondent-wife admitted about her marriage with the petitioner/appellant but has denied the other allegations contained in the plaint. It is stated that after one week of marriage the petitioner and his sister beaten the respondent due to non-fulfillment of demand of a Fridge. They have also levelled bald allegation that the respondent- wife has illicit relation with her Mama (maternal uncle) and Mausera Bhai (maternal brother).

6. It is also stated that the petitioner and his mother tried to miscarriage her pregnancy, however, the father of the respondent get her treated by Dr. Pinki Roy at Jamshedpur and she gave birth to a female child at Primary Health Centre, Ichagarh on 07.02.2015. But neither the petitioner-husband nor his family members came to see the newly born child, even none of them participated in *chatti* of the said child in spite of several requests.

7. In the month of May, 2015, the mother-in-law and maternal uncle-in-law (Mama Sasur) came to attend a marriage ceremony of uncle of the respondent where they demanded Rs.10 lacs and a Four-Wheeler Car as soon as possible from father of the respondent wife and on non-fulfillment of their demand the petitioner-husband along with mother-in-law, sister-in-law and maternal uncle-in-law started assaulting the respondent-wife.

8. It is stated that at the time of marriage Rs.05 lacs, One Passion Pro Bike, Fridge, Cooler, LCD (TV), Washing Machine, Fan, Box Palang, Steel Almirah and other household article along with gold and silver ornaments were given to the petitioner.

9. It is also stated that in the month of September, 2016 the respondent-wife conceived second child but due to pressure of the petitioner-husband and his family members the pregnancy aborted as they administered some kind of tablet at Nagarmal Sewa Sadan on 22.11.2016 and they also threatened to be killed if any such complain is made before any one as the petitioner husband is Steno in the Hon'ble High Court of Jharkhand as he has got guts to do anything against her.

10. It is stated that the petitioner-husband is habitual drunker and has extra marital affair with other women. The respondent-wife has found many photographs of various ladies from the paint pocket of the petitioner-husband and on query the respondent-wife was threatened to kill.

11. It is stated that lastly on 28.01.2017, the respondent-wife informed the matter to her father over phone, who came and took her with him on 29.01.2017 and since then she is living at her parental house.

12. The respondent-wife has also lodged a Complaint Case u/s 498A IPC before the CJM Court Seraikela vide Ichagarh P.S. Case 25/2017 which is pending for investigation and trial.

13. It is stated that the petitioner-husband is not entitled for any relief or reliefs as sought for; hence, the suit is required to be dismissed.

14. After appearance of both the parties, the learned Family Judge has referred the matter for reconciliation before the learned Mediator but the same was failed.

15. Learned Family Judge, after institution of the said case, taking into consideration of the pleadings of the petitioner-husband and the respondent-wife has formulated the issues and has decided the *lis* by refusing to grant divorce to the petitioner-husband.

16. The aforesaid judgment by which divorce has not been granted is under challenge by filing the instant appeal.

Submission of behalf of the appellant-husband:

17. Mr. Rahul Pandey, the learned counsel appearing for the appellant-husband has taken the following grounds:

(i) There is an error in the impugned judgment, since, each and every aspect of the matter has not been taken into consideration based upon the documentary evidences as well as ocular evidences.

(ii) It has been contended that the element of cruelty has been found to be there as it has come in the evidence that the respondent-wife has treated the petitioner-husband and his family members with abusive language and assault and but without appreciating the same properly, the learned Family Judge has come to the finding by holding that no element of

cruelty is there and, as such, the impugned judgment and decree suffers from an error.

(iii) It has been contended that the appellant has been meted out with cruelty at the hands of the respondent-wife due to her abnormal and cruel behaviour as would be evident from the evidence adduced on behalf of the appellant-husband, but the same has not been taken into consideration by the learned Family Judge.

(iv) It has been contended that though the learned Family Judge has proceeded the matter and dismissed the original suit, but Family Judge has failed to appreciate the evidences adduced on behalf of the appellant as in the trial, the evidence has come that it was the respondent-wife who has committed cruelty upon him and his mother by her cruel behaviour and act and left her matrimonial homes without any reason of her own and thus deserted him. As such, the proper consideration of the evidence has not been taken into consideration by the learned trial Court.

(v) The learned trial Court has failed to appreciate that lodgment of a false or exaggerated criminal case against the husband and all his family members and relatives also amounts to cruelty by itself.

(vi) That the learned trial Court has failed to appreciate that the respondent-wife in her written statement as well as in her evidence has alleged that the appellant-husband has extra marital relationship with other women, but she has failed to

substantiate such allegations which alone constitutes cruelty against the appellant.

(vii) The respondent-wife has withdrawn herself from the society and company of the appellant-husband on 29.01.2017 and thereafter she never shown her willingness or made attempt to live with the appellant-husband to restore her conjugal relationship with him which amount to willful neglect of the appellant by the respondent-wife.

18. The learned counsel, based upon the aforesaid ground, has submitted that the impugned judgment and decree, therefore, needs interference on the ground of perversity.

Submission of behalf of the respondent-wife:

19. On the contrary, the learned counsel appearing for the respondent-wife has taken the following grounds:

(i) There is no error in the impugned judgement. The learned Family Judge has considered the entire issue and on the basis of evidence as led by the parties and has passed the order impugned as such same may not be interfered with.

(ii) The appellant-husband has sought divorce on the ground that the behaviour of the respondent-wife is cruel and she has deserted the appellant without any valid ground but the learned Family Court, after taking into consideration the oral and documentary evidence, has held that the entire allegations levelled in the plaint for divorce suit are absolutely illegal, uncalled for and has rightly dismissed the suit.

(iii) It has also been submitted that the learned Family Court after taking into consideration the material available on record has found that the conduct of the appellant-husband has never been towards salvaging the institution of marriage as it is he who has come for the dissolution of the marriage, therefore, on the pretext of the aforesaid categorical finding of the Family Court, the impugned order requires no interference.

