IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No.125 of 2025

Gopal Maity, aged about 56 years, son of late Satendra Nath Maity, resident of Road No.10, Block No.293/2, Quarter No.2 A, Adityapur, Post Adityapur, Police Station- Adityapur, District-Seraikella Kharsawan.

.....… Appellant/Petitioner

Versus

1. Pratima Maity, aged about 44 years, wife of Gopal Maity, Daughter of Tinkori Maity, resident of Village-Chalunia, Post Kenda Dungri, Police Station-Chakulia, District-East Singhbhum, Jharkhand.
2. M/s Tata Steel Limited, Jamshedpur through its Managing Director

..... **Respondents**

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

For the Appellant : Mr. Vikash Kumar, Advocate
For the Resp. No.1 : Mr. Jitendra Nath Upadhyay, Advocate
Mr. Anurag Kashyap, Advocate
For the Resp. No.2 : Mr. Kumar Harsh, Advocate
Mr. Tejaswa Mohanta, Advocate

C.A.V on 12.02.2026 **Pronounced on 12/03/2026**

Per Sujit Narayan Prasad, J.

1. The instant appeal under section 19(1) of the Family Courts Act, 1984 is directed against ex-parte judgment dated 29.05.2024 and the decree signed on 03.06.2024 passed in Original Suit No.615 of 2022 by the learned Additional Principal Judge, Additional Family Court No.2, East Singhbhum at Jamshedpur, (in short, Family Judge) whereby and whereunder the petition filed under section 13 (1) (i-a) (i-b) of the Hindu Marriage Act, 1955 by the appellant-husband against the respondent-wife, has been dismissed.

Factual Matrix

2. The brief facts of the case as pleaded in the plaint having been recorded by the learned Family Judge, needs to be referred herein as:

(i) The petitioner and the respondent are the legally married couple. Their marriage was duly solemnized according to strict principle of Hindu rites and customs on 28.04.1998 at the parental house of the respondent at Village Chakulia within P.S Chakulia District Singhbhum East.

(ii) The said marriage was negotiated one and was duly solemnized in presence of both the common wishers, friends and relatives of both the parties under a peaceful and cordial environment and as per the customs prevailing in their society.

(iii) The petitioner and the respondent started living together at the house of the petitioner and their marriage has been duly consummated and from the said wedlock the couple has been blessed with a female child namely Purnima Maity on 22.12.1999.

(iv) It is stated that unfortunately the cordial relationship between the parties as husband and wife could not continue for any longer period, due to vital difference in their opinion, mind and status of living, and also behaviour, which could not be settled amicably.

(v) The respondent due to her peevish nature gradually became a termagant lady and in spite of several and strenuous efforts made by the petitioner even at the intervention of their common relatives, the aforesaid evil nature of the respondent could not be rectified, rather the matter went up to its extreme and the respondent flatly

refused to live in the house of the petitioner with the old ailing parents of the petitioner.

(vi) This fact was not accepted by the petitioner. He never became ready to leave his old parents alone and the caused serious type of annoyance in the mind of the respondent.

(vii) The respondent started creating dispute in the house and gradually she was regularly quarreling with the petitioner in very small matters. Ultimately, after the birth of the said female child, she along with her minor child left for her parental house during the month of December, 1999 and since then she is continuously living at her parental house.

(viii) It is stated that all efforts made by the petitioner to bring back the respondent went in vain as all the time she flatly refused to come back to his life for the reasons best known to her.

(ix) In the year 2006, the respondent came to the house of the petitioner and she lived there only for four months. The behaviour of the respondent during her stay in her matrimonial house was extremely cruel towards the petitioner and his family members.

(x) Thereafter behaviour of the respondent got worst and she used filthy languages towards the petitioner. She started to abuse the petitioner every day. She, in course of her evil acts of atrocities, very often used to assault the petitioner even causing injuries to his person.

(xi) As the petitioner did not want to give the shape of broken family, so the petitioner has been managing the situation.

But thereafter, the respondent lodged a false criminal case against the petitioner and his family U/s 498A/406/313 IPC and U/s 3/4 D.P. Act and vide judgment of the learned Sessions Judge-1, at Seraikella in Sessions Trial No. 283 of 2004, the petitioner along with his parents have been acquitted on 24.06.2019.

