

IN THE HIGH COURT OF JHARKHAND AT RANCHI
F.A. No.58 of 2021

Mr. George Raju Singh, aged about 54 years, Son of Late David Alexander Singh, Resident of Quarter No.-22. Dhalla Raod, P.O & P.S Golmuri Town Jamshedpur, District East singhbhum (Jharkhand). Present Residing at House No. 10, New Shiv singh Bagan Sidhgora, P.O & P.S Sidhgora, District - East Singhbhum. **Appellant**

Versus

Mrs. Nisha Nidhi, wife of George Raju Singh, daughter of Mr. Benjamin Joseph, permanent and present resident of Flat No. 1242 in Block Sabarmati, Vijaya Shatabdi, P.O. & P.S. Sonari, Town Jamshedpur, District - East Singhbhum. **Respondent**

P R E S E N T

HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD

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For the Appellant : Mr. Anurag Kashyap, Advocate
: Mr. Bhaswat Prakash, Advocate
For the Respondent : Mr. Shresth Gautam, Advocate.

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C.A.V. on 10.04.2026 Pronounced on 21/04/2026

Per Sujit Narayan Prasad, J.

Prayer:

1. The instant appeal has been filed challenging the legality and propriety of impugned judgment passed on 05.08.2021 and decree signed on 12.08.2021 by learned Principal Judge, Family Court, Jamshedpur whereby and whereunder the Original Suit No. 238 of 2016 filed by the Respondent-wife under Section 10(x) of the Divorce Act for a decree of divorce has been allowed.

Factual Matrix

2. The brief facts of the case of the plaintiff-

respondent-wife as narrated, is that the marriage of plaintiff and defendant was solemnized on 28.10.1998 at Queen of the Apostle Church, Kurji, Patna, Bihar, according to Christianity and customs and after the marriage, the plaintiff came to her matrimonial house at 20E/M.S. Flat, Sisham Road, Golmuri, Jamshedpur and their marriage was consummated and out of the aforesaid wedlock, one daughter namely Simran Shreya was born on 02.08.1999 at Tata Main Hospital, Jamshedpur and a son namely Akshay Anand was born on 27.01.2007 at Tata Main Hospital, Jamshedpur and presently both the children are residing with plaintiff (respondent herein) and she being a mother and natural guardian is looking after their day to day affairs.

3. It has been alleged by the plaintiff that just after the marriage, defendant (appellant herein) always used to demand money from her and on refusal of demand, he used to torture the plaintiff both physically and mentally.

4. The further case of plaintiff is that she purchased a Flat from M/s. Vijaya Home Makers (P) Ltd. being Flat No. 1242 in Block Sabarmati, Vijaya Shatabdi, Sonari, Jamshedpur in the year 2003 after getting it financed by the State Bank of, India, Bistupur Branch, Jamshedpur and she also took personal loan from the aforesaid bank

for renovation of the flat and defendant mischievously put his name jointly with plaintiff in the sale deed being Sale Deed No. 2470 dated 26.03.2007, with the understanding to pay 50% amount of the flat by him, although entire E.M.I. amounting to Rs.16,000/- per month is being deducted by the Bank from the salary of plaintiff. Defendant has not spent a single penny towards purchasing or renovation of the said flat.

5. The further case of plaintiff is that the defendant forced her to take a loan from T.M.H. Society amounting to Rs. 1,50,000/- and Rs. 4,50,000/- taken from P.F., which is not refundable and the same shall be adjusted at the time of retirement of plaintiff and the entire amount of loan was forcefully taken by the defendant on some pretext or other.

6. The further case of plaintiff is that she was allotted a quarter bearing No. 119, X.N. Type, Sidgora by her employer M/s. Tata Steel Ltd., Jamshedpur and the defendant without the knowledge and consent of plaintiff illegally, inducted a tenant namely Shyam Kumar Thapa, S/o H.D. Thapa after receiving Rs. 1,00,000/- as an advance and also entered into an agreement with Shyam Kumar Thapa. The aforesaid transaction was done with Shyam Kumar Thapa by the defendant without the

knowledge and consent of plaintiff, so, defendant cheated the plaintiff and for that acts and misdeed, plaintiff, might be discharged from her service in Tata Steel Ltd.

7. The plaintiff has further stated that when the said fact came in her knowledge, she immediately called the said tenant and refunded the said amount to him through cheque No. 279240 dated 27.10.2013 and Shyam Kumar Thapa after receipt of the aforesaid amount executed a money receipt in favour of plaintiff and vacated the said quarter, thereafter the plaintiff surrendered the said quarter to M/s. Tata Steel Ltd., Jamshedpur.

8. So, she has lost all faith in the defendant as the defendant always used to demand money by threatening to snatch the child and money, occasionally he took signed cheques from the plaintiff and withdrawn the amount from the bank account of plaintiff for his own use.