(iv) It has been contended that the appellant-husband has alleged that the respondent-wife is having illicit relation with other persons but he has neither disclosed the name of paramour nor made any person as co-respondent to the present suit nor any specific evidence has been brought on record to prove the allegation of adultery and, therefore, the learned Family Court has rightly dismissed the suit after finding the allegation of illicit relationship of the respondent is false and concocted one. Therefore, the impugned judgment and decree need no interference.

(v) It has been contended that the learned Family Court has rightly held that after filing of the criminal case under section 498A IPC by the respondent-wife after being harassed at the hands of the appellant-husband and his family members, the appellant-husband has filed the divorce suit and further held that there is no serious nature of cruelty for which a decree of divorce may be granted and dismissed the suit for divorce. As such, the judgment and decree impugned herein are require no interference.

(vi) It has been contended that the learned Family Court has rightly held that the ground of cruelty as alleged by the appellant-husband against the respondent-wife has not been proved as the simple wear and tear are part and parcel of the conjugal life almost in all the society and, as such, it requires no interference.

20. Learned counsel, based upon the aforesaid grounds, has submitted that if on that pretext, the factum of cruelty has not been found to be established, hence, the impugned judgment cannot be said to suffer from an error.

Analysis:

21. We have heard the learned counsel appearing for the parties, gone through the impugned judgment as well as the Trial Court Records, as also the testimonies of the witnesses and the documents exhibited therein.

22. The learned Family Judge has formulated altogether four issues, for ready reference, the same are being quoted hereinbelow:

(I) Whether the respondent-wife after solemnization of marriage treated the petitioner with cruelty?

(II) Whether the petitioner himself has treated the respondent with cruelty and is taking advantage of his own wrong?

(III) Whether the petitioner is entitled to get a decree of divorce as prayed by him on the ground of cruelty?

(IV) Whether the petitioner is entitled to get other equitable relief as per settled principle?

23. The learned Family Judge has considered the evidence adduced on behalf of the parties for deciding the issue involved in Original Suit No.194 of 2017 and firstly dealt with the issues nos. (I) and (II) as they are the main issues that form the basis of the suit.

24. 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 parties wherein the element of cruelty has been shown.

25. During trial of the case five witnesses have been examined on behalf of the petitioner-husband. P.W.-1- Hiralal Pramanik is the petitioner husband himself, P.W.-2 is one Ravindra Kumar (Ravi), friend of the petitioner, P.W.-3 is one Vijay Kumar- friend of the petitioner-husband, P.W.-4 is one Anita Devi and P.W.-5 is mother of the petitioner Sonamani Devi. However, evidence of PW-3 Vijay Kumar is expunged vide order dated 24.02.2020. In support of his contention, the petitioner-husband has also exhibited some documents, which are as under:

- (i) *Prescription of Dr. Mrs. Pinki Roy of the respondent-wife has been marked as X for identification.*
- (ii) *Prescription of Nagarmal Modi Seva Sadan has been marked as X/1 for identification.*

26. The respondent-wife has also examined five witnesses including herself as RW1. RW2-Mansa Ram Pramanik, RW-3 is Nirmal Chandra Saw, RW-4 Biren Pramanik is the father of the respondent and RW-5 is one Ajit Kumar Thakur. In support of her contention, the respondent-wife has also exhibited following documents:

- (i) *Certified copy of F.I.R. being Ichagarh P.S. Case No. 25/2017 as Ext. A ,*
- (ii) *Certified copy of Final Form dated 27.02.2018 of Ichagarh P.S Case No.25/2017) as Ext-B.*

27. In his examination on oath as PW1, Hari Lal Pramanik, the appellant-husband has narrated entire things as pleaded in the plaint about his marriage with the respondent. He has deposed that his marriage with the respondent was solemnized on 11.05.2014. After marriage they started living at Village Kongey, Post Ranchi University, P.S. Kanke, District Ranchi as husband and wife, but after some days of marriage the petitioner started living in trouble due to ill behaviour of the respondent towards him and his family members. The respondent used to abuse them and assault his old mother. Sometimes her mental condition has become bad and her treatment is going on at Saraikela. The respondent is continuously treating the petitioner and his family members with abusive language and assault. The petitioner tried to treat her at Ranchi but due to objection of the respondent it could not be possible. Later on, the respondent said that her family members forcibly performed her marriage, thus, she does not want to live with the petitioner. The respondent wife has also not performed her matrimonial obligations and does not want to establish physical relation and that without informing the petitioner she used to leave for her parental home at Saraikela due to which the petitioner becomes up-set.

28. PW1 further deposed that on 16.10.2015 the petitioner went to bring back the respondent but her uncle, who has criminal antecedent, assaulted and threatened him with dire consequences. He has also deposed that when the respondent became pregnant second time, then without taking permission of the petitioner she got aborted her pregnancy by taking medicine and on asking the

respondent-wife threatened to implicate him and family members by committing suicide. The respondent-wife also tried to administer poison twice but fortunate he saved himself. On 29.01.2017, the respondent-wife without informing him left the matrimonial house and since then never turned back there. He has deposed that behaviour of the respondent-wife was never positive towards the petitioner-husband and anything can happen at any point of time with him. When the mother of the petitioner tried to intervene between them the respondent-wife also abused and pushed her due to which his mother received injury. He intervened in the matter and informed to the parents of the respondent then they told that sometimes she got seizures for which she is being treated at Village. They also told that after coming to Ranchi they will get her treated. The father of the respondent came to Ranchi and took the respondent with him. Thereafter the petitioner went to bring her back but she did not come. The petitioner is posted on a responsible post and these things can affect his working. The respondent has lodged a criminal case u/s 498A as also a maintenance case before the Court of Saraikela.