(xii) Ultimately, the respondent in order to put the petitioner in trouble preferred another proceeding against him for grant of monthly maintenance for herself and that for her minor daughter. The said proceeding has however been disposed of finally with direction to the petitioner to make regular monthly payment to the tune of Rs 8,000/- by way of maintenance to the respondent and her minor child. The petitioner is regularly making payment of the said amount.

(xiii) In this way, the petitioner has been deserted for a pretty long period and he has been subjected to mental and physical torture at the hands of the respondent. On the other hand, all efforts made from the side of the petitioner to settle the matter amicably resulted in the negative. Therefore, the petitioner found no alternative but to dissolve the existing marriage between the parties through a valid decree of divorce through an order of this Court.

(xiv) It has further been stated that the defendant-wife has behaved in such a way that the respondent-husband cannot reasonably be expected to live with her and marriage has broken down irretrievably, due to torture and desertion by the appellant-wife.

3. On the aforesaid ground of cruelty and desertion, the petitioner-husband has filed a suit before the learned Family Court and prayed for a decree of dissolution of the marriage between him and the respondent wife.

4. Accordingly, notice was issued through post and later on through publication in the local newspaper for appearance of the respondent, but the respondent did not appear to contest the suit. Ultimately, the suit was proceeded *ex-parte* vide order dated 09.06.2023 and the case was fixed for *ex-parte* evidence of the petitioner.

5. In support of his case, the petitioner adduced evidence solely on his behalf as P.W1.

6. Learned Family Judge, after institution of the said case taking into consideration of the pleadings of the petitioner and after scrutinizing the evidence of the petitioner, has dismissed the suit for dissolution of marriage.

7. The impugned judgment by which the suit for dissolution of marriage has been dismissed is under challenge by filing the instant appeal.

Submission of behalf of the appellant-husband:

8. Mr. Vikash Kumar, the learned counsel appearing for the appellant-husband has taken the following grounds:

(i) There is an error in the impugned judgment, since, each and every aspect of the matter has not been taken into consideration based upon the evidences produced by the appellant-husband.

(ii) The element of cruelty has been found to be there if the evidences adduced on behalf of the appellant-

husband will be taken into consideration but without appreciating the same properly the learned Family Judge has come to the finding by holding that no element of cruelty is there and, as such, the impugned judgment and decree suffer from an error.

(iii) It has been contended that the appellant-husband has been meted out with cruelty as also the respondent is living separately and, as such, both the grounds, i.e., the cruelty and desertion are available as would be evident from the evidence adduced on behalf of the appellant-husband, but the same has not been taken into consideration.

(iv) It has been contended that the learned Family Judge has failed to appreciate the evidences adduced on behalf of the appellant-husband as in the trial, the evidence has come that it was the respondent-wife who has treated the appellant with cruelty by her cruel behaviour and act and deserted him without any valid reason, but this fact has not been considered by the learned Family Judge.

(v) The learned Family Judge has not appreciated the fact that the respondent-wife did not want to lead a happy conjugal life with the appellant-husband and she used to make quarrel with the appellant and his family members without any rhyme or reason and go to her *maike* with her minor daughter without the consent of the appellant or his parents and lived there for a long time.

(vi) The learned counsel for the appellant has further submitted that the petitioner/appellant has offered to pay Rs.10.00 Lakhs for education and marriage expenses of the daughter and since the parties have been living separately since last 20 years therefore, there is no need to carry out such relationship which has no worth to continue.

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

Submission of behalf of the respondent-wife:

10. Per contra, Mr. Jitendra Nath Upadhyay, the learned counsel appearing for the respondent-wife has taken the following grounds:

(i) There is no error in the impugned judgement as the learned Family Judge has considered the entire issue and on the basis of evidence laid by the appellant himself has passed the order impugned.

(ii) The appellant-husband has sought for divorce on the ground that the behaviour of the respondent-wife is cruel and she has deserted him without any valid ground and the learned Family Court, after taking into consideration the evidence adduced on behalf of the appellant-husband, has rightly held that there was no ground found with regard to cruelty and desertion by the respondent-wife and, as such, has dismissed the divorce petition.

(iii) It has been contended that the issue of desertion has not been proved, since, the issue of desertion requires to be considered on the basis of the factum that if the wife has left the matrimonial house on her own, but this fact has not been shown by the petitioner in his evidence during trial and on that basis the learned Family Judge has rightly dismissed the suit for divorce.

