IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 167 of 2023

Jyoti Kumar Singh, aged about 39 years, son of Late Sitaram Singh, resident of Housing Colony, In front of Central Public School, Adityapur-I, P.O. & P.S.-Adityapur, District-Seraikella-Kharsawan.

… … Appellant/Petitioner

Versus

Smt. Runa Singh, aged about 34 years, wife of Shri Jyoti Kumar Singh and daughter of Ram Janam Ram, resident of Qtr. No. 3393, Janta Colony, Sector-25, P.O. & P.S.-Sector-17, Chandigarh (Punjab).

… … Respondent/Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellant : Mr. Ashim Kumar Sahani, Advocate
For the Respondent : None

CAV/Reserved on 03.02.2026 **Pronounced on: 10.02.2026**

Per Sujit Narayan Prasad, J.

1. The instant appeal under Section 19(1) of the Family Courts Act, 1984 is directed against the order/judgment dated 29.05.2023 (decree signed on 08.06.2023) passed by the learned Principal Judge, Family Court, Seraikella-Kharsawan in Original Suit No. 18 of 2021, whereby and whereunder, the learned court has dismissed the suit filed under Section 13(1)(i-a) of the Hindu Marriage Act, 1955.

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

The petitioner and the respondent were married on 09.11.2008 at Adityapur according to Hindu Rights, rituals and customs. After marriage, the respondent came to the house of the petitioner and three children took birth from the wedlock, namely, Gunja Kumari, Roshan Kumar and Yash Kumar. It had been pleaded by the appellant/petitioner that the behaviour of respondent never remained cordial with the petitioner and his family members, always creating dispute and quarrel giving no regard to them and also abstaining from the house hold work and care of the children and in

continuation with the same she filed a complaint against the petitioner in Mahila P.S. Seraikella.

It is further case that a compromise arrived with stipulation that the respondent would go to her parents' house at Chandigarh and would return after 20 days to her matrimonial house, where she went with the younger son Yash Kumar on 18.06.2018, but did not maintain her commitment as the respondent did not return and surprisingly she filed complaint case against the petitioner and his family members alleging torture and cruelty in Mahila P.S. Sector No.17 at Chandigarh and the petitioner was pressurized to live separate from his parents at Chandigarh. On denial, the respondent did not agree to return at matrimonial house.

It had been submitted by the petitioner as has been referred in the impugned order/judgment by referring the filing of complaint case vide FIR No. 160 dated 27.11.2019 u/s 498A and case No. 125 of 2019 under Domestic Violence Act, that the cases are sub-judice before the Court of Solani Gupta J.M. 1st Class at Chandigarh and the petitioner along with his family members are on bail. It is further stated that petitioner had file a case u/s 9 of the H.M.A. vide O.S. No. 86/2018 at Seraikella and in that case the respondent did not appear and the case decreed ex-parte on 29.07.2019, directing the respondent to join the company of petitioner, but she did not return along with the minor son Yash Kumar. In this context it is also pleaded that for recovery and custody of Yash Kumar, O.S. (Guardianship) Case No.18 of 2020 was filed on 06.02.2019 before Family Judge, Seraikella, but in that case too, despite summon and notice, she did not appear and the suit was allowed by passing ex-parte decree.

It is the case of the petitioner that the respondent has committed extreme mental and physical cruelty and has reason to believe that the relationship of the parties cannot be reconcile making it impossible to lead a marriage life and as such the prayer for decree of dissolution of marriage has been made that with further relief to consider the living of the children with the parties especially with the petitioner.

3. It is evident from the factual aspect as referred hereinabove which led to filing of the present appeal that, as per the Original Matrimonial Suit, that

the petitioner and the respondent were married on 09.11.2008 at Adityapur according to Hindu Rights, rituals and customs. After marriage, the respondent came to the house of the petitioner and three children took birth from their wedlock. It had been pleaded by the appellant/petitioner that the behaviour of respondent never remained cordial with the petitioner and his family members, always creating dispute and quarrel giving no regard to them and also abstaining from the house hold work and care of the children and in continuation with the same she filed a complaint against the petitioner in Mahila P.S. Seraikella.

It is further case that a compromise arrived with stipulation that the respondent would go to her parents' house at Chandigarh and would return after 20 days to her matrimonial house, where she went with the younger son Yash Kumar on 18.06.2018, but did not maintain her commitment as the respondent did not return and she filed complaint case against the petitioner and his family members alleging torture and cruelty in Mahila P.S. Sector No.17 at Chandigarh and the petitioner was pressurized to live separate from his parents at Chandigarh. On denial, the respondent did not agree to return at matrimonial house.