During cross-examination, PW1 has stated that Gopi Pramanik was the mediator of this marriage who is relative of the respondent. The marriage between them was consummated out of cordial relationship and out of the wedlock a daughter was born. He has not disclosed this fact in his plaint through it is a true fact. It is not true that when the respondent became pregnant second time she had gone to Dr. Sunita Jha alone and he never accompanied her. It

is also not true that after administering medicine prescribed Dr. Sunita Jha bleeding started to the respondent and she got aborted her pregnancy at Sewa Sadan, however, he was present at Seva Sadan when the abortion took place in presence of the respondent and her relatives. He had not gone to see the respondent when she was hospitalized but when she was admitted in Seva Sadan, he remained there. He has denied that due to good service he does not want to keep the respondent and thus he ousted the respondent along with baby on 29.01.2017. During Court question this witness had denied that he wants to keep the respondent but during mediation in M.T.S No.194/2017 before the mediation she demanded Rs. 50 lakhs and threatened to commit suicide during mediation before the Mediator Centre, Civil Court, Ranchi as well as before the Mediation Centre of the Hon'ble High Court. He has also denied that the respondent wants to live happily.

29. PW2-Ravindra Kumar (Ravi) has corroborated the fact as deposed by the petitioner. He has deposed that the marriage between both the parties was solemnized in the year 2014. After some days of the marriage the petitioner started living up-set due to ill behaviour of the respondent-wife towards the petitioner and his mother. The petitioner narrated to him about behaviour of the respondent then he went to the house of the petitioner and found that behaviour of the respondent is not good towards the petitioner and his mother. He further deposed that one day at about 9 AM when he went to the house of the petitioner, he found that when the petitioner was ready to go to office his wife (respondent herein) is abusing and

scratching him and when the mother of the petitioner tried to intervene between them the respondent also abused and pushed her who received injury. He intervened in the matter and informed to the parents of the respondent then they told that sometimes she got seizures for which she is being treated at village. They also told that after coming to Ranchi they will get her treated. The father of the respondent came to Ranchi and took her with him. Thereafter, the petitioner went to bring her back but she did not come. The petitioner is posted on a responsible post and these things can affect his working. The respondent had lodged a criminal case u/s 498 A and a maintenance case before the Court of Saraikela.

During cross-examination, PW2 has stated that when the respondent was at the parental house he had gone there. He knows that Hari Lal Pramanik used to go to office at about 9:00 am and returned back at about 7:00 pm evening. In para-27 this witness has deposed that when the petitioner told him about the cruelty by the respondent nobody was present there but date of that day is not in his memory. No talk has taken place with the village Doctor to him, however, the petitioner had talked with the Doctor. He has not provided address of doctor to the petitioner. In para-41, 42 & 43 this witness had deposed that after few days of the marriage on the pressure of the respondent, the petitioner started living separately in a rented Flat. How many days they lived there he does not know. He did not go to rented Flat because the situation was not good there, so, both the parties got separated. In para-46 this witness has deposed that the petitioner never informed that the respondent tried

to attack over them with any weapon. In para-47 & 48 this witness has deposed that on the advice of Doctor medicine was taken by the petitioner and his mother to their injury but he does not know prescription had been given or not. He never made inquiry from the respondent for her medicine. In para-52 this witness has deposed that he does not know whether the respondent is willing to live with the petitioner or not? In para-53 this witness has also deposed that the petitioner never told him that he wants to keep the respondent after filing of the case and counter case.

30. P.W.-3 Vijay Kumar has also been examined but his evidence is expunged vide order-sheet dated 24.02.2020, hence, his evidence is not taken into consideration.

31. P.W.-4 is one Anita Devi who has deposed about the marriage between both the parties and supported the case of the petitioner. In para-5 of her examination-in-chief she has deposed that whenever she used to go to the house of the petitioner found that the respondent is either sitting or taking rest and her mother-in-law is doing household works. On ask the respondent said that she did not come at matrimonial house to do household works rather at her parental house also she was not doing any work, so, she will not do any work here and used to abuse and quarrel. In para-6 this witness has deposed that from the talking of the respondent it appears that her mental condition is not good. Later on, this witness came to know that the respondent is taking medicine for her mental ailment. In para-7 this witness has deposed that sometimes the respondent got seizures, she climbed on the roof started shouting

and behaved like a mental person for which the petitioner used to remain up-set. The petitioner had wanted to treat the respondent but father of the respondent took her to parental house and promised to return back after cure. Thereafter, the respondent did not come. In para-9 this witness has deposed that one day at about 2:00 PM when she went to the house of the petitioner found that the respondent is abusing to mother of the petitioner and forcibly forced her due to which mother of the petitioner got injured. The respondent also abused her parents for not performing her marriage to her choice of a village boy. In para-10 she had deposed that in the month of January, 2017 father of the respondent took her with him, thereafter, the petitioner several times went to the house of the respondent to bring her back but she did not come. Instead of sending the respondent the family members assaulted and abused the petitioner. In para-12 & 13 this witness has deposed that the respondent does not want to live the petitioner and his old mother and since 2017 she is living at her parental house. The petitioner is the only son of his mother.

During cross-examination, PW4 has deposed in para-23 that she does not know the qualification of Hari Lal Pramanik (petitioner). Her husband told her that till Matriculation he and Hari Lal Parmnik pursued their study at Sundil. In para-24, this witness has deposed that her husband lives with Orthopedic Doctor at Nagarmal Modi Sadan Hospital. She does not know the marital rituals of Pramanik Community. In para-33, she has deposed that marriage of Hiralal was performed in the year 2014 but she had

not remembered month hopefully it was performed in winter season. In para-40 she has deposed that after two to four days she met with the wife of Pramanik Jee. Thereafter, she started to go to her work place and did not go there as such she could not talk to his wife again. In para-41 and 42 this witness has deposed that she does not know on which condition the wife of Pramanik Jee came to her matrimonial house and on what condition she went to her parental house. She cannot say what was going on in the house of Pramanik jee every day.

32. P.W.-5- Sonamani Devi is mother of the petitioner who has also supported the case of the petitioner and admitted about the marriage between her son (petitioner) and the respondent. She has deposed in para-3 of her examination-in-chief that she has brought her daughter-in-law with full love and affection in front of Mohalla people but after second or third day of marriage after going of her son to duty her daughter-in-law used to sleep till about 2:00-3:00 PM, then she suspected that something is wrong with her who used to take medicine. On ask she confined herself in the room and slept.