9. On 30.10.2013 at about 11.00 P.M., when defendant came with Remi David and Rajan in the house of plaintiff and demanded Rs. 2,00,000/- from her and on her refusal, he started beating her in presence of her mother. The defendant gave threatening to her and took Rs. 10,000/- from her house and, snatched her gold chain and fled away. Thereafter, the plaintiff lodged a complaint to Sonari P.S., which was registered as Sonari P.S. Case

No. 4276 of 2013.

10. The plaintiff has further stated before the learned Family Court that there is no collusion in filing the suit for dissolution of marriage therefore, a decree may be passed by dissolving her marriage with the defendant.

11. The case was admitted for hearing and upon notice the respondent husband appeared.

12. Thereafter, the appellant-husband filed his written statement strongly denouncing the contentions of the appellant, as made in the plaint and refuted the allegations made against him.

13. In his written statement, he took preliminary objection that the plaintiff has filed a Matrimonial Suit No.39 of 2014 against him for dissolution of marriage u/s 10(x) of the Divorce Act, which was dismissed by the learned court below on 11.04.2015, but in the present suit, there has been no whisper about the said matrimonial suit and order related thereto, hence, the present suit is liable to be dismissed.

14. He has further stated that the present suit filed u/s 10(x) of the Indian Divorce Act is not maintainable in its present form against him.

15. The defendant has admitted the factum of marriage

and blessed with children, one daughter namely Simran Shreya was born on 02.08.1999 and a son namely Akshay Anand was born on 27.01.2007 both at Tata Main Hospital, Jamshedpur. He has further stated the said marriage was customary marriage as per custom of Christian strictly and it was duly performed in church. The annulment of the marriage or the dissolution of marriage solemnized as per Christian customs and rites are to materialized as per provision of Canon law.

16. The defendant has denied that at many occasion, he made demand of money from the plaintiff and on her refusal of demand, he used to torture her. He has further stated that not only plaintiff but he, also jointly purchased Flat No.1242 at Vijaya Shatabdi in Sabarmati Block, Sonari and it was financed in the year 2003 in joint name of plaintiff and defendant by the State Bank of India, Bistupur Branch, Jamshedpur and both took personal loan for renovation of the said flat.

17. The defendant has further stated that the sale deed was registered in the joint name of plaintiff, and defendant vide Sale Deed No. 2470 dated 26.03.2007 and EMI of the flat is only Rs. 8,724/- and the plaintiff has tried to mislead the court. He has also spent huge money for purchasing and renovation of the said flat and for which, documents are

lying in the concerned Bank.

18. The defendant has further stated that he never forced the plaintiff to take personal loan either from TMH or any other agency, so he is not liable for the same. He has further stated that it is total personal affairs of the plaintiff to let out the quarter on rent, receive the amount from him and getting later from her employer of M/s TISCO Ltd. She has complete knowledge of the amount received from the tenant, so he is not responsible for the act of the plaintiff.

19. He has further stated that the plaintiff is herself responsible for her own acts and deed. On 30.10.2013, there was no occurrence at all as alleged by the plaintiff and it was managed with a view to humiliate him to come to the terms as dictated by the plaintiff.

20. The defendant has further stated that upon receiving copy of notice by learned counsel for the plaintiff, he was produced from jail custody, so, he was not in a position to say regarding the cause of action arose on 26.03.2007, when he inserted his name in the sale deed dated 26.03.2007 and on 30.10.2013 he threatened the plaintiff on telephone. Hence, the plaintiff is not entitled to get any decree, u/s 10 of the Divorce Act as the present suit is devoid of any merit either in law or on facts and same is liable to be dismissed.

21. The learned Family Judge has taken in to consideration the pleading made by the parties in the plaint as well as in the written statement.

22. The case proceeded for evidence which the plaintiff-respondent-wife has produced and examined two witnesses including herself.

23. The defendant-appellant-husband has produced and examined altogether two witnesses including himself.

24. The learned Principal Judge, after hearing learned counsel for the parties, framed five issues for adjudication of the *lis*, which are being referred as under:

- I. Is the suit as framed maintainable?
- II. Whether the applicant has got valid cause of action?
- III. Whether the defendant has committed acts of cruelty on the applicant?
- IV. Whether applicant is entitled to a decree of divorce?
- V. To what other relief or reliefs the applicant is entitled to?

25. The aforesaid issues were decided against the appellant-husband and in favour of respondent-wife and the suit was decreed on contest in the following terms:

“That the suit be and the same is decreed on contest. The marriage of plaintiff Nisha Nidhi and defendant George Raju Singh solemnized on 28.10.1998 is hereby dissolved. It will be

effected from the date of decree. Let a decree be prepared accordingly.”

26. The appellant-husband, being aggrieved with the judgment passed on 05.08.2021 and decree signed on 12.08.2021 by learned Principal Judge, Family Court, Jamsheedpur approached this Court by filing the instant appeal.

Submission made on behalf of the appellant-husband

27. Learned counsel appearing for the appellant-husband has submitted that the impugned judgement passed by the learned court below is wholly wrong, illegal, against the weight of evidence and materials available on record and is, therefore, liable to be set aside.

28. It has been submitted that the learned court below has passed the impugned judgement without properly considering the materials available on record and as such the same is fit to be set aside.