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4. It is evident from the factual aspect that the appellant/petitioner had a motion by filing a petition under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 for decree of divorce along with a prayer for consideration of living of children with the parties, especially with the appellant/petitioner.

5. The learned Family Judge, thereafter, had issued notice upon the respondent for her appearance and settlement of issues through nazarat and registered post. No report of notice sent through nazarat on the address at Punjab returned. The registered notice was sent with consignment No. EJ490822326IN and the track report has been filed which shows that the item delivered to the addressee on 02.09.2021. Thereafter, order for issuance of notice through paper publication was passed on 07.10.2021. The same was published in Amar Ujala on 25th March 2022, of Chandigarh edition and the date of appearance of the respondent was fixed on 21.05.2022, 17.06.2022, 16.07.2022 and then on 22.08.2022, but the respondent did not appear and as such the proceeding of the case was fixed for ex-parte hearing vide order dated 22.08.2022 and the petitioner was directed to adduce evidence.

6. Thereafter, the learned Family Judge, after considering that the respondent had not appeared in the case but the appellant/petitioner is to prove his case on the touch stone of the grounds for a decree of divorce, as such, has framed two issues for consideration to be proved by the appellant/petitioner that:

   (i) the respondent has treated him with cruelty?

   (ii) valid cause of action arose to the petitioner for filing this suit?

7. The evidences have been made on behalf of the appellant/petitioner. Thereafter, the judgment has been passed dismissing the suit by holding that the appellant/petitioner has not been able to prove the allegation of cruelty and the appellant/petitioner is not entitled to get a decree of divorce, which is the subject matter of the present appeal.

Submission of the learned counsel for the appellant/petitioner:

8. It has been contended on behalf of the appellant/petitioner that the factual aspect which was available before the learned court supported by the

evidences adduced on behalf of the appellant/plaintiff has not properly been considered and as such, the judgment impugned is perverse, hence, not sustainable in the eyes of law.

9. Learned counsel for the appellant/petitioner has submitted that all attempt for securing the appearance of respondent has been taken, by issuing processes through post and nazarat, as well as through notice by publication on the address at Chandigarh, but the respondent intentionally did not choose to appear in the case, as such, the same shows the conduct of the respondent that she is not willing to lead conjugal life.

10. It has further been submitted that the case of the petitioner and his family members have suffered cruelty by the respondent as the respondent had filed two criminal cases against him and his family members, in which they are on bail, which shows the cruelty at the hands of the respondent against the petitioner and his family members.

11. It has been submitted that the issue of cruelty has not been taken into consideration in right perspective even though the fact about the same as also the fact of living separately has well been established.

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

Analysis:

13. It needs to refer herein that this Court had issued notice upon the sole respondent vide order dated 22.01.2024. Thereafter, the case was listed on 13.08.2024 and it appears from the said order that the notice was received by the sister of the respondent, as such, the notice was deemed to be validly served and the trial court records were called for.

14. But the respondent did not appear, as such, vide order dated 10.06.2025, fresh notice was directed to be issued upon the sole respondent and the notice was made returnable on 22.07.2025.

15. The case was again listed on 22.07.2025 and again the respondent did not choose to put her appearance and it had been taken in the said order that the notice was received by the brother of the respondent, as such, the notice

was treated to be validly served and the matter was adjourned for hearing on merit.

16. This Court has heard the learned counsel for the appellant/petitioner and gone through the finding recorded by the learned Family Judge in the impugned judgment.

17. It is evident from record that the said suit of dissolution of marriage was filed under Section 13(1)(i-a) of the Hindu Marriage Act, 1955.

18. The evidence has been led on behalf of both the appellant/petitioner before the Family Court. For better appreciation, the evidences led on behalf of the appellant/petitioner are being referred as under:

(i) P.W.1, Jyoti Kumar Singh, the appellant/petitioner herein, in his statement has stated that since the beginning of the marriage, the respondent was not having cordial relation with the petitioner and his family members as the respondent never wanted to stay along with his parents and always disputed by quarreling with elders. It has further been stated that respondent had not carried out his duties and whenever she was asked to do household work, she always refused to do the same and used to abuse in filthy language.