33. PW5 further deposed that the respondent got up at about 7:00 PM when her son came from the Office and asked about her ailment then she became furious and started abusing and assaulting and when her son tried to caught her, the respondent also assaulted her. Thereafter, she informed the matter to the parents of the respondent who told that the respondent has haunted ghost (*Bhoot Parait Ka Saya Hai*) and after some time she would become alright

but it did not happen and she was regularly abusing and assaulting her son. She got injured due to push by her daughter-in-law. After getting information parents of the respondent came and took the respondent with them and lodged a case against her, her son (petitioner) and daughter and against her brothers.

34. PW5 has further deposed that during stay at her matrimonial house, the respondent used to tell that her parents have forcibly performed her marriage with her son, however, she wanted to marry with another boy. She also taunted that her son is an old, black, ugly and old nature person. Her son was not ready to live separately from her, instead of that he took a rented house near Hon'ble High Court to save her conjugal life and started living separately from her. But behaviour of the respondent did not change and she used to abuse and assault her son there also. Due to fear of her daughter-in-law, she never went there to meet with her daughter-in-law. Before six months the respondent along with police came to her house and in front of mohalla people abused and threatened them. The respondent did not do any work of the house and whenever asked used to abuse and assault her. In para-9 of examination-in-chief this witness has deposed that her daughter-in-law (respondent) tried to commit suicide twice. One time she poured kerosene oil over her body but fortunately that time her son was present in the house who saved her. Second time the respondent tried to hang herself from ceiling fan and that time also her son was present in the house who saved her by broken the door. In para-10 she has deposed that her daughter-in-law left her matrimonial house

about five years ago and since then she is living at her parental house. She further deposed that about one month before on order of the Court the respondent came to her house and lived about one week but there was no change seen in her behaviour and as usual, she did not sleep with her son and used to abuse him. In para-11 this witness deposed that the respondent does not want to live with her and her son. She has further deposed that the respondent only wants maintenance from her son. The petitioner is her only son and except him, none other to look after her.

35. During cross-examination in para-27 this witness has deposed that the respondent was used to abuse and confined herself in the room. In para-35 she has deposed that she got injured due to push by the respondent. She got treatment herself but she has no prescription of doctor. She also does not know the name of village doctor. In para-38 PW5 has deposed that she has not made any complain to the police station or social community regarding behaviour of the respondent. She also does not know whether her son has lodged complain before the Court or not. In para-41 this witness has deposed that when the respondent went to her house by order of the Court the room of her son was provided to the respondent and when her son returned from the Court, she asked from her son that why he did not bring back her daughter-in-law and grand-daughter. She does not know that the respondent had lodged what type of case against her. In para-45 this witness has deposed that after one year of marriage the respondent went to her parental house. After one year of marriage her son went to house of

the respondent to bring her back but she herself further deposed that he went there two-three times. Again, she says that after one year of marriage her daughter-in-law went to her parental house then her son did not go to bring her back. In para-47 she has deposed that after one year her daughter-in-law came back at that time, she was pregnant. They treated her from a Doctor at Lalpur, but she has not remembered that the respondent was treated by Dr. Sunita Jha or not. She prescribed medicine to her. This witness again herself deposed that when the respondent became pregnant second time then they never gone to doctor. In para-50 this witness has deposed that she cannot say the reason of quarrel between her son and daughter-in-law.

36. On the other hand, the respondent-wife (Shivani Kumari) has deposed herself as RW1 and admitted her marriage with the petitioner-Hari Lal Pramanik. She has deposed that she was married with the petitioner-Hari Lal Pramanik on 11.05.2014. She has stated that at the time of marriage cash of Rs.05-Lacs, passion motorcycle, electronic equipments, gold and silver ornaments, household article were given to the petitioner. Rs.15-Lacs were incurred during the marriage which was borne by her father. After marriage on 12.05.2014 she came to her matrimonial house at Village Kongey, Kanke, District Ranchi and on 13.05.2014 again she along with her husband to perform rituals of *Pagphera* went to her parental house and returned back from there on 14.05.2014 to her matrimonial house. Her husband is P.A. (Personal Assistant) at Hon'ble Jharkhand High Court. After one week of marriage her husband in

connivance of mother-in-law and elder sister-in-law (*Nanad*) abused, tortured and assaulted her on petty matter. After about 1% month her husband, mother-in-law and Jeth Sas Vimla Devi send her from Doranda Flat to her matrimonial house. After *Pagphera* of marriage she went to her parental house for the first time but the petitioner never came at Buruhatu to take her back. On 29.01.2017 she along with her Maika People came to her matrimonial home. After some days of marriage, the petitioner along with his family members and his maternal uncle (Mama) tortured her physically and mentally due to non-fulfillment of their demand of Rs.10-Lacs. She tolerated all the atrocities of her husband and in-laws for saving her conjugal life but it went in vain. During stay at her matrimonial home she became pregnant but neither the petitioner nor his family members took any care of her. Her father brought her to Jamshedpur and got treated from Dr. Pinki Rai (Prescription Marked 'X' for identification) and she gave birth to a daughter on 07.02.2015 at Primary Health Centre, Ichagarh, but neither the petitioner nor his family members came to see the newly born child either even on the eve of *chatti* ceremony. The expenses of delivery have been borne by her father. Her husband levelled fake allegation that the child is illegitimate.

37. It is further deposed that on 12.07.2014 instead of check up from the Doctor her in-laws due to non-fulfillment of demand assaulted her badly due to which she became faint. In the month of May, 2015 her in-laws again demanded Rs.10-Lace for construction of a house and in the same month she along with her daughter went

to Village Kongey where her husband loudly abused and asked not to see the face of *Kalmuhi* (baby) and directed to take out the baby from the house. Her in-laws were not happy due to birth of the daughter. Her husband had also assaulted in her parental house. The petitioner and his family members did not provide proper food to her at matrimonial house.