29. Learned counsel has submitted that the marriage of the parties was solemnized on 28.10.1998 as per Christian rites and customs and was performed in a church and the couple were blessed with two children, the elder daughter namely Simran Shreya and the son namely Akshay Anand, but the learned court below has not considered the same.

30. He has submitted that the appellant had tried his level best to resume his marital life with the respondent and is

still ready to live happy conjugal life with the respondent and his children, but the learned family court has not considered the same while passing the impugned judgement.

31. Learned counsel has further submitted that the in-laws of the appellant-husband always used to interfere in his family matters and they have influenced the respondent-wife to file a case u/s 498A of the Indian Penal Code against the appellant-husband and also for filing the present application for divorce, but the learned court below has not considered the same.

32. Learned counsel for the appellant has submitted that the respondent-wife had earlier filed a suit for dissolution of marriage, which was dismissed due to the reason that the appellant had always supported the respondent and led a happy conjugal life without any complaint till the month of October, 2013, thereafter his father-in-law, mother-in-law, brother-in-law, uncle and aunt-in-law came to his flat having three bed rooms at Vijaya Shatabdi and started residing there and when he objected the same, then the disturbances between the parties arose and his in-laws influenced the respondent-wife to lodge a frivolous complaint against him, but the learned court has not considered the same.

33. Learned counsel has further submitted that the appellant has applied for a joint loan along with his wife and Flat No. 1242 situated at Vijaya Shatabdi is registered in their joint name and both of them along with their children were happily residing there, but the learned court has not considered the same.

34. It has been submitted that the appellant's father-in-law and mother-in-law have assaulted his daughter resulted in filing of a case by his daughter against the respondent and her parents, but later on the case was compromised as he did not want to spoil the life of his children, but the learned court has not considered the same.

35. It has further been submitted that after filing of a criminal case u/s 498A of the Indian Penal Code, the appellant-husband was arrested by the police and taken into custody, then at that time he got deleted his name from the joint account and when he was released from jail, he tried to enter in his flat but the respondent-wife and his in-laws did not allow him to enter into the flat for which he informed the matter to senior officials of police department and filed an informatory petition being Informatory Petition No.1059/2013, but the learned court has not considered the same.

36. Learned counsel has further submitted that the appellant-husband had always been a supportive and caring

husband and father and has always, tried to lead a happy marital life but only because of the unnecessary disturbances created by his in-laws, their marital life has disturbed but still the appellant being the husband is ready to resume his marital life with his wife (respondent herein) and also for the welfare of the children, but the learned court has not considered the same.

37. It has been submitted that the appellant at no point of time had committed cruelty upon the respondent and there is also no allegation made by the respondent to show cruelty was danger to her life or injury to her health bodily or mentally. The cruelty should be somewhat more serious than ordinary wear and tear of routine marital life, but the learned court has not considered the same while passing the impugned judgement.

38. Further, it has been submitted that the findings recorded by the learned Trial Court while answering issue No.III (cruelty) are perverse and based on mere presumption, therefore, the same will not stand in the eye of law.

39. Learned counsel appearing for the appellant, on the basis of aforesaid grounds, has submitted that the judgment passed by the learned Principal Judge, Family Court, Jamshedpur requires interference.

Submission made on behalf of respondent-wife

40. Learned counsel for the respondent-wife, defending the

impugned order, has submitted that appellant and respondent are legally married couple and they are blessed with two children, but since the beginning of their marital life, appellant had greedy eyes over the property of the respondent and the respondent-wife purchased a flat in Shatabdi Tower at her own income, however, the appellant manipulated and got his name entered in the ownership of flat.

41. It has further been submitted that the appellant always treated the respondent-wife with cruelty as he has criminal background and several criminal cases are pending against him.

42. It has further been submitted that appellant used to get blank cheque signed by the respondent-wife and received money, even, without consent of respondent, the appellant inducted a tenant in her company quarter and when the respondent came to know, she had to pay Rs.1,00,000/-to the tenant, which was received by the appellant.

43. It has further been submitted that on 30.10.2013, the appellant brutally assaulted the respondent-wife and snatched valuable articles from her and since 30.10.2013 both parties have bitter relation and their marital tie has broken to such extent that it is not repairable.

44. Learned counsel for the respondent-wife on the aforesaid grounds has submitted that the impugned

judgment requires no interference by this Court

Analysis

45. We have heard the learned counsel for the appellant-husband as also learned counsel for the respondent-wife and perused the material available on record and the finding recorded in the impugned order.

46. This Court, before looking into the legality and propriety of the impugned order, requires to refer the testimonies of the witnesses, as available on record.

47. The plaintiff-respondent-wife, in support of her case, has adduced two witnesses including herself. The relevant portion of the testimonies of the witnesses are mentioned as under :-

PW-1 Nisha Nidhi is the plaintiff (respondent herein) herself. She has deposed that her marriage with defendant was solemnized on 28.10.1998 at Queen of the Apostels Church, Kurji, Patna, Bihar, according Christianity customs and after the marriage, she came to her matrimonial house at 20E/M.S. Flat, Sisham Road, Golmuri, Jamshedpur and stayed with her husband. She has been blessed with two children; daughter Simran Shreya was born on 02.08.1999 and son Askshay Anand was born on 27.01.2007.