It has further been stated in his statement that the respondent after going to her maike with the younger son, she refused to come back and file false cases and pressurized the petitioner to stay separately with the parents and come to Chandigarh. It has further been stated that lastly, the respondent had also filed a case for domestic violence and cruelty.

It has also been stated that in a petition filed u/s 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights, the respondent was directed to go to the house of the petitioner and lead conjugal life but the respondent did not return to the house of the petitioner.

(ii) P.W.-2, Sanjay Kumar Singh, has stated in his statement that he is knowing both the parties. He has also stated that with the passage of time after the marriage, relationship between the parties was not good as the respondent was not willing to stay with the parents of the

petitioner due to which there was quarrel between the appellant/petitioner and the respondent.

He has further stated that in the year 2018, the respondent filed a complaint in Seraikela Mahila Police Station in which compromise was done as per which the respondent was to return after 20 days from her maike but the respondent did not return and she filed a complaint in Chandigarh.

19. The learned Family Judge has gone into the interpretation of the word "cruelty" and assessing the same from the evidences led on behalf of the appellant/petitioner as also the submission made in the pleading, i.e., plaint and written statement, has found that the element of cruelty could not have been established.

20. The learned counsel for the appellant/petitioner has argued that the evidence of cruelty has not properly been considered and as such, the judgment suffers from perversity, hence, not sustainable in the eyes of law.

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

> ***"24.*** *The expression "perverse" has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court observed that the expression "perverse" means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.*
>
> ***25.*** *In Parry's (Calcutta) Employees' Union v. Parry & Co. Ltd. [AIR 1966 Cal 31] the Court observed that "perverse finding" means a*

> *finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber & Plastics v. CCE [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.*
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> ***26.*** *In M.S. Narayanagouda v. Girijamma [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough [(1878) 1 LR 1r 331] the Court observed that a "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. 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.""*

22. Thus, from the aforesaid it is evident that if any order made in conscious violation of pleading and law then it will come under the purview of perverse order. Further "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.

23. Herein the ground for divorce has been taken of cruelty. 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.

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

25. 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."

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

27. 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.

28. 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".

29. 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.

30. Further, in the case of ***Vishwanath Agrawal v. Sarla Vishwanath Agrawal, (2012) 7 SCC 288,*** the Hon'ble Apex Court has held as follows:

> *"22. The expression "cruelty" has an inseparable nexus with human conduct or 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.*
> *25. After so stating, this Court observed in Shobha Rani case about the marked change in life in modern times and the sea change in matrimonial duties and responsibilities. It has been observed that : (SCC p. 108, para 5)*
> *"5. ... when a spouse makes a complaint about the treatment of cruelty by the partner in life or relations, the court should not search for standard in life. A set of facts stigmatised as cruelty in one case may not be so in another case. The cruelty alleged may largely depend upon the type of life the parties are accustomed to or their economic and social conditions. It may also depend upon their culture and human values to which they attach importance."*
> *26. Their Lordships in Shobha Rani case referred to the observations made in Sheldon v. Sheldon wherein Lord Denning stated, "the categories of cruelty are not closed". Thereafter, the Bench proceeded to state thus: (Shobha Rani case, SCC p. 109, paras 5-6)*
> *"5. ... Each case may be different. We deal with the conduct of human beings who are not generally similar. Among the human beings there is no limit to the kind of conduct which may constitute cruelty. New type of cruelty may crop up in any case depending upon the human behaviour, capacity or incapability to tolerate the conduct complained of. Such is the wonderful (sic) realm of cruelty. 1. These preliminary observations are intended to emphasise that the court in matrimonial cases is not concerned with ideals in family life. The court has only to understand the spouses concerned as nature made them, and consider their particular grievance. As Lord Reid Gollins v. Gollins : (All ER p. 972 G-H) observed in „... In matrimonial affairs we are not dealing with objective standards, it is not a matrimonial offence to fall below the standard of the reasonable man (or the reasonable woman). We are dealing with this man or this woman."*"

31. In the case of ***Samar Ghosh v. Jaya Ghosh, (2007) 4 SCC 511*** it has been held by the Hon'ble Apex Court as follows: —