38. This witness has deposed that name of mediator was Chitranjan Pramanik who was the relative of the petitioner. Her husband has illicit relation with another lady. During holidays her husband used to go to office at 8:00am and returned to home till late night at about 11:00pm to 12:06am, however, the office distance is about half kilometer. She has deposed that in the month of September, 2016 she again became pregnant. The petitioner and his family members forced to abort her pregnancy and the petitioner forcibly took her to Dr. Sunita Jha on 12.09.2016 and on the second day the petitioner and mother-in-law forcibly administered some medicine thereafter bleeding started which continued since long time. Then on 12.11.2016 the petitioner brought her to Ranchi at Nagarmal Modi Sewa Sadan Hospital where her pregnancy was aborted (ID Mark X/1). The petitioner also used to threaten that he works at Hon'ble High Court, so you cannot do date of marriage she lived at her matrimonial house for about three years and her daughter was born at her parental house. In para-79 & 80 she deposed that on 08.05.2021 she went to Kanke Police Station when her husband was going to perform second marriage filed a list or documents regarding articles and cash which were given at the time

of marriage. In para-92 she has deposed that she has no knowledge that her husband has taken any loan for construction of a house. It is wrong to say that she had taken a bond from the petitioner. In para-88 this witness has deposed that she has not parental house. The name of her mother-in-law is Sonamani Devi.

39. R.W.-2 is one Mansa Pramanik who has deposed about the marriage between the petitioner and the respondent on 11.05.2014 and has supported the case of the respondent. He has deposed that at the time of negotiation of marriage he was present at the house of the maternal uncle (Mama) of Hiralal Pramanik. At the time of marriage Rs.05-Lacs along motorcycle, ornaments, household utensils were given to the petitioner. In the marriage Rs. 12 to 15 lacs were incurred by father of the respondent. The petitioner and his family members abuse, tortured and assaulted the respondent due to non-fulfillment of their demand of Rs.10-Lacs. There is a daughter out of the wedlock of both the parties. The respondent along with her daughter is living at her parental house.

During cross-examination this witness has deposed that he knows both the parties as they are his relative. He does not know the name of father of Hiralal Pramanik. In para-20 this witness has deposed that Hiralal has three stories house but himself further says that he lives in Asbestos house. In para-25 & 27 he has deposed that he along with father of Shivani (respondent) went to convince Hiralal at that time Hiralal and his mother were present in the house but he does not remember the day, date and month. He further

deposed that when the petitioner used to assault the respondent he had gone to the house of the petitioner several times.

R.W-3 Nirmal Chandra Saw who has fully supported the case of the respondent and has deposed about the marriage between both the parties and birth of a daughter out of their wedlock. He has also deposed more or less similar as deposed by R.W-1 and R.W.-2. This witness has deposed that due to non-fulfillment of demand of Rs. 10,00,000/- the petitioner and his family members used to assault and abuse the respondent.

40. During cross-examination this witness has deposed that he was present during negotiation of marriage between both the parties. At the time of marriage, he had lent Rs.1.50- lacs to the father of the respondent. In para-34 he has deposed that presently Shivani (respondent) lives separately from her father.

41. R.W.-4 is Biren Pramanik, father of the respondent. He has deposed about the marriage between the petitioner and respondent on 11.05.2014 and birth of a daughter out of their wedlock born on 07.02.2015. He has fully supported the case of the respondent. His examination-in-chief is verbatim to the evidence of R.W.1 (the respondent), hence, his examination-in-chief is not taken into in detail. He has deposed that he had given Rs.05- lacs cash along with passion motorcycle, electrical equipment, ornaments, etc. to the petitioner. He further deposed that due to non-fulfillment of demand of Rs.10-Lacs the petitioner and his family members used to abuse and torture his daughter regarding which she had lodged cases against the petitioner and his family members.

During cross-examination this witness has deposed that he does service at Jamshedpur. He lives at Burahatu along with his wife, son, daughters, daughter's daughter. In para-20 he has deposed that it is wrong to say that he has prevented to interfere between both the parties by the Court. In para-40 this witness has deposed that negotiation of marriage had taken at two places. First in the Flat situated at Doranda and second in the house of the maternal uncle of the petitioner. In para-42 this witness has deposed that after advice from him her daughter lodged case in the year 2017. In para-43 he has deposed that statement made in para-4 of her evidence is true. He has no knowledge that during treatment of injury the respondent remained at her matrimonial house. In para-44 he has deposed that the respondent has sign of scratches which has been occurred due to assault. In para-45 he has deposed that the police had taken statement of Dr. Sunita Jha.

42. RW-5 is Ajit Kumar Thakur. His evidence is also similar to the evidence of other respondent's witnesses. He has deposed about the marriage between the petitioner and the respondent. He has deposed that due to torture and demand of dowry the respondent is living at her parental home along with her daughter. He has deposed that the respondent is ready to lead conjugal life with the petitioner.

43. The fact about filing of suit by taking plea of cruelty is admitted one as per the evidences adduced on behalf of the appellant-husband.

44. The appellant-husband all along has alleged the issue of cruelty, which he was subjecting to by his wife and in order to establish the same the evidences has been laid as has been referred hereinabove.

45. This Court while appreciating the argument advanced on behalf of the appellant-husband 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.

46. 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 read 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.”*

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

48. Further Perversity is a high threshold for intervention, distinguishing it from a mere error of fact or law. The "safest" approach on perversity is the classic approach on the reasonable man's inference on the facts but inadequacy of evidence or a different reading of evidence is not perversity, reference in this regard be made to the judgment rendered by the Hon’ble Apex Court in the case of ***Damodar Lal v. Sohan Devi, (2016) 14 SCC 197.***

49. Herein, submission has been made on behalf of the appellant-husband that the respondent-wife committed cruelty against him and his family members.

50. 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.

51. This Court deems it fit and proper to take into consideration the meaning of ‘cruelty’ as has been held by the

Hon'ble Apex Court in *Shobha Rani v. Madhukar Reddi, (1988)1 SCC 105* wherein the wife alleged that the appellant-husband and his parents demanded dowry. The Hon'ble Apex Court emphasized that "cruelty" can have no fixed definition.

52. 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."

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

54. 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.

55. 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”.

