IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No.100 of 2023

Anjali Kumari @ Anjali Devi aged about 33 years daughter of Upendra Paswan, Wife of Sunil Kumar Paswan resident of Tilouthu, P.O. and P.S. Tilouthu, District Rohtas Bihar

...**Appellant/Defendant**

Versus

1. Sunil Kumar Paswan Son of Sudheshwar Paswan resident of Purna Chatra, P.O. and P.S. Tatisliwai, District Ranchi.
2. IG-cum-PCSC/RPF/GPF-43, S.E.Railway, P.O. & P.S. – 1, Taratola Road, Kolkata, PIN- 700024

... ...**Respondent/Plaintiff**

CORAM: HON'BLEMR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Hemant Kr. Shikarwar, Adv.
For the Respondent : Mr. Santosh Kumar Soni, Advocate
Mr. Nilesh Kumar Gupta, Advocate
For the UOI : Ms. Shivani Jaluka, AC to ASGI

CAV/Reserved on 10.07.2026 **Pronounced on 06/08/2026**

Per Sujit Narayan Prasad, J.

Prayer:

1. The instant appeal under Section 19(1) of the Family Court Act, 1984 is directed against order/judgment dated 29.01.2018 and decree signed on 06.02.2018 passed by the learned Additional Principal Judge, Additional Family Court, Ranchi in Matrimonial Title Suit No. 86 of 2016, whereby and whereunder the learned Additional Principal Judge has allowed the suit filed by the petitioner/respondent herein under Section 13(1)(ia) of the Hindu Marriage Act, 1955 for grant of decree of divorce.

Brief facts of the case:

2. The brief facts of the case, as per the pleading made in the original suit, needs to be referred herein reads, which reads as under:

3. The marriage between the parties where solemnized on 14.07.2013 before the Marriage Registrar, Sasaram and subsequently on 22.01.2014 under Hindu Rights and Rituals at Village Tilouthu, District Rohtas Bihar in presence of friend and relatives of both the parties and the marriage was duly consummated. Out of the said wedlock and consummation of marriage, the appellant gave birth to male child on 08.04.2015.

4. It is the case of the petitioner-husband that at the time of marriage gold ornaments worth Rs.85,000/- was given by the husband to the wife. After marriage she came to her matrimonial home and stayed their properly for only three days. It is alleged that thereafter appellant-wife demanded to go to her father's house which resulted in quarrel between the parties. However, somehow the plaintiff-husband managed to let her understand and then left for his place of work at Kharagpur, West Bengal.

5. It is further case of the petitioner-husband, the respondent herein that the appellant-wife without informing any one of her in-laws family, behind the back of the plaintiff, on 27.01.2014 called her father and brother Prince and become

adamant to leave her in-laws house, that too without any reason. On coming to know about the activity of the defendant, the plaintiff called her on phone, whereupon she started saying that she does not want to live with her in-laws and wants to go to Kharagpur. The act of the defendant compelled the plaintiff to take her there. However, just staying for 10-11 days the defendant had dehydration and was admitted in railway hospital. The plaintiff on seeing the physical condition of the defendant deteriorating, called his mother and brother to look after her. But the defendant after returning from the hospital started quarrelling with the plaintiff. The defendant-wife on getting fully cured called her father on 27.04.2014 and went to her father's home. The defendant on being asked by the plaintiff the reason for leaving for her house, she simply put the unwarranted blame upon the plaintiff and his family members and straight away denied living with him. It was repeatedly threatened by the defendant and her family members to implicate the plaintiff and entire family in a false case. The plaintiff in order to save his matrimonial life as well as to save the reputation of his family, went to Tilauthu on 18.06.2014 to bring her back. He repeatedly begged before the defendant and his in-laws to allow her to go with him. However, only on the condition that she will stay at Kharagpur, she sent with the plaintiff. But again after

passing of 1½ month she again started putting pressure upon the plaintiff, that she wants to go to her father's home and if he doesn't allow her then she will commit suicide. On 04.08.2014, while the plaintiff was on escort duty at Tata, he received a call from his father-in-law that the defendant has fled away from his home. He immediately informed his friends Amit Kumar Prasad and Mukesh Kumar Das to search her and finally she was recovered from a telephone booth 2KM away from his quarter. When the plaintiff returned from his duty and asked the reason about the above incident she started quarreling with him, she even cut her hand with her bangle. At about 11 PM she told that she has consumed all the medicines which were on the table and she is going to die, hence allow to her talk with her family, which the plaintiff did and with the help of his friends admitted her in railway hospital. In the hospital at Kaharapur, he had to execute a bond as the matter was of committing suicide. On 05.08.2014 defendant's uncle Akhilesh Paswan went to Kharagpur and met with the plaintiff's duty in-charge, where he tried to misguide the duty in-charge on false and fabricate grounds against the plaintiff. After the above incident the plaintiff along with the defendant came back to Ranchi and called his in-law for a meeting. Instead of resolving the matter the defendant's elder sister, father, brother prince and his friend came on