> *"99. Human mind is extremely complex and human behaviour is equally complicated. Similarly human ingenuity has no bound, therefore, to assimilate the entire human behaviour in one definition is almost impossible. What is cruelty in one case may not amount to cruelty in other case. The 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, traditions, religious beliefs, human values and their value system.*
> *100. Apart from this, the concept of mental cruelty cannot remain static; it is bound to change with the passage of time, impact of modern culture through print and electronic media and value system, etc. What may be mental cruelty now may not remain a mental cruelty after a passage of time or vice versa. There can never be any straitjacket formula or fixed parameters for determining mental cruelty in matrimonial matters. The prudent and appropriate way to adjudicate the case would be to evaluate it on its peculiar facts and circumstances while taking aforementioned factors in consideration."*

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

33. It is, thus, evident 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.

34. Thus, from the aforesaid settled position of law it is evident that "Cruelty" under matrimonial law consists of conduct so grave and weighty as to lead one to the conclusion that one of the spouses cannot reasonably be expected to live with the other spouse. It must be more serious than the ordinary wear and tear of married life.

35. Cruelty must be of such a type which will satisfy the conscience of the Court that the relationship between the parties has deteriorated to such an extent that it has become impossible for them to live together without mental agony. The cruelty practiced may be in many forms and it must be productive of an apprehension in the mind of the other spouse that it is dangerous to live with the erring party. Simple trivialities which can truly

be described as a reasonable wear and tear of married life cannot amount to cruelty. In many marriages each party can, if it so wills, discover many a cause for complaint but such grievances arise mostly from temperamental disharmony. Such disharmony or incompatibility is not cruelty and will not furnish a cause for the dissolution of marriage.

36. In the backdrop of the aforesaid settled legal position this Court is now adverting to the factual aspect of the case as well as finding of the learned Family Court, it is evident therefrom that the main ground of cruelty has been taken of not taking care and always misbehaving with the appellant/plaintiff and the in-laws as the respondent was not ready to cooperate with the appellant/petitioner.

37. It is evident from the impugned judgment that the learned court has taken into consideration the fact that prior to filing of the suit, one FIR was filed by the respondent on 27.11.2019 against the petitioner/appellant at Chandigarh wherein, it was alleged that the petitioner/appellant is a dentist, who married the respondent suppressing the earlier marriage solemnized with Gita Devi and now again he is ready to marry another lady, namely, Puja Sharma and has also attributed the allegation of torture by her husband in the matrimonial home.

38. It has also been taken note in the impugned judgment that the final form submitted in the criminal case whereby the appellant/petitioner, his father and mother were sent up as accused after finding the allegations true after investigation and on the basis of these documents, the learned Family Court has observed that the respondent after going to her maike filed this case disclosing reason for leaving the matrimonial home and specifically suppressing of having Gita Devi as first wife of the appellant/petitioner who is preparing now for his third marriage with Puja Sharma.

39. It has also been taken note in the impugned judgment that these factual allegations with other stories of cruelty upon respondent, were well within the knowledge of the petitioner/appellant, but the same have not been controverted in the pleading, in the case filed before the learned Family Court nor any denial of the same has been stated in the evidence by the appellant/petitioner.

40. The learned Family Court has also taken note of the fact that prior to filing of the matrimonial suit in the year 2021, a complaint was lodged in Mahila P.S. Seraikella in the year 2018 which culminated into compromise that the respondent would go to her parents' house at Chandigarh and would return after 20 days**,** but, no independent witness or any member of police came in evidence to support the genuineness of the document and even there is no pleading with respect to the same that where it was prepared. Even, the copy of the said complaint which has been said to be filed at Mahila P.S. Seraikella against the domestic violence has not been filed.

41. The learned Family Court, on the basis of the aforesaid facts, has stated in the impugned judgment that the appellant/petitioner has not been able to prove his case for divorce on the ground of cruelty by the respondent on the touchstone of preponderance of probabilities. The learned Family Judge, on consideration of the issues, has not found the ground of cruelty for dissolution of marriage and therefore, dismissed the suit.

42. Thus, on the basis of discussion made hereinabove it is evident that learned Family Court has appreciated meticulously each and every evidence available on record, as such, it is the considered view of this Court that there is complete absence of element of perversity in the impugned judgment.

43. This Court, based upon the aforesaid discussion, is of the view that the appellant/petitioner has failed to establish the element of perversity in the impugned judgment as per the discussion made hereinabove, as such, the instant appeal deserves to be dismissed.

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

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

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

(Arun Kumar Rai, J.) **(Arun Kumar Rai, J.)**

10th February, 2026

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

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