56. 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.

57. The Hon’ble Apex Court in *Joydeep Majumdar v. Bharti Jaiswal Majumdar*, (2021) 3 SCC 742, has observed that while judging whether the conduct is cruel or not, what has to be seen is whether that conduct, which is sustained over a period of time, renders the life of the spouse so miserable as to make it unreasonable to make one live with the other. The conduct may take the form of abusive or humiliating treatment, causing mental pain and anguish, torturing the spouse, etc. The conduct complained of must be “grave” and “weighty” and trivial irritations and normal wear and tear of marriage would not constitute mental cruelty as a ground for divorce.

58. “Cruelty” has an inseparable nexus with human conduct and is always dependent on social strata or milieu to which parties

belong, their ways of life, relationship, temperaments and emotions that are conditioned by their social status, reference be made to the judgment rendered by the Hon'ble Apex Court in the case ***Vishwanath Agrawal v. Sarla Vishwanath Agrawal, (2012) 7 SCC 288.***

59. The Hon'ble Apex Court in the case of ***K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226*** has observed that cruelty is evident where one spouse so treats other and manifests such feelings in other, as to cause reasonable apprehension in mind of other that it would be harmful or injurious to reside with other spouse and cruelty may be physical or mental. It has further been observed that staying together under the same roof is not a precondition for mental cruelty. Spouse can cause mental cruelty by his or her conduct even while he or she is not staying under the same roof.

60. In matrimonial relationship cruelty mean absence of mutual respect and understanding between spouses which embitters relationship. Sometimes it may take form of violence, or at times may just be an attitude or approach. Silence in some situations may also amount to cruelty reference be made to the case of ***Ravi Kumar v. Julmidevi, (2010) 4 SCC 476.***

61. For considering dissolution of marriage at instance of a spouse who alleges mental cruelty, result of such mental cruelty must be such that it is not possible to continue with matrimonial relationship reference may be taken from the judgment rendered by the Hon'ble Apex Court in the case of ***Joydeep Majumdar v. Bharti Jaiswal Majumdar(supra).***

62. Further, the word ‘cruelty’ is used 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. The cruelty may be mental or physical, intentional or unintentional. There may be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect on the other spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted, reference in this regard be made to the judgment rendered by the Hon’ble Apex Court in the case of *Vinita Saxena v. Pankaj Pandit*, (2006) 3 SCC 778.

63. Further, in the case of *Manish Tyagi v. Deepak Kumar*, (2010) 4 SCC 339, the Hon’ble Apex Court has categorically observed that to constitute ‘cruelty’, it is enough that conduct of one of parties is so abnormal and below accepted norm that another spouse could not reasonable be expected to put up with it. Conduct is no longer required to be so atrociously abominable which would cause reasonable apprehension that it would be harmful of injurious to continue cohabitation with another spouse. Hence, it is not necessary to establish physical violence. Continued ill-treatment, cessation of marital intercourse, studied neglect, indifference may lead to inference of cruelty.

64. The word “cruelty” under Section 13(1) (i-a) of the Act has got no static connotation, and therefore, gives a very wide discretion to the Court to apply it liberally and contextually. What

is cruelty in one case may not be the same for another and has to be applied from person to person while taking note of the attending circumstances. Harm or injury to health, reputation, the working-career or the like, would be important considerations in determining whether the conduct of the defending spouse amounts to cruelty. It has to be shown that the defending spouse has treated him with cruelty to cause reasonable apprehension in his/her mind that it will be harmful or injurious to live with the contesting spouse.

65. Now adverting to the factual aspect, it is evident from the impugned order that the allegations specific to the ground of alleged cruelty has been made by petitioner -husband.

66. In the present case, upon a conjoint reading of the pleadings of both parties, it emerges as an admitted position that the marriage between the petitioner and the respondent was solemnized in accordance with Hindu rites and rituals. It is further an undisputed fact that out of the said wedlock, one female child was born to the couple.

67. It is further evident that the present petition has been instituted by the petitioner-husband (hereinafter referred to as the appellant) before the learned Family Court seeking a decree of divorce on the ground of cruelty, alleging that he has been subjected to acts of cruelty at the hands of the respondent-wife. In his cross-examination, at para 20, the appellant candidly admitted that he did not mention in his examination-in-chief on oath that a daughter was born out of the wedlock, as the said fact was a matter of reality and not in dispute. At para 21, he denied the suggestion that he had

omitted to state every real fact relating to him. At para 23 and 24, he denied the allegation that he administered drugs to the respondent on the advice of Dr. Sunita Jha, which allegedly caused her illness and led to her admission at Seva Sadan and subsequent abortion of her foetus. On the contrary, he asserted that the respondent was taken to Seva Sadan by her relatives, and upon being informed thereof, he went to the hospital.

68. It is evident from the written statement as well as deposition of the respondent/wife at para-25 of her examination-in-chief that when she conceived second time it was the petitioner who with intention to abort the foetus administered drug to the respondent and due to which she was fallen ill.

69. At para-27 of his cross examination, the petitioner-husband has admitted that he has never taken the respondent to Seva Sadan for her treatment rather he went there when she was admitted. This admission of the petitioner itself shows that he never taken care of the respondent.

70. On the ground of cruelty, the respondent-wife denied the entire allegation alleged by the petitioner-husband in his plaint as well in his examination-in-chief on oath. She has specifically stated at para-6 that her elder sister-in-law, namely, Vimla Devi wanted to take the refrigerator given at the time of marriage as *stridhan* to the respondent upon which she stated that since it was given as a wedding gift, so please ask the mother before taking it. Thereafter, her sister-in-law abused her and physically assaulted with the help of the petitioner-husband and thereafter it was become daily routine.