22.08.2014 and took her with them. Plaintiff contacted her on phone. On which she threatened that she is not going to join him and will implicate him and his entire family in false case. At that time she was carrying one month pregnancy. That on 20.09.2014 the plaintiff along with his father and mother went to his in-laws home to fetch, the defendant back but she flatly refused, as a result, plaintiff parents return to Ranchi and the plaintiff stayed there in a hotel with a hope that she will come with him. Finally on being convinced by the neighbors and the plaintiff, she return to Ranchi but both of them came out of the bus at Katatoli Bus Stand, the defendant tried to flee away. Somehow plaintiff managed to take her home at Tatisilway. The defendant while staying her plaintiff's house at once tried to flee away and when she was restrained she cut her hand with her bangles and hit her abdomen with the bottle filled with water, which caused heavy pain. She was taken to doctor, where she was advised for complete bed rest. On 27.02.2015 the defendant's father and grand-mother came to Ranchi with an intend to take her back but the plaintiff somehow restrained them from doing so. On the very night of 27/28.02.2015, the defendant again started hitting her abdomen and due to severe pain she was taken to Dr. Geetanjali on 28.02.2015. At Dr. Geetanjali's dispensary, the plaintiff went to an ATM for taking out some money and

when return he found that the defendant is missing. The plaintiff apprehended some mishappening, informed his family member and his friends and went to Tatisilway police station, where he found his father-in-law lodging complaint against the plaintiff and his family members that they have killed the defendant. Against that complain the officer-in-charge of Tatilsilway police station went to the plaintiff's house and threatened them that if within 48 hours the defendant was not trashed out then they (plaintiff and his family members) will be put behind bars. Due to the above incident, the entire family members of the plaintiff came under tremendous shock and was apprehending something wrong. The plaintiff in his house found that the defendant had taken away all her ornaments along with Rs.20,000/- with her. On 01.03.2015 the defendant's father instead of informing the plaintiff that she has reached home safely, informed the Tatisilway police from where the plaintiff came to know about the safe arrival of the defendant. Since the date of the above incident the plaintiff and his family members where under apprehension that the defendant and her family members may cause harm to them in any manner, due to staying out for a long period from duty, the plaintiff was thrashed by his seniors to sacked from the service, which has put the plaintiff under mental tension.

6. It is further case of the petitioner-husband that the defendant-wife while staying at her in-law home at Ranchi, was never being cordial with any one of the family members of the plaintiff. She used to rebuke the plaintiff and his family members in filthy language, sometime she used to come out the house shouting on the plaintiff and his family members in presence of the neighbors, she got no respect for any of the family members of the plaintiff.

7. There has been a repeated mental torture from the end of the defendant and her family members towards the plaintiff, which have put the plaintiff under mental depression. However, the plaintiff with a hope to live a peaceful matrimonial life, all the time tried to convince the defendant but she never respected his emotions and shattered all his hopes.

8. Further statement has been made that the plaintiff and the defendant lastly resided husband and wife till 28.02.2015 when the defendant without information fled away and never returned.

9. In the aforesaid background, the plaintiff-husband, the respondent herein, had filed the suit wherein prayer had been made to pass a decree for dissolution of marriage in favour of the petitioner/ respondent herein.

10. Before the family court, on being noticed, the respondent-wife/ appellant herein appeared but did not file written statement, as such the learned Additional Family Court debarred the respondent-wife from filing written statement.

11. The petitioner-husband adduced evidence in support of his case before the Family Court.

12. The learned family court, allowed the suit filed by the petitioner-husband filed under Section 13(1)(ia) of the Hindu Marriage Act, 1955 for grant of decree of divorce.

13. The respondent-wife (appellant herein) being aggrieved with the order passed by the learned family court has approached this Court by filing the instant appeal.

14. On being noticed by this Court, the respondent-husband has appeared and contested the appeal.

15. It would be apt to mention herein that while the matter was being heard by the Co-ordinate Division Bench of this Court on 20.03.2025, submission has been made by learned counsel for the appellant-wife that since no permanent alimony has been awarded in favour of the husband/respondent herein while granting a decree of divorce in favour of the respondent, it will suffice if permanent alimony is worked out by consultation with the parties.

16. Further, the Co-ordinate Bench, considering the submissions advanced by learned counsel for the parties, has observed that since respondent-husband has already solemnized another marriage and the impugned judgment does not indicate that the question of permanent alimony was considered and in view of the fair suggestion advanced by the learned counsel appearing for the appellant, direction was passed for appearance of appellant and the respondent on the next date of hearing. For ready reference, order dated 20.03.2025 is quoted as under:

> "*It has been submitted by Mr. Hemant Kumar Shikarwar, learned counsel for the appellant that since no permanent alimony has been awarded in favour of the appellant while granting a decree of divorce in favour of the respondent, it will suffice if permanent alimony is worked out by consultation with the parties.*
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> *Mr. Anukul Gaurav, learned counsel appearing for the respondent husband submits that he has to take instructions in this matter.*
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> *In view of the fact that the respondent has already solemnized another marriage and the impugned judgment does not indicate that the question of permanent alimony was considered and in view of the fair suggestion advanced by the learned counsel appearing for the appellant, we direct that the appellant and the respondent to be physically present before us on 23.04.2025 at 10:30 a.m.*
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> *List this case on 23.04.2025.*
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> *Let a copy of this order be handed over to the learned counsel for the respective parties."*

17. When the matter was taken up on 23rd April, 2025, the parties have submitted that they are ready for settlement in

terms of permanent alimony but the amount of money which was offered by the respondent-husband was not agreeable to the appellant-wife for her survival and survival of son aged about 10 years born out of the wedlock of appellant and respondent.

18. Learned counsel for the appellant drawing attention of the Court that the respondent-husband is working in RPF under the Indian Railways and as such prayer was made to implead the Indian Railway as party. Accordingly, the matter was adjourned.

19. When the matter was taken up, the Interlocutory Application being I.A. No. 5791 of 2025 filed for impleading IG-cum-PCSC/RPF/GPC-43 S.E. Railway as party-respondent was pressed.