She has made allegation that after marriage her husband started demanding money from her and on her refusal, she was mentally and physically tortured.

She purchased a flat from M/s Vijaya Home Makers (P) Ltd. Being Flat No. 1242 in Block Sabarmati, Nijaya Shatabadi, Sonari, Jamshedpur in the year 2003 after taking loan from State Bank of India, Bistupur Branch, Jamshedpur, but the defendant mischievously put his name in the Sale Deed No. 2470 dated 26.03.2007 with an understanding to pay 50% amount of the flat, however, defendant did not fulfill the said understanding and the entire E.M.I. of Rs.16,000/- per month was paid by her from her salary. In this way, defendant did not spend a single penny towards purchasing or renovation for the said flat.

She has further stated that defendant forced her to take loan Rs.1,50,000 from TMH society and Rs.4,50,000/- from her P.F account and the entire amount was taken by the defendant on some pretext or other.

She has stated that Quarter no. 119, X.N. Type, Sidhgora was allotted to her by her employer M/s Tata Steel Ltd., Jamshedpur, but defendant without her knowledge illegally inducted a tenant namely Shyam Kumar Thapa after receiving Rs.1,00,000/- as an advance and also entered into an agreement with Shyam Kumar Thapa. In this way, defendant cheated her and due to this act of defendant, she could have been discharged from her service, therefore, when she came to know about this fact, she immediately called the said tenant and refunded the entire amount to him through

Cheque no. 279240 dated 27.10.2013 and tenant Shyam Kumar Thapa gave a receipt, thereafter she surrendered the said quarter to M/s Tata Steel Ltd., Jamshedpur.

She has also alleged that she has lost all her faith in the defendant as he was always making demand for money and threatened to snatch her children and money and defendant occasionally used to take her signature on blank cheques and withdraw the amount from her bank account.

She has also made allegation that on 30.10.2013 at about 11.00 P.M, defendant alongwith his brother-in-law Remy Devid and friend Rajan demanded Rs.2,00,000/- from her and on refusal, they beat her in presence of her mother. Defendant took away Rs.10,000/- from her house and snatched her gold chain also and fled away. Therefore, she lodged a complaint to the Sonari P.S and same was registered as Sonari P.S. Case No. 4726 of 2013. In this way, she was tortured at the hands of defendant.

She has further stated that on 04.07.2014, a false complaint was lodged against her on concocted allegation of forcibly detaining of her daughter to the Senior S.P., Jamshedpur through her minor daughter, later on, criminal case vide G.R. Case No. 2323 of 2014 was also filed, but after investigation, police submitted final form.

It has also been alleged that the name of defendant came into lime Light of the people of Jamshedpur when he

was arrested in Sonari P.S. Case No. 93 of 2016, u/s 309 of the IPC and other sections of Arms Act and same is pending for trial and disposal.

She has filed suit for dissolution of marriage earlier vide Matrimonial Suit No. 39 of 2013 but same was dismissed for default vide order dated 11.04.2015 before the Lok Adalat without her knowledge so she has filed the present suit for divorce after withdrawing Civil Misc. Case No. 02 of 2016 under Order IX, Rule 4 of the CPC.

During her cross-examination, she has stated that she had filed three cases against her husband. Her marriage was an arranged marriage, performed at Patna and after marriage, she came in M.S. Flat 20E Tinsplate, which was allotted to her husband and at that time, her husband was working in Tinsplate and she was working as a Nurse in TMH since the year 1990. She lived in Shisham Road for six months, thereafter, they shifted in a rented house in Kalimati Road and at that time, she was pregnant. At the time of birth of her daughter, she was living in Paras Road, Tinsplate with her husband and at the time of birth of her son, she was living in her house at Sonari. She purchased her house in Sonari in the month of January, 2003; however, sale deed was registered in the year 2007 in the joint name of her husband and her. At the time of execution of sale deed, she was not present before the Registrar rather her husband got

her signature at her residence and placed the document before the Registrar. A sum of Rs. 11,00,000/- was spent in purchasing of the house and in the possession letter of house the name of both appears. She showed her ignorance that at the time of registration of flat, she was required to be present before the Registrar and she did not know the name of witnesses of sale deed.

She has stated that at the time of marriage, monthly salary of her husband was Rs.1100-Rs.1200/-. Her father-in-law and mother-in-law had filed a case of maintenance against her husband and since October, 2013, she is living separately from her husband. Her children used to live with her, but only in the month of July, 2014, they have started living with defendant and she knew that her daughter has filed a case against her.