At para-7 the respondent stated that after marriage her husband (the appellant herein) had never come to take back her from her *mai ke* rather she herself along with her relatives came to her matrimonial house and on every time her husband brutally assaulted her. At para-8 she has stated that due to non-fulfillment of demand of Rs.10 lakhs and a four-wheeler car the petitioner brutally assaulted her due to which she became unconsciousness. Thereafter her father gave Rs.1.50 lakhs to the petitioner. At para-10 of her examination-in-chief the respondent has stated that when she became pregnant first time, her husband never took her for routine checkup by any doctor and when she insisted, he and his family members brutally assaulted her by saying that if you are so keen on providing treatment, then go back to your father's house. Thereafter, she called her father who take her to her *mai ke* for better treatment where she was treated by Dr Pinki Roy on routine basis and gave birth to a female child on 07.02.2015 named Dip Priya. At para-12, the respondent has stated that after birth of her daughter the petitioner and his relatives never took care of her or her baby child and even not turned up to see her. Thereafter, she contacted several times to the petitioner over phone but he did not respond and even cut the phone call. The respondent has stated that all the expenditure was incurred by her father.

71. The respondent at para-13 of her examination-in-chief has stated that on the occasion of *chatti* ceremony, her father informed the petitioner, his mother, sister-in-law, and her maternal-in-laws but they did not come to even see the newly born baby child. The petitioner has spread rumor that since he is not the biological father

of the baby child and, as such, he did not perform *chatti* ceremony and, thus, defamed her. At para-14 the respondent has alleged that her husband told that since she gave birth to a female child, therefore, he does not want to incur any penny. At para-16, the respondent has stated that in the month of May, 2015 in a marriage function her husband, mother-in-law and maternal-in-law went to take part in that function and on repeated requests made by her father they came to her *mai*ke at Buruhatu and before departing from there they demanded Rs. 10 lakhs cash for construction of a house. Thereafter, she went to her in-laws' house at Konge where the petitioner abused her by saying that get out of his house as he does not want to see that hateful girl's face. He has also shouted by saying that as to why you did come here with the burden of a female child. At para-17 the respondent has deposed that her husband and mother-in-law always brutally assaulted her during her stay at matrimonial home and even stopped to provide food and take care of her or her female child. At para-20, the respondent stated that the petitioner (her husband), her mother-in-law, and her sister-in-law brutally assaulted her by dragging her by the hair. She further alleged that her husband assaulted her with a hot iron rod, causing her burn injuries and threatened to kill her if she intends to lodge a case. At para-22 the respondent has stated that the petitioner used to threaten her by saying that he would divorce her noting that his maternal uncle and cousins had already done so. At para-23 the respondent has stated that the petitioner used to threaten his neighborhood by saying that he is working at the High Court, and he will file a case

against anyone who goes against him. She has further stated that her husband and mother-in-law used to lock the main door when they went outside. At para-24 the respondent has stated that her husband has brutally assaulted her by saying that you have an improper relationship with your mother, uncle, and brother as they are your lovers. At para-25 the respondent has stated that the petitioner used to threaten her by saying that he is working at the High Court and no one will be able to harm him or his family as everyone is under his control and the Family Court judge will have to accept what he says. The petitioner further told that from the lawyers to the judge in the civil court, everyone is in his hands.

72. At para-26 the respondent has stated that her husband used to try to kill her baby girl by tossing her up in the air. At para-27 she has stated that on 28.01.2017 her husband has brutally assaulted her due to which she became senseless. Due to fear the in-laws of the respondent had called her father and maternal uncle by saying that since she got aborted and, as such, she became weak and for her proper care take her with them. Upon which, her father came and take her back to her *maike* but thereafter neither the petitioner nor his family members ever approached to see her or her female child and since then, she is living in her *maike*. She has further deposed that thereafter on the flimsy ground, the petitioner has filed a suit for divorce and when she contacted her the petitioner threatened to kill her and her baby child.

73. Further, the respondent at para-32 has stated that she is living in her *maike* with her baby child having no income of her own

whereas her husband (the appellant herein) is getting a sum of Rs.90000/- and odds per month as he is working as Personal Assistant in the Jharkhand High Court and this fact she knows from before her marriage. At para-35 the respondent has stated that she has lodged a complaint case being G.R. Case No.766/17 which is pending before the learned trial Court against which the petitioner has preferred anticipatory bail application in which a sum of Rs.8000/- per month was ordered to be granted in her favour but the petitioner has not paid any penny to her or her baby child.

74. She has further stated that the petitioner has preferred a case in the High Court being Cr.M.P No.222 of 2019 wherein ad-interim stay was granted in his favour. At para-36 the respondent has further stated that she has preferred a Maintenance Case being OM No.15/19 which is pending for evidence of the petitioner. The petitioner had told that he would not pay any penny to her for her maintenance.

75. At para-71 of her cross-examination, the respondent has stated that in the conciliation proceeding she wanted to live with the petitioner but the petitioner did not want to live with her. At para-72 the respondent has stated that her husband (appellant herein) used to say that he wants a girl who is having a job and he is having no interest in her. At para-76 of her cross-examination, the respondent has stated that her husband (the appellant) has brutally assaulted her due to which she became unconscious. But she could not go to hospital or had made any complaint to the police as she was kept confined in the room. She has admitted that she had not done so as

she didn't want the marital relation to be destroyed. At para-150 of her cross-examination, the respondent has denied the suggestion that since there is an age gap in between her and her husband and, as such, she do not want to live with him because of his dark complexion. At para-153 the respondent has denied the suggestion that at her in-laws' house, she used to wake up at 9 AM and harassed her mother-in-law. At para-157 the respondent has denied the suggestion that whenever her in-laws tried to persuade her, she threatened to commit suicide. At para-138 the respondent has denied instituting false criminal case under section 498A against her husband and his relatives after notice for divorce case was served upon her asserting that such cases were necessitated by the petitioner's behaviour.