20. This Court, after hearing learned counsel for the appellant and particularly the fact that even after order having been passed for payment of maintenance amount under Section 125 Cr.P.C., the same is not being paid and it reached to the amount more than Rs. 17 lakhs, directed to implead IG-cum-PCSC/RPF/GPC-43 S.E. Railway as party-respondent to the proceeding. For ready reference, order dated 22nd December, 2025 is quoted as under:

I.A. No. 5791 of 2025:

1. None presents to represent the respondent, however, Mr. Hemant Kr. Shikarwar, learned counsel is present on behalf of the appellant.

2. The instant interlocutory application has been filed in pursuance of the reference made in the order dated 23rd April, 2025 for impleadment of IG-cum-PCSC/RPF/GPC-43 S.E. Railway P.O. and P.S. 1, Taratola Road, Kolkata PIN-700024 as respondent No. 2.

3. The reason for filing of impleadment application has been taken note by this Court in order dated 23rd April, 2025 as under Paragraph 2 thereof which is referred herein:

> *"1. Mr. Hemant Kr. Shikarwar, learned counsel has submitted that the appellant-wife is being represented by him and she is ready for settlement but the amount which has been offered by the respondent-husband is a meagre amount, i.e., to the tune of Rs.2 lakh but subsequently, Rs.5 lakhs has been offered.*
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> *2. It has been submitted that the age of the appellant is 31 years and she is having with a male child having the age of 10 years and she is having no means of income. Submission has also been made that the respondent husband is working in the RPF under the Indian Railways and is getting a handsome salary. Therefore, it is not the case of survival of the wife rather survival of the male child as also the future avenues are involved, therefore. She is not agreeing with the said meagre amount of Rs.5 lakh.*
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> *3. The prayer has been made, in view of the aforesaid backdrop, that liberty may be given to file an application for impleadment of the appointing authority.*
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> *4. Considering the said submission, the matter is being adjourned to be listed on 05.05.2025 so that the application as per the prayer made by the appellant, be filed on or before the next date of hearing."*

4. The further reason, as per the submission made by Mr. Shikarwar, learned counsel for the appellant is that even the maintenance amount as was directed to be paid by passing

an order under Section 125 Cr.P.C. now has amounted to Rs. 17 lakhs and 10 thousand has also not been paid as yet.

5. Considering the aforesaid reason, this Court is of the view that IGcum-PCSC/RPF/GPC-43 S.E. Railway P.O. and P.S. 1, Taratola Road, Kolkata PIN-700024 is to be impleaded as party. 6. As such, the instant interlocutory application being I.A. No. 5791 of 2025 stands allowed and disposed of.

7. Let the necessary addition be made in the arrays of the respondent.

8. Let notice be issued upon the newly impleaded respondent, both under ordinary and registered cover with A/D/ Speed Post, requisites for which to be filed within a week.

9. The Office is directed to take steps for the service of notice.

10. Notice is made returnable on 29th January, 2026."

21. Accordingly, the matter proceeded and the parties advanced their arguments.

Submission of learned counsel for the appellant-wife

22. Learned counsel for the appellant-wife showing the conduct of the respondent-husband has submitted that in the case of bail application preferred by the respondent-husband before the Patna High Court in Criminal Misc. No. 41651 of 2016, bail was granted on 22.09.2016 on the undertaking of respondent-husband that he is ready to withdraw the matrimonial suit filed for decree of divorce. On that pretext, the appellant was assured that the suit filed by her husband [respondent herein] would be withdrawn and keeping the appellant as also the Court in dark, the suit was not withdrawn rather, it was contested by the respondent-

husband wherein the learned family Court passed ex-parte order against the appellant-wife by allowing the suit.

23. Further submission has been made that the appellant-wife, for the first time, came to know about the decree of divorce passed in favour of respondent-husband while respondent-husband was adducing evidence in Maintenance Case No. 35 of 2016 on 08.07.2022, when he stated in his examination-in-chief that he is ready to keep the appellant with him if she lives with him properly but in the cross-examination he has stated that he re-married after getting divorce.

24. Submission has been made that after playing fraud with the appellant-wife, since the respondent-husband has re-married as such now the only grievance remains with respect to the quantum of permanent alimony considering the fact that 11 years male child born out of the wedlock of the appellant and respondent are residing with the appellant-wife and further the fact that the respondent-husband is working in Railway Police Force having handsome salary.

25. Learned counsel for the appellant-wife has further submitted that she has no means to survive along with the son but on the alimony to be given by the respondent-husband.

26. Further submission has been made that since for the last 10 years no financial support has been extended by the respondent-husband, as such she has taken admission of her son not in a good school rather in a below average school due to deficiency of fund and even on this also more than Rs. 3000/- per month she has to spend. At paragraph 7 of the supplementary affidavit filed by her she has stated that at present on an average Rs. 25,000/- per month has to spend on her livelihood and her son.

27. At paragraph 8, she has further deposed that appellant had borrowed the amount for her month to month expenditure from her married sisters as a long with a promise to return the same in future.

28. Learned counsel for the appellant has further submitted that the learned Family Court, Rohtas Sasaram has passed order dated 03.05.2025 directing the respondent-husband to pay Rs.15,000/- per month as maintenance from the date of filing of the case i.e., 09.03.2016 but the respondent-husband has not made payment of the same and only Rs. 45,000/- has been paid till date out of the total arrear of Rs. 17,55,000/- [Seventeen lakhs and fifty five thousand].

29. Further submission has been made that the respondent is working in the Indian Railway since 2017 i.e, for about 20 years and by this way even the provident fund and other

savings are there for the respondent's present necessity and also for his future necessity besides salary. But the life of the appellant and their son who is living with the appellant is at a very pitiable condition.

30. Submission has been made that son is only 11 years old, as such she has to spend a large chunk of amount on the education of the son and his other necessity.