She denied the suggestion that after filing of the case by her daughter, she forcibly took away her daughter. She has admitted that her monthly salary is at present Rs.80,000/-. She has admitted that prior to October, 2013, she had not filed any case against her husband and reception was performed on 1 November, 1998 and on that day, friends of defendant came to her and demanded money, thereafter, she lost faith in her husband. At last, in the month of October, 2013, defendant assaulted her and her mother and father for demand of money and since then she has completely lost

confidence in her husband. In the incident of October, 2013, her mother, father, children were in her house and she informed to the Sonari P.S. in the night itself. She has filed Suit No. 283 of 2014 for claiming title over the house earlier, she has filed a suit for dissolution, but same was dismissed and she had filed a suit for restoration of the same, but she had not filed the order of that case. She has denied the suggestion that defendant has not treated her with cruelty and she had filed the case in the year 2016 on false facts and she is not entitled for any relief.

PW-2 Simran Shreya is daughter of plaintiff. She has reiterated the facts stated by her mother in her examination-in-chief on affidavit. She has further stated that she was 15 years old, her father took her from her school to different offices and took her signature with a plea that uncles sitting in the office would solve all the disputes between the father and mother and they would lead a happy conjugal life and upon such belief, she signed, later on, when the police uncle questioned her that her mother had forcibly confined her or not, then she came to learn that her father just to take revenge against her mother, used her in filing of false complaint case, based on false and fabricated allegation.

During cross-examination, she has stated that present suit has been filed by her mother for dissolution of marriage because her father treated her mother with cruelty. She had

lastly resided with her father and mother in Vijaya Shatabdi Apartment and she never lived with her grand-father and grand-mother. Her mother had filed three cases against her father and she has deposed in criminal case filed u/s 498A IPC in favour of her mother. The dispute arose on 30.10.2013 between her mother and father, she and her brother were present in the house. Her father had come with Rajan uncle and Remy Devid. Prior to 30.10.2013, she used to go to school in school van and her father never dropped her in school, her father used to pay money to the van driver after taking money from her mother.

She identified the payment slip of her mother and she admitted that Vijaya Shatabdi Apartment stood in the name of her father and mother. Her mother is a leader in Tata Workers Union and at present she alongwith her mother and brother are living in Vijaya Shatabdi Apartment. Her father got a false case instituted from her against her mother, Nana, Nani and others, later on, she withdrew the case. She has further deposed that at the time of filing of the case; she lived with her father for one month.

48. The defendant-appellant-husband has also adduced two witnesses in support of his case which are being dealt hereunder as :-

D.W. 1 Remy Devid is brother of defendant. He has deposed that his brother George Raju Singh got job in place

of his father in Tinsplate and after marriage, plaintiff came to their house and she stopped monthly expenses of his father and mother, due to which, his father filed maintenance case 15 of 2000 against his brother in the year 1999. The mother and brother of plaintiff came from Patna and assaulted his mother and father, so, his mother made a complaint in Golmuri P.S., so, plaintiff and defendant left their house in the month of April, 1999 and started residing in a rented house. His Bhabhi is a Nurse in TMH Hospital and also a leader in Tata Workers Union, whereas, his brother is a labourer in Tinsplate company. His bhabhi had filed a case on making allegation of dowry demand vide G.R. Case No. 4276 of 2013 and after investigation, police exonerated them. His bhabhi has filed the present case with a view to grab the flat of Sonari. The booking amount of Rs.60,000/- was given by his Dharma Maa Beronika Toppo. The elder daughter Simran Shreya had filed G.R. Case No. 2323 of 2014 against her mother and Nana, Nani. The plaintiff, in their absence, came in their house and after giving threatening to Shreya, took her and got case ended. His brother has never treated the plaintiff with cruelty. The nephew of plaintiff was married with his sister Marsilina Frank Henari in the year 1998 at Patna. The nephew of plaintiff ousted his sister in order to take revenge. plaintiff has filed the present case against his brother.

During his cross-examination, he has stated that he did not know why his brother left the job. He denied that he used to visit court regularly and at the time of marriage of his brother, his father had spent Rs.1,50,000/-, his brother has taken early separation Scheme from the company. His niece informed him that plaintiff and her relatives wanted to grab the house. He has further deposed that he did not know the place where his brother was living and he also denied that he deposed falsely at the instance of his brother.

D.W.2 George Raju Singh is defendant himself. He has deposed in his examination-in-chief that his marriage was solemnized with plaintiff on 28.10.1998 and he is blessed with two children, elder daughter Simran Shreya and son Akshay Anand. He is always willing to lead happy conjugal life with his wife, but she was wrongly advised by the people around her with a motive to ruin the life of his children and their married life. He has been defending the case filed by his wife only with a hope that good sense will prevail upon her and they would lead a happy conjugal life. His in-laws Interfered in their marriage life and misled for filing of false case by his wife. His wife had filed a suit for dissolution of marriage earlier, which was dismissed, due to the reason that he had always supported his wife and led happy conjugal life without any complaint till the month of October, 2013. In the year 2013, his father-in-law, mother-in-law and brother-in-

law, and their uncle, aunt in-laws came to reside permanently in his three bed-rooms flat at Vijaya Shatabdee, where he was living with his wife and two children. He objected the proposal of his in-laws and same resulted in disturbance in the studies of his children, upon which, they all advised his wife to lodge frivolous complaint against him and in this way, 15 years of his married life was disturbed. He was in talking term with his wife during the year 2014-15, but his in-laws had a greedy eye on his flat.