76. The learned Family Court has considered the entire factual aspect as well as settled position of law and after going through the evidence on record has explained in detail about absence of element of cruelty at para-11 of the impugned judgment. For ready reference, the relevant paragraph-11 thereof is being quoted as under:

11. From close scrutiny of Section 13(1)(ia) of the Hindu Marriage Act, 1955 it uses the words "treated the petitioner with cruelty". The word "cruelty" has not been defined. Indeed it could not have been defined. 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 of one which is adversely affecting the other. The cruelty may be mental or physical, intentional or unintentional. If it is physical the court will have no problem to determine it. It is a question of fact and degree. If, it is mental the problem presents difficulty. First, the inquiry must begin as to the nature of the cruel treatment. Second, the impact of such treatment in the mind of the spouse. Whether it caused reasonable apprehension that it

would be harmful or injurious to live with the other. Ultimately, it is a matter of inference to be drawn by taking into account the nature of the conduct and its effect on the complaining spouse. There may, however, be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect on the other spouse need not be inquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted.

The expression "cruelty" has an inseparable nexus with human conduct of human behaviour. It is always dependent upon the social strata or the milieu to which the parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status. Moreover, to establish legal cruelty, it is not necessary that physical violence should be used. Concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, tradition, religious belief, human values and their values system. Apart from this the concept of mental cruelty cannot remain static, it is bound to change with passage of time or vice versa. There can never be any straight jacket formula or fixed parameters for determining mental cruelty in matrimonial matters. (AIR 2012 SC 2586: (2012)7 SCC 288 Viswanath Sitarani Agrawal v. San Sarle Vishwanath Agrawal.). To constitute cruelty, the conduct complained of should be 'grave and weighty' so as to come to the conclusion that the petitioner spouse cannot be reasonably expected to live with the other spouse. It must be something more serious than 'ordinary wear and tear of married life'. (2005 AIR SC) 534 A. Jayachandra versus Aneel Kaur). In a reported decision 2017(2) JBC) 301 (H.C) Tapan Ghosh V/s Lakhi Ghosh it has been held by the Hon'ble High Court that use of abusive language on one or two occasions will not be a fit ground for divorce. In the present suit the evidence available on record on behalf of the petitioner husband reveals that the cruelty as alleged by him against the respondent-wife that she was misbehaving arrogantly with the petitioner-husband and his parents which caused mental agony to the entire family. Apart from this the respondent-wife lodged two separate cases one before the Court of Ld. Chief Judicial Magistrate at Seraikela bearing C.C. Case No. 5730/2017 corresponding to

G.R. Case No.766/2017 and the other is Original Maintenance Case No. 15/2019 which are pending. The settled law by way of various pronouncement by the Hon'ble Apex Court is that a simple marital discord or simple wear and tear in matrimonial life occurs almost in all the family but the cruelty as a ground of divorce should be weighty and heavy degree which is lacking here in this case as is evident that when the respondent-wife lodged criminal case against the respondent-husband and his family members u/s 498A I.P.C then the petitioner- husband filed the present suit for divorce. So, bringing this suit into being is not because of cruelty rather it has been brought in existence otherwise as discussed herein above. Therefore, this Court do not find that there is any serious nature of cruelty for which a decree of divorce may be granted to the petitioner.

Issue No. III and IV: Whether the petitioner is entitled to get a decree of divorce as prayed by him on the ground of cruelty? & Whether the petitioner is entitled to get other equitable relief as per settled principle?

Since the main issues nos. I & II have been decided against the petitioner- husband as such he is not entitled to get a decree of divorce and any other relief or reliefs

Under the above facts and circumstances as discussed herein above and after going into the merit of the case, it is therefore,

ORDERED

that the present Original Suit No. 194 of 2017 be and the same is hereby dismissed on contest. There will be no order as to cost.

Let a decree be prepared, accordingly.

The judgment pronounced in open Court.”

77. Thus, from the aforesaid it is evident that the learned Family Judge has considered the fact that the appellant-husband has miserably failed to establish the allegation of cruelty against the respondent-wife.

78. Further, in the present suit, the evidence adduced on behalf of the petitioner-husband indicates that the allegation of cruelty is

based on the assertion that the respondent-wife behaved arrogantly with him and his parents, thereby causing mental distress to the family. In addition, the respondent-wife has instituted two separate proceedings: C.C. Case No. 5730/2017 corresponding to G.R. Case No. 766/2017 before the Court of the learned Chief Judicial Magistrate, Seraikela, and Original Maintenance Case No. 15/2019, both of which remain pending. The settled legal position, as laid down by the Hon'ble Supreme Court in various pronouncements, is that mere marital discord or ordinary wear and tear of matrimonial life, which are common to most families, cannot constitute cruelty within the meaning of law. For cruelty to be a ground for divorce, it must be of a grave and serious nature. In the present case, it is evident that the respondent-wife lodged a criminal case under Section 498-A IPC against the petitioner-husband and his family members, and thereafter the petitioner instituted the present suit for divorce. Thus, the institution of this suit appears not to be a consequence of cruelty of a serious nature but otherwise, as discussed hereinabove.

79. Accordingly, this Court finds no sufficient ground of cruelty warranting a decree of divorce in favour of the petitioner-husband.

80. This Court, after examining the factual aspects in conjunction with the settled legal position and adverting to the reasoning recorded by the learned Family Judge in the impugned judgment, finds that the issue of cruelty has been duly considered. Upon appreciation of the evidence, the learned Family Judge has

rightly concluded that the appellant-husband has failed to establish the ground of cruelty against the respondent-wife.

81. This Court, upon consideration of the findings recorded by the learned Family Judge and in light of the foregoing discussion, is of the view that the judgment and decree so passed do not suffer from perversity. The learned Family Judge has consciously evaluated the evidence, both ocular and documentary, and the same is duly reflected in the reasoning contained in the impugned judgment.

82. This Court, therefore, is of the view that the judgment dated 06.05.2023 and the decree signed and sealed on 15.05.2023 passed in Original Suit No.194 of 2017 by the learned Principal Judge, Family Court, Ranchi warrant no interference.

83. Accordingly, the instant appeal stands dismissed.

84. Pending I.A(s), if any, stands disposed of.

(Sujit Narayan Prasad, J.)

I Agree.

(Pradeep Kumar Srivastava, J.)

(Pradeep Kumar Srivastava, J.)

Sudhir
Dated: 23/07/2026
Jharkhand High Court, Ranchi
AFR

Uploaded on 23/07/2026.