31. Learned counsel for the respondent has also drawn attention of the court towards salary slip of the respondent, which is of the November, 2025, shows that the respondent has gross salary of Rs.106539/- [One Lakh six thousand five hundred and thirty nine].

32. On the point of permanent alimony, submission has been made that the salary of the respondent would increase after every six months on increase of Dearness Allowance and every year on account of annual increment and further there will be anticipated hike in salary is possible due to forthcoming 8th Pay-Commission(s) as also on being getting promotion(s)/ACP/MACP and even after retirement the respondent-husband would get good amount of retiral benefit but the appellant-wife and their son, who is living with his mother, has to survive on the interest earned on the permanent alimony granted in favour of the appellant. Therefore, considering the life expectancy of 72 years and the fact that the appellant-wife is only 35 years of age,

submission has been made that sufficient one time amount be awarded which would require for survival of both the wife and son on the interest earned from that amount.

33. Therefore, submission has been made that considerable amount of maintenance be directed to be paid to the son as also the appellant-wife so that they can live in reasonable comfort considering the status and mode of life they would have used to live when they lived with respondent-husband.

Submission on behalf of respondent-husband:

34. While on the other hand, learned counsel appearing for the respondent-husband has submitted that he tried his best to keep her wife [appellant] but she fled away to her parental house on her own and despite several efforts being taken by him, she did not return.

35. It has further been submitted that after grant of bail by Patna High Court in Cr. Misc. No. 41651 of 2016, he took her wife [appellant] with him but again the appellant started abusing and mentally torturing the petitioner/respondent and again fled away to her paternal house.

36. Further submission has been made that after getting divorce from the appellant he performed second marriage as per law.

37. So far as the issue of permanent alimony is concerned, affidavit has been filed on behalf of respondent-husband, wherein it has been stated that he is working as Constable

in the Railway Protection Force [RPF] and his sole source of income is the monthly salary received from the said employment.

38. Referring to the salary-slip annexed with the affidavit, it is stated that the respondent's gross monthly salary is Rs.1,06,539/-.

39. So far immovable property is concerned, statement has been made that he has no land; house; flat or plot in his name nor is he is in possession of any immovable asset.

40. Further submission has been made that he is the sole bread-earner of his family and his mother, father and his wife [second wife]; are fully dependent on him. However, statement has been made that his father is a retired police personnel and receives a monthly pension of Rs. 21,636/-, however, in proof thereof no document has been annexed therewith.

41. Learned counsel for the respondent-husband, has made statement regarding his liabilities in the affidavit and has stated that substantial amount of money he has to spend on monthly rent for accommodation; transportation and for other household expenditure; monthly medical expenditure on the family members; liability towards second wife; additional liabilities towards making expenditure on pending criminal cases. Besides, at 8 (iv) of the affidavit he has stated

that currently, he paying Rs. 15,000/- per month as interim maintenance towards appellant-wife. It has been stated that in total about Rs. 70,000- Rs.73,000/- per month expenditure he has incur on him and on his family members and very little disposable income at the end of each months remains.

42. Submission has been made that divorce has already been granted by learned family court in favour of respondent herein and from the findings of the impugned order, it is evident that respondent-husband was not at fault rather the matrimonial relationship had irretrievably broken down solely due to the acts and conduct of the wife. Therefore, the question of grant of permanent may be considered in the light of findings of the learned Family Court and the conduct of the appellant-wife.

43. Further submission has been made that appellant-wife is a healthy and able-bodied person fully capable of maintaining herself and earning her livelihood and as such she cannot saddle the husband with an excessive and unreasonable financial burden particularly when the respondent himself is surviving on a limited income and supporting multiple dependents.

Analysis:

44. We have heard learned counsel for the parties and gone through the pleading available on record as also the finding recorded by learned Additional Principal Judge, Addl. Family Court, Ranchi and other materials available on record.

45. This Court before proceeding further needs to refer herein the factual aspect of the matter.

46. Marriage of the parties was solemnized on 14.07.2013. Out of the said wedlock, one male child was born on 08.04.2015.

47. Ground has been taken by the respondent-husband before the learned family court for grant of decree of divorce that the appellant-wife many times leaved his house [matrimonial house] without consent of the husband and used to put unwarranted blame upon the respondent-husband and his family members and repeatedly threatened him and his family members to implicate in a false case. Further statement has been made that the respondent-husband take several steps to restore the marital life but the appellant-wife did not live with him.

48. Respondent-husband [petitioner before the learned Addl. Family Court], being aggrieved with the cruelty meted out to the respondent-husband and his family members, filed suit before the learned Addl. Family Court, in which, the wife [appellant herein] appeared but did not file written statement, as such the suit proceeded ex-parte and decreed

in favour of respondent-husband by granting decree of divorce in his favour vide order/judgment dated 29.01.2018 and decree signed on 06.02.2018 passed by the learned Additional Principal Judge, Additional Family Court, Ranchi in Matrimonial Title Suit No. 86 of 2016, against which the instant appeal has been filed.

49. However, after appearance of the respondent-husband, the parties have agreed for permanent settlement, in view of the fact that the respondent-husband has re-married and accordingly submission has been made in support thereof.

50. This Court in the aforesaid backdrop facts and submission requires to consider as to: "*What would be the quantum of permanent alimony to meet the needs of son and the wife on the basis of pleadings available on record and as per the standard of life they would have enjoyed had they been living with the respondent?*

51. This Court, before considering the aforesaid issue, needs to refer herein the provision of law as contained under Section 25 of the Hindu Marriage Act, 1955, wherein it has been provided that any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for

her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant, it may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent. For ready reference, Section 25 of the Act, 1955 is quoted as under:

> *"**25. Permanent alimony and maintenance**.—(1) Any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant 1 [the conduct of the parties and other circumstances of the case], it may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.*
>
> *(2) If the court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the court may deem just.*
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> *(3) If the court is satisfied that the party in whose favour an order has been made under this section has re-married or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he has had sexual intercourse with any woman outside wedlock, 2 [it may at the instance of*

the other party vary, modify or rescind any such order in such manner as the court may deem just].”