He has further deposed that he alongwith his wife applied for joint loan and the Flat No. 1242 at Vijaya Shatabdi was registered in their joint name.

He has further deposed that he alongwith his wife was taking care of his children and both were working couple. When his wife was away for her work, he used to take care of the house-hold activities as well as looking after his children. His father-in-law and mother-in-law were accused in a criminal case, so, they shifted from Patna to their flat and his other relatives also shifted and started residing in that flat. The flat was 1300 sq. ft. and it was not sufficient to accompany, everyone, so he raised objection but his wife did not raise any objection, though, she realized that their family life was disturbed and when he started objection, his in-laws instigated his wife to file cases against him.

His father-in-law and mother-in-law assaulted his daughter, which resulted in filing of case by his daughter against his wife and in-laws. The case was compromised and he did not want to spoil the life of his children. His in-laws wanted to sell the Flat No. 1242 situated at Vijaya Shatabdee and take away his wife to permanently settle at Patna. He has also deposed that he alongwith his wife jointly booked the flat, he took loan, purchased tiles, marbles, fixtures and always deposited loan amount each month by giving cash to his wife and after October, 2013, he did not pay the monthly EMI as he was forced to reside away from his flat.

He has further stated that after filing of criminal case, u/s 498A IPC, in which, he was arrested by the police and his wife got deleted his name from the joint account. On being released on bail, he tried to enter in the flat, but his wife and in-laws did not allow him to enter the house, so, he informed the matter to senior officials of police department. He also filed Informatory petition no. 1059 of 2013, he informed the Bank also that he came to know that his wife was to sell the flat without his knowledge. He has further deposed that his wife's salary was not enough in the year 2007 to meet the loan amount, so, he gave amount to his wife through Demand Draft amounting to Rs.94,000/- and he was forced to sponsor the Baptism ceremony of his brother-in-law's daughter at Jamshedpur. His wife took joint loan of

Rs.60,000/- on 09.11.2002 from Veronica Toppo. In this way, he has never treated his wife with cruelty and he has taken full care of his wife, so the case filed by his wife may be dismissed.

During his cross-examination, he has stated that since 30.10.2013, both are living separately and he did not know that his father-in-law and mother-in-law possessed a house at Post-office Sadakat Ashram, Patna-10. His wife has three sisters and one brother and his father-in-law and mother-in-law used to visit their other son and daughters also. His wife joined as a Trainee Nurse in TMH in 1991 and on the basis of medical book of his wife, his father-in-law and mother-in-law are also treated in TMH. He has not filed any case for restitution of conjugal right.

He admitted that he is an accused in G.R. Case No. 1143 of 2016 with the allegation of possession of illegal arms, in Sonari P.S. Case No. 48 of 2016 there is allegation of dacoity, in Bagbera P.S. Case No. 155 of 2018, there is allegation of dacoity and arms Act and G.R. Case No. 4276 of 2013 was filed u/s 498A IPC against him. His. parents had filed a case of maintenance against him vide Misc. Case No. 15 of 2000 and he was directed to pay maintenance to his parents. He has filed a case of Guardianship for his children vide Guardianship Case No. 317 of 2017, but same was

dismissed for default as at that time due to fracture of his leg, and he did not turn up.

He denied the suggestion that he took signature and thumb impression of his wife on sale deed at his house and same was produced before the Registrar. He admitted that his application dated 05.08.2014 shows that he has no peaceful marital life. He also denied the suggestion that he put a forged signature of his wife on it. He was shown some photographs and he admitted that he was putting varmala to a woman in that photograph. He has denied the suggestion that in the year 2014, he induced his children and used his daughter to file a false case against his wife. He has further denied that so long, he lived with his wife, he had only one intention to get money from his wife and he forcibly took the signature of his wife on blank cheque. He has also denied that he has been involved in several criminal cases, therefore, restoration of conjugal life could adversely affect the social, economic and physical life of his wife and that would also adversely affect the children.

49. Besides oral evidence, documentary evidences were also adduced, which were marked as exhibits.

50. The marriage journey of the plaintiff and defendant shows that there was some discord in their matrimonial life, but neither party made any complaint anywhere. In the meantime, they purchased a flat in Vijaya Shatabdi, Sonari.

There is allegation put forward by the plaintiff (respondent herein) that entire money was paid by her by taking Loan from TMH Society and PF and defendant (appellant herein) did not contribute a single penny for it and defendant was in the habit to take her signature on cheque etc. and he had greedy eye over her property, but no inspiring evidence was produced to support it, on the other hand, defendant has claimed that he contributed money by taking personal loan in the joint name. He has also not supported it by any cogent evidence; however, it is admitted by the defendant in his cross-examination that he has no relation since 30.10.2013 with his wife. It is also an admitted fact between the parties that their daughter Simran Shreya had filed a complaint Case No. 2718 of 2014 against her mother, Nana, Nani and other accused persons, making allegation that they assaulted her and pressurized to depose in the case instituted against her father by her mother that resulted into institution of Sonari P.S. Case No. 160 of 2014 and after investigation, police submitted Final Form.