52. It is evident from the aforesaid provision that concept of permanent alimony as provided under Section 25 have been enacted with the object of removing the hardship of the wife or the husband with no independent income sufficient for living or meeting litigant expenses; such a leave can be granted as well who may also be deprived of the same on proof of having sexual intercourse outside the wedlock. It is also settled position of law that the Court may grant permanent alimony to the party while disposing of the main application even if application has been moved; meaning thereby the intent of the Act is to remove the handicap/hardship of a wife of husband by passing an appropriate order at the appropriate stage either under Section 24 or 25 of the Hindu Marriage Act, 1955. The basic behind this is to sustain the live of husband or wife, if having no sufficient source of income.

53. The Hon’ble Apex Court has also considered the intent of Section 25 of Hindu Marriage Act in catena of Judgments wherein it has been observed that Section 25 of Act 1955 is an enabling provision. It empowers the court in a matrimonial case to consider facts and circumstances of the spouse applying and deciding whether or not to grant permanent alimony. Sub-section (1) of Section 25 provides

that a matrimonial Court exercising the jurisdiction under the Hindu Marriage Act may at the time of passing a decree or at any time subsequent thereto on an Application made to it, order to pay maintenance.

54. Thus, a power is conferred on the Matrimonial Court to grant permanent alimony or maintenance on the basis of a decree of divorce passed under the Hindu Marriage Act even subsequent to the date of passing of the decree on the basis of an application made in that behalf. Sub-section (2) of Section 25 confers a power on the Court to vary, modify or rescind the order made under Sub-section (1) of Section 25 in case of change in circumstances. The power under Sub-section (3) of Section 25 is an independent power. The said power can be exercised if the Court is satisfied that the wife in whose favour an order under Subsection (1) of Section 25 of the Hindu Marriage Act is made has not remained chaste. In such event, at the instance of the other party, the Court may vary, modify or rescind the order under Sub-section (1) of Section 25 of the Hindu Marriage Act.

55. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Kalyan Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy*****, (2017) 14 SCC 200.**For ready reference, paragraph 14 of the judgment is quoted as under:

> ***"14.*** *Section 25 of the Hindu Marriage Act, 1955 confers power upon the court to grant a permanent alimony to either spouse who claims the same by making an application. Sub-section (2) of Section 25 of the Hindu Marriage Act confers ample power on the court to vary, modify or discharge any order for permanent alimony or permanent maintenance that may have been made in any proceeding under the Act under the provisions contained in sub-section (1) of Section 25. In exercising the power under Section 25(2), the court would have regard to the "change in the circumstances of the parties". There must be some change in the circumstances of either party which may have to be taken into account when an application is made under sub-section (2) of Section 25 for variation, modification or rescission of the order as the court may deem just."*

56. We may note here that an amendment has been brought to Sub-section (3) of Section 25 of the Hindu Marriage Act by the Act No. 68 of 1976 with effect from 27th May 1996. Earlier, it was provided under Sub-section (3) of Section 25 that if the Court was satisfied that the party in whose favour an order has been made has not remained chaste, it shall rescind the order. The words "it shall rescind the order" appearing in Sub-section (3) of Section 25 were replaced by the said amendment by the words "it may at the instance of the other party vary, modify or rescind any such order .....". The legislature in its wisdom by the said amendment has provided that after the facts stated in Sub-section (3) of Section 25 of the Hindu Marriage Act are established, the Court may vary, modify or rescind any such order under Sub-section (1) of Section 25 of the Hindu Marriage Act. Thus, after 1976,

there is a discretion conferred on the Court by Sub-section (3) of Section 25 of the Hindu Marriage Act of declining to rescind, vary or modify the order under Sub-section (1) of Section 25 thereof, even if on an Application made by the husband, it is established that the wife has not remained chaste after the decree of maintenance is passed under Sub-section (1) of Section 25.

57. The Hon'ble Apex Court in the case of ***Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112*** while appreciating the core of Section 25 of the Act 1955 has observed thatfor permanent alimony and maintenance of either spouse, the respondent's own income and other property, and the income and other property of the applicant are all relevant material in addition to the conduct of the parties and other circumstances of the case, for ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

> *12. As per Section 25, while considering the claim for permanent alimony and maintenance of either spouse, the respondent's own income and other property, and the income and other property of the applicant are all relevant material in addition to the conduct of the parties and other circumstances of the case. It is further seen that the court considering such claim has to consider all the above relevant materials and determine the amount which is to be just for living standard. No fixed formula can be laid for fixing the amount of maintenance. It has to be in the nature of things which depend on various facts and circumstances of each case. The court has to consider the status of the parties, their*

> *respective needs, the capacity of the husband to pay, having regard to reasonable expenses for his own maintenance and others whom he is obliged to maintain under the law and statute. The courts also have to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and mode of life she was used to live when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party. These are all the broad principles courts have to be kept (sic keep) in mind while determining maintenance or permanent alimony.*

58. It needs to refer herein that no arithmetic formula can be adopted for grant of permanent alimony to wife. However, status of parties, their respective social needs, financial capacity of husband and other obligations must be taken into account. The Hon'ble Apex Court in the case of **U. *Sree v. U. Srinivas*, (2013) 2 SCC 114** has observed that while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the status of the parties, their respective social needs, the financial capacity of the husband and other obligations. For ready reference the relevant paragraph is being quoted as under:

> ***33.*** *We have reproduced the aforesaid orders to highlight that the husband had agreed to buy a flat at Hyderabad. However, when the matter was listed thereafter, there was disagreement with regard to the locality of the flat arranged by the husband and, therefore, the matter was heard on merits. We have already opined that the husband has made out a case for divorce by proving mental cruelty. As a decree is passed, the wife is entitled to permanent alimony for her sustenance. Be it*

stated, while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the status of the parties, their respective social needs, the financial capacity of the husband and other obligations. In Vinny Parmvir Parmar v. Parmvir Parmar [(2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290] (SCC p. 116, para 12) while dealing with the concept of permanent alimony, this Court has observed that while granting permanent alimony, the court is required to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party.

59. In the case of ***Rajnesh v. Neha & Anr (supra)*** the Hon'ble Apex Court has extensively dealt with the issue of granting interim/permanent alimony and has categorically held that the objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded. The Hon'ble Apex Court further held that the Court while considering the issue of maintenance, should consider the factors like the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her

matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage, for ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

> ***77.*** *The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.*
>
> ***78.*** *The factors which would weigh with the court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. [Refer to Jasbir Kaur Sehgal v. District Judge, Dehradun, (1997) 7 SCC 7; Refer to Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290]*
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> ***79.*** *In Manish Jain v. Akanksha Jain [Manish Jain v. Akanksha Jain, (2017) 15 SCC 801 : (2018) 2 SCC (Civ) 712] this Court held that the financial position of the parents of the applicant wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the court should mould the claim for maintenance based on various factors brought before it.*
>
> ***80.*** *On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and*

dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able-bodied and has educational qualifications. [ReemaSalkan v. Sumer Singh Salkan, (2019) 12 SCC 303 : (2018) 5 SCC (Civ) 596 : (2019) 4 SCC (Cri) 339]

81. *A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.*

60. Further, the Hon'ble Apex Court in the case of ***Rakhi Sadhukhan Vs. Raja Sadhukhan [2025 SCC OnLine SC1259]*** has enhanced the amount of alimony subject to increase of alimony on every two years.

61. This Court has considered the factual aspect of the said case and on perusal of the fact, referred therein, it is evident that the appellant-wife and respondent-husband were married on 18.06.1997. A son was born to them on 05.08.1998. In July 2008, the respondent-husband filed Matrimonial Suit No. 430 of 2008 under Section 27 of the Special Marriage Act, 1954 seeking dissolution of marriage on the ground of

cruelty allegedly inflicted by the appellant-wife. Subsequently, the appellant-wife filed Misc. Case No. 155 of 2008 in the same suit under Section 24 of the Hindu Marriage Act, 1955, seeking interim maintenance for herself and the minor son. The Trial Court, by order dated 14.01.2010, awarded interim maintenance of Rs. 8,000/- per month to the appellant-wife and Rs. 10,000/- towards litigation expenses. The appellant-wife then instituted Misc. Case No. 116 of 2010 under Section 125 of the Criminal Procedure Code, 1973. The Trial Court, *vide* order dated 28.03.2014, directed the respondent-husband to pay maintenance of Rs. 8,000/- per month to the appellant-wife and Rs. 6,000/- per month to the minor son, along with Rs. 5,000/- towards litigation costs. The Trial Court, *vide* order dated 10.01.2016, dismissed the matrimonial suit, finding that the respondent-husband had failed to prove cruelty. Aggrieved, the respondent filed FAT No. 122 of 2015 before the High Court of Calcutta. During the pendency of the appeal, the appellant-wife filed CAN No. 4505 of 2025 seeking interim maintenance of Rs. 30,000/- for herself and Rs. 20,000/- for the son, along with Rs. 50,000/- towards litigation expenses. The High Court, by order dated 14.05.2015, directed the respondent-husband to pay interim maintenance of Rs. 15,000/- per month. Subsequently, by order dated 14.07.2016, the High Court noted that the

respondent-husband was drawing a net monthly salary of Rs. 69,000/- and enhanced the interim maintenance to Rs. 20,000/- per month. Finally, the High Court, by the impugned order dated 25.06.2019, allowed the respondent's appeal, granted a decree of divorce on the ground of mental cruelty and irretrievable breakdown of marriage, and directed the respondent-husband to redeem the mortgage on the flat where the appellant-wife was residing and transfer the title deed to her name by 31.08.2019; allow the appellant-wife and their son to continue residing in the said flat; and continue to pay permanent alimony of Rs. 20,000/- per month to the appellant-wife, subject to a 5% increase every three years. Additionally, the High Court directed payment of educational expenses for the son's university education and Rs. 5,000/- per month for private tuition.

62. Aggrieved by the quantum of alimony awarded, the appellant-wife is approached the Hon'ble Apex Court.

63. The Hon'ble Apex Court, by interim order dated 07.11.2023, noting the absence of representation on behalf of the respondent-husband despite proof of service, enhanced the monthly maintenance to Rs. 75,000/- with effect from 01.11.2023. The respondent-husband subsequently entered appearance and filed an application seeking vacation of the said interim order.

64. The appellant-wife contends that the amount of Rs. 20,000/- per month, which the High Court made final, was originally awarded as interim maintenance. She submits that the respondent-husband has a monthly income of approximately Rs. 4,00,000/- and the quantum of alimony awarded is not commensurate with the standard of living maintained by the parties during the marriage.