51. Simran Shreya as P.W. 1 has deposed in para 13 that her father took her to different offices and got her signature on pretext that uncle sitting in the office would solve the dispute between her father and mother and both would lead happy conjugal life, later on, she came to know that her father to take revenge against her mother used her to file a

false complaint case. She has stated in para 17 of her cross-examination that after deceiving, her father got false case instituted against her mother, Nana, Nani and she got the case closed.

52. The appellant-husband has admitted in his evidence that he has been in custody in several cases and those cases included allegation of dacoity, possession of illegal arms.

53. The respondent-wife has filed certified copy of FIR and charge-sheet to show the criminal antecedent of defendant, whereas, defendant has filed the certified copy of judgment to show that defendant has been acquitted in many of the cases. The case of appellant-husband is that wife of his brother-in-law filed a case u/s 498A IPC against his father-in-law, mother-in-law and brother-in-law and they shifted Jamshedpur and same was the main cause for their marital discord.

54. It is evident that pleading of appellant-husband is not supported with any evidence, whereas, the pleading and evidence of respondent-wife proves the fact that appellant and respondent have no relation since 30.10.2013. The appellant-husband has used his daughter to file a false case against his wife, his mother-in-law and father-in-law after taking the daughter in his custody for one month. The bitterness between them has reached to such extent that plaintiff got him convicted in G.R. Case No. 4276 of 2013,

filed u/s 498A IPC.

55. Thus, it is evident that since 30.10.2013 the parties have been living separately, and the conduct of the appellant-husband—manifested in filing a false case against his wife through his daughter, making defamatory allegations against his own daughter during evidence, and levelling baseless accusations against his father-in-law, brother-in-law and mother-in-law with the intent to disrupt his marital life—can be categorized as an act of cruelty.

56. It further established that the marriage between the parties has been reduced to a mere legal fiction, subsisting only by virtue of a formal tie.

57. The most surprising feature of the present suit is exhibit 4 series (photographs) which was brought on record by the respondent-wife during the evidence of appellant-husband to show that during pendency of the suit, the appellant tried to marry another girl. The appellant-husband admitted in his evidence about his engagement with another girl but according to him it was prior to his marriage with respondent. When these photographs were confronted with his brother during his evidence, at first his brother identified the appellant in photograph, but when his brother was confronted with full photograph, his brother declined to identify the appellant in the photograph. The conduct of both brothers was questionable and it shows that there was

something fishy which they tried to conceal or project otherwise and it strengthen the case of plaintiff that during pendency of the suit, defendant tried to marry some other woman.

58. In the circumstances, it is evident that the conduct and character of the appellant were unjust towards her, rendering it impossible for her, in the ordinary course of nature, to reside with the defendant or to feel mentally and physically secure in his company.

59. The learned Principal Judge, from the statements of the witnesses so produced on behalf of the parties and after going through the documentary evidence, has come to the conclusion that plaintiff-wife has been able to prove the grounds of alleged cruelty pleaded by her in her petition.

60. In the context of the aforesaid factual aspect only seminal issue has to be decide herein that-

“Whether the impugned judgment and decree allowing divorce to the wife /respondent on ground of cruelty U/s 10(X) of the Divorce Act, requires interference?”

61. Since the learned counsel for the appellant has raised the issue of perversity by contending that the findings recorded by the learned Family Court while answering issue no. (iii) i.e. issue of cruelty are perverse, therefore, before addressing the aforesaid seminal issue it would be apt to discuss herein the appropriate meaning of word “perverse”.

62. This Court while appreciating the argument advanced on behalf of the appellant 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.

63. 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.

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."

64. 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.

65. It needs to refer herein that as per the Section 2 of the Divorce Act, 1869, empowers the Court to grant relief to the husband or wife, one of whom is a Christian. As per Section 2 of the Act, either the husband or a wife, one of whom is a Christian, is entitled to invoke the provisions contained under this Act for relief. This Act does not specify that it will only apply to a marriage solemnized in a particular form. If one of the parties to the lis is a Christian, irrespective of the form of marriage solemnised, the provisions contained under the Act will be applicable to them for resolution of matrimonial dispute.

66. Further it needs to refer herein that a Court of Law holds a superior position than the Cannon Law. Dissolution of a Christian marriage is covered under the Divorce Act, 1869. As per Section 2 of the Divorce Act, 1869, in order to seek relief under this Act one of the parties that is either the petitioner or the respondent must be a Christian by religion. The Indian Divorce Act, 1869 governs dissolution of marriage, judicial separation, nullity, restitution of conjugal

rights, alimony, and custody for Christians in India. It applies to all Christian denominations, including Catholics and Protestants.