65. In response, the respondent-husband submits that his current net monthly income is Rs. 1,64,039/-, earned from his employment at the Institute of Hotel Management, Taratala, Kolkata. He has placed on record salary slips, bank statements, and income tax returns for the year 2023-2024. It is further stated that he was earlier employed with the Taj Hotel, drawing a gross annual salary of Rs. 21,92,525/-. He also submits that his monthly household expenses total Rs. 1,72,088/-, and that he has remarried, has a dependent family, and aged parents. The respondent-husband contends that their son, now 26 years of age, is no longer financially dependent.

66. The Hon'ble Apex Court taking note of the quantum of permanent alimony fixed by the High Court has come to the conclusion that it requires revision. The said revision is on the basis of the respondent-husband's income, financial disclosures, and past earnings which establish that he is in a position to pay a higher amount. The Hon'ble Apex Court

has observed that the appellant-wife, who has remained unmarried and is living independently, is entitled to a level of maintenance that is reflective of the standard of living she enjoyed during the marriage and which reasonably secures her future. It has also been observed, the inflationary cost of living and her continued reliance on maintenance as the sole means of financial support necessitate a reassessment of the amount.

67. Therefore, Hon'ble Apex Court has held that, a sum of Rs. 50,000/- per month would be just, fair and reasonable to ensure financial stability for the appellant-wife. The said amount shall be subject to an enhancement of 5% every two years. As regards the son, now aged 26, the Hon'ble Apex Court has expressed its view that the Court is not inclined to direct any further mandatory financial support. However, it is open to the respondent-husband to voluntarily assist him with educational or other reasonable expenses. It has been clarified that that the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

68. Accordingly, the appeal was allowed and the order of the High Court was modified to the extent that the permanent alimony payable to the appellant-wife shall be Rs. 50,000/- per month, subject to a 5% increase every two years, for

ready reference the relevant paragraph of the said order is being quoted as under:

> ***"7.*** *Having considered the submissions and materials on record, we are of the view that the quantum of permanent alimony fixed by the High Court requires revision. The respondent-husband's income, financial disclosures, and past earnings establish that he is in a position to pay a higher amount. The appellant-wife, who has remained unmarried and is living independently, is entitled to a level of maintenance that is reflective of the standard of living she enjoyed during the marriage and which reasonably secures her future. Furthermore, the inflationary cost of living and her continued reliance on maintenance as the sole means of financial support necessitate a reassessment of the amount.*
>
> ***8.*** *In our considered opinion, a sum of Rs. 50,000/- per month would be just, fair and reasonable to ensure financial stability for the appellant-wife. This amount shall be subject to an enhancement of 5% every two years. As regards the son, now aged 26, we are not inclined to direct any further mandatory financial support. However, it is open to the respondent-husband to voluntarily assist him with educational or other reasonable expenses. We clarify that the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.*
>
> ***9.*** *In view of the above, the appeal is allowed. The impugned order of the High Court is modified to the extent that the permanent alimony payable to the appellant-wife shall be Rs. 50,000/- per month, subject to a 5% increase every two years, as noted above."*

69. Further it needs to refer herein that in maintenance proceedings it is of primary importance that the income of the spouse is first assessed. The process of determining maintenance cannot begin or end with assumptions and it must rest on an assessment of the earning capacity of the person from whom maintenance is sought. If both spouses are earning, the income of each must be examined. However, where the wife is not employed or has no independent

source of income, the focus naturally shifts to the income of the husband, which becomes the foundation for fixing the amount of maintenance payable.

70. Such assessment of income may be of two kinds. In cases where documentary evidence such as salary slips, bank statements, or income tax returns are available, the Court can take the actual income as discernible from the record. However, in many cases, husband either fail to disclose his true income, conceal relevant details, or claim to be unemployed despite indications to the contrary. In such circumstances, the Courts must make a reasonable and fair assessment of the husband's income, taking into account his educational qualifications, professional background, past employment, lifestyle, bank transactions, and other material placed on record.

71. Once the income, whether actual or notional, is determined, the Family Court must then proceed to apportion the same among the dependents, including the wife and any children, keeping in view their reasonable needs and standard of living. Therefore, assessing income is the first and most crucial step, as maintenance cannot be determined in vacuum. Only after establishing what the earning spouse actually earns, or can reasonably be expected to earn, can a just and proportionate amount be

fixed towards the sustenance of those who are entitled to be maintained.

72. The fact that the wife is earning some amount cannot, by itself, be a ground to deny her claim for maintenance. In the case of **Sunita Kachwaha & Ors. v. Anil Kachwaha: (2014) 16 SCC 715**, the Hon'ble Supreme Court has observed that even if the wife is employed and earning, that alone does not disentitle her to maintenance if her income is insufficient to enable her to maintain herself with the standard of living that she enjoyed in the matrimonial home. Maintenance, after all, is not a matter of charity but of right – a continuing obligation flowing from the marital relationship, which the husband cannot evade merely by pointing to the wife's limited earning capacity.

73. Further, in **Manish Jain v. Akanksha Jain (supra),** which has also been referred to in **Rajnesh v. Neha (supra),** the Hon'ble Supreme Court categorically held that the financial position of the parents of the applicant-wife is immaterial while determining the quantum of maintenance. The responsibility to maintain a wife flows from the marital relationship itself and cannot be shifted upon her parents, however well-off they may be.

74. The object of law of maintenance is precisely to prevent such dependence. The grant of maintenance ensures that a woman is not forced to rely on her parents or relatives for

basic needs, but can live with dignity and autonomy. Only when adequate maintenance is granted, she can hope to secure independent accommodation, meet her daily expenses and denying or reducing maintenance on the assumption that her parents can support her effectively undermines the very purpose of law of maintenance, which seeks to protect a deserted or destitute spouse from financial helplessness. The duty to maintain a wife rests primarily on the husband, in case she is not earning for herself, and cannot be diluted on the ground that she is presently living with her parents or that her parents have means to assist her.