67. Section 10 of the Divorce Act, 1869 provides instances as to when a Christian marriage can be terminated. The first and the foremost ground is that of adultery. In addition to that, a wife may initiate divorce proceedings against her spouse who has committed cruelty on her or is accused of rape, sodomy, bestiality. If one of the spouses converts to another religion, then also marriage may be dissolved. In case of unsound mind, sexually transmitted diseases and desertion of the petitioner by their spouse for a period equal to or more than two years a divorce can be sought on such grounds.

Issue of Cruelty

68. Now this Court is adverting to the issue of cruelty. Admittedly the suit for dissolution of marriage has been preferred before the learned Family Court under Section 10 (x) of the Indian Divorce Act, for ready reference the Section 10 (x) of the said Act is being referred herein which reads as under:

“10. Grounds for dissolution of marriage.—(1)
Any marriage solemnized, whether before or after the commencement of the Indian Divorce (Amendment) Act, 2001 (51 of 2001), may, on a petition presented to the District Court either by

the husband or the wife, be dissolved on the ground that since the solemnization of the marriage, the respondent—

(x) has treated the petitioner with such cruelty as to cause a reasonable apprehension in the mind of the petitioner that it would be harmful or injurious for the petitioner to live with the respondent.”

69. It requires to refer herein the definition of ‘*cruelty*’ as has been defined by Hon’ble Apex Court in the judgment rendered in ***Dr. N.G. Dastane Vs. Mrs. S. Dastane* [(1975) 2 SCC 326]**, wherein it has been held that the Court is to enquire as to whether the 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.

70. The cruelty has also been defined in the case of ***Shobha Rani Vs. 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.

71. According to the Hon’ble Apex Court, “cruelty” is the “conduct in relation to or in respect of matrimonial conduct in respect of matrimonial duties and 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.”

72. The Hon’ble Apex Court has further observed that 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.”

73. 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.

74. In ***Vijay Kumar 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.

75. 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".

76. The Hon'ble Apex Court in the case of ***Vidhya Viswanathan v. Kartik Balakrishnan, (2014) 15 SCC 21*** has specifically held that cruelty is to be determined on whole facts of the case and the matrimonial relations between the spouses and the word 'cruelty' has not been defined and 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 and one which is adversely affecting the other.

77. Now reverting to the fact of the case it has been stated by the respondent-wife that she has lost all her faith in the defendant as he was always making demand for money and threatened to snatch her children and money and defendant occasionally used to take her signature on blank cheques

and withdraw the amount from her bank account.

78. *Per contra* the appellant-husband has stated in his testimony before the learned Family Court that he wants to live with his wife and if the conjugal life will not be restored, it would adversely affect the social, economic and physical life of his wife and that would also adversely affect the children.

79. The evidence on record clearly establishes that the parties have been living separately for a considerable period of time. The conduct of the appellant-husband, including filing of false cases and levelling baseless accusations against the respondent and her family members, has been rightly categorized by the Family Court as cruelty within the meaning of Section 10(X) of the Divorce Act.

80. Admittedly, the plea of cruelty has been raised by the respondent-wife.

81. This court, based upon aforesaid discussions on the issue of cruelty, as per evidence it appears that appellant and respondent are legally wedded husband and wife, whose marriage was solemnized on 28.10.1998. As per evidence respondent-wife had filed petition for divorce on the ground of cruelty before the Family Court.

82. The plaintiff-wife has stated in her evidence that in the month of October, 2013, her husband had assaulted her with knife and since then she is living separately.

83. She has filed suit for dissolution of marriage earlier vide Matrimonial Suit No. 39 of 2014 but same was dismissed for default vide order dated 11.04.2015 before the suit for divorce before the family Court.

84. From perusal of the impugned judgment, it is further evident that the learned Family Court while allowing the suit in favour of respondent/wife has taken into consideration the documentary evidence also and found that the documentary evidence available on the record fully corroborates the contention of the plaintiff (respondent wife herein) that she was subjected to cruelty by defendant husband (appellant herein).

85. Thus, the learned Principal Judge, Family Court, Jamshedpur, after due appreciation of the evidences led by parties, had found that cruelty has been committed by the appellant-husband.

86. On the perusal of the impugned judgment, this Court is of the considered view that learned Family Court after due deliberation of factual aspect as well as evidences led by both the parties has recorded its finding, therefore the contention of learned counsel for the appellant that impugned judgment is suffering from perversity, is not fit to be accepted, hence rejected.

87. From the discussions made hereinabove, it is evident that cruelty has been meted out to the respondent-wife by

appellant-husband.

88. On the basis of the discussion made hereinabove, this court is of the considered view that the respondent-wife has established that she was subjected to cruelty by her appellant-husband.

89. Accordingly, issue as framed by this court that is decided against the appellant-husband and it is held that the judgment and decree passed by the learned family court, allowing the decree of divorce to the respondent-wife on the ground of cruelty under Section 10(x) of the Divorce Act, requires no interference.

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

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

(Sujit Narayan Prasad, J.)

I agree.

(Sanjay Prasad, J.)

(Sanjay Prasad, J.)

Dated : 21/04/2026

Birendra / **A.F.R.**

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