75. In every proceeding of determination of alimony, there are two sides to a human story- that of the wife and that of the husband. Each brings forth a version shaped by their experiences, grievances, and perceptions. It is the duty of the Court to assess these narratives not mechanically but pragmatically, and to arrive at a conclusion that is grounded in both evidence and social reality.

76. Thus, the principle governing grant of permanent alimony is that it must be fair, reasonable, and commensurate with the status of the parties, the income and capacity of the husband, and the needs of the wife. The Court cannot impose an amount which is beyond the paying capacity of

the husband, nor can it leave the wife without adequate financial security.

77. In the backdrop of the aforesaid settled position of law this Court is now re-adverting to the factual aspects of the instant case.

78. In the instant case herein, in terms of the judgment rendered by Hon'ble Apex Court in the case of ***Rajnesh v. Neha & Anr.*****, (supra),** the affidavit has been filed on behalf of the respondent-husband annexing therewith the details of salary, bank statement showing the details of salary and other perks, annexing therewith the salary slip and bank statement as also the details of movable and immovable property.

79. We have perused the affidavit filed by the respondent-husband wherefrom it is evident that the respondent is working as Constable in the Railway Protection Force [RPF] since 2007 i.e., for a long period of 20 years.

80. From the salary slip annexed with the affidavit, it is evident that the respondent's gross monthly salary is Rs.1,06,539/- and net Salary for the month of November, 2025 is Rs.98631. However, the respondent-husband denied to have any immovable property in his name.

81. So far liabilities are concerned, submission has been made that he is the sole bread-earner of his family and his mother,

father and his wife [second wife]; three younger brothers, who are un-employed are fully dependent on him.

82. However, statement has been made that his father is a retired police personnel and receives a monthly pension of Rs. 21,636/-, but, in proof thereof no document has been annexed therewith.

83. Besides, at 8 (iv) of the affidavit he has stated that currently, he paying Rs. 15,000/- per month as interim maintenance towards appellant-wife. However, it has been disputed by the appellant-wife by saying that she is not getting regular maintenance. She on affidavit has stated that arrears of maintenance has mounted to Rs. 17,55,000/- [Seventeen lakhs and fifty five thousand] and out of that only amount of Rs. 45,000/- has been paid till date.

84. From the pleadings on record, it is evident that as per direction learned Family Court, Rohtas Sasaram, respondent-husband has been directed to pay Rs.15,000/- per month as maintenance from the date of filing of the case i.e., 09.03.2016. But, it is disputed and submission has been made by learned counsel for the appellant-wife that in spite of order being passed by the learned Family Court, Rohtas Sasaram, maintenance amount has not been paid by the respondent/husband.

85. As per submission advanced by learned counsel for the appellant-wife, even taking her life expectancy and multiplied by the 1/3 of the salary it comes to huge amount but taking into account the present capacity of the respondent, for survival of wife and the son born out of their wedlock, at least an amount to the tune of Rs.30,00,000/- [Thirty lakhs] would be just and proper besides the arrears of maintenance as accrued as on date.

86. This Court is conscious that the respondent-husband is also to survive and he has other liability and responsibility but vis-à-vis it is also his utmost duty to maintain the standard of life of the appellant-wife and his son, they would have enjoyed during subsistence of the marriage as per income and status of her husband-the respondent herein.

87. For the reasons aforesaid, this Court thought it proper that a sum of Rs. 30,00,000/- [Thirty lakhs] as one-time permanent alimony, would be just, fair and reasonable, for sustenance of the appellant-wife and the son born out of their wedlock for their livelihood, sustenance and study.

88. In view of the foregoing, the respondent-husband is directed to pay a sum of ₹30,00,000 (Rupees Thirty Lakhs only), which shall be discharged in three equal instalments within a period of twelve months from the date of this order.

89. This Court further expresses the expectation that arrears of maintenance, as ordered by the learned Family Court, Rohtas at Sasaram, amounting to ₹17,00,000 (Rupees Seventeen Lakhs only) and odd, as accrued as arrears of maintenance, shall also be liquidated by the respondent-husband at the earliest besides the amount of permanent of alimony as awarded by this Court.

90. It is made explicit that out of the aforesaid sum of ₹30,00,000, the respondent-husband shall cause a fixed deposit of ₹10,00,000 (Rupees Ten Lakhs only) in a nationalised bank in the name of his son, earmarked for his education and allied purposes.

91. For abundant clarity, it is declared that the son's right of inheritance remains wholly unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

92. This Court, considering the factual matrix of the case, and particularly the financial exigencies which may imperil the sustenance of the appellant-wife and son as well as the child's education, grants liberty to the appellant-wife that if the said amount is not credited to her account, as per the direction passed by this Court, the appellant-wife will be at liberty to approach the court of law in accordance with law.

93. This Court, however, trusts and expects that the respondent-husband shall not occasion such contingency, but shall abide by the directions herein for payment of permanent alimony in favour of the appellant-wife and the son.

94. Accordingly, the impugned judgment dated 29.01.2018 and decree signed on 06.02.2018 passed by the learned Additional Principal Judge, Additional Family Court, Ranchi in Matrimonial Title Suit No. 86 of 2016 stand modified to the extent indicated above.

95. With the aforesaid directions and observations, the instant appeal is disposed of in the above terms.

96. Pending Interlocutory Application, if any, stands disposed of.

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

(Sanjay Prasad, J.) **(Sanjay Prasad, J.)**

6th August, 2026

Alankar/**A.F.R.**

Uploaded on 7.08.2026