11. Learned counsel, based upon the aforesaid grounds, has submitted that if on that pretext, the factum of cruelty and desertion has not been found to be established, hence, the impugned judgment cannot be said to suffer from an error. However, the learned counsel has admitted the fact that both parties are living separately from 20 years.

12. In addition to this, the learned counsel for respondent-wife has submitted that the appellant has opted for VRS from Tata Steel Limited and the appellant has received more than Rs.90.00 Lakhs as retiral benefit and besides this, the appellant has a three-storied building at Adityapur Industrial Area and has immovable property of about 01 acre and 30 decimals at Ghatshila in East Singhbhum, therefore, the offer of Rs. Ten lakh as made by the appellant towards her daughter's marriage and education is very meagre amount.

Analysis:

13. We have heard the learned counsel appearing for the parties, gone through the impugned judgment, as also the testimony of the witness and the materials available on record.

14. It needs to mention herein that in the present proceeding, after issuance of notice, the respondent-wife has appeared and filed her

response by way of affidavit taking a plea that the appellant-husband was earlier getting a handsome salary from his employer, i.e., Tata Steel Company Limited but he had taken voluntary retirement and he has received a lumpsum amount of Rs.90,00,000/- approximately from the said company. It has also been stated that the appellant-husband has movable and immovable properties at Adityapur and Chakulia.

15. During hearing of the instant appeal, it has been brought to the notice of this Court that the daughter of the parties is now major. On call upon by this Court, she has appeared in the Court and shown her willingness that she wants to live with her parents and she wants to pursue her M.Tech. course.

16. Further, during course of argument, it appears from the submission of learned counsel for the parties that there is no chance of re-union of the parties, as such, this Court had moved for settlement of the matter in terms of permanent alimony.

17. Therefore, in the light of judgment passed by the Hon'ble Apex Court in the case of ***Rajnesh Vrs. Neha & Anr. (2021) 2 SCC 324***, this Court directed learned counsel for the appellant-husband to file affidavit giving therein 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.

18. The appellant-husband has filed an affidavit in compliance of this Court's order in which he has stated that he has received Rs.1,13,000/- as gross salary per month till his retirement from his employer and a sum of Rs.74,98,522/- has been received under various heads after retirement. He has stated that the immovable property situated at Adityapur is his ancestral property in which his brother is co-sharer whereas the movable

property at Chakulia has been purchased by him after paying an amount of Rs.6,50,000/- during his service tenure. Petitioner/appellant has shown his desire to pay an amount of Rs.10 lakhs for education and marriage expenses of the daughter.

19. Further, it is evident from record that this Court has passed an order to implead the employer of the appellant, i.e., Tata Steel Limited as respondent no.2 so as to know how much amount has been received by the appellant after his retirement. In compliance thereof, the respondent no.2 has filed an affidavit in which it has been stated that a sum of Rs.74,01,469/- has been paid as total settlement amount to the petitioner/appellant herein.

20. This Court is now adverting to the impugned order/judgment by which prayer for dissolution has been rejected by the learned Family Court.

21. It is evident that the learned Family Judge has considered the evidence adduced on behalf of the petitioner (appellant herein) for deciding the issues involved in Original Suit No.615 of 2022 as the respondent-wife did not appear to contest the case and the matter was fixed for *ex-parte* hearing.

22. During the trial, the appellant himself has been examined as PW1 before learned Family Court.

23. In his examination on oath as PW1, the respondent-husband has narrated entire things as pleaded in the plaint about his marriage with the respondent. He had stated on oath that his marriage was solemnized with the respondent on 28.04.1998 in accordance with Hindu rites and customs at the parental house of the respondent in Village-Chalunia, East

Singhbhum and out of the said wedlock a female child was born on 22.12.1999 whose name is Purnima Maity.

24. It is stated by the petitioner in his evidence that the cordial relation between the parties and husband and wife could not continue for any longer period due to vital difference in their opinion, mind and status of living and also behaviour which could not be settled.

25. It has been stated that the respondent was not in any way ready to live with him in his residence where his old and ailing parents are also living under his care. It has been deposed that the respondent started creating regular dispute in the house and gradually she became a lady of termagant nature. Ultimately, she made her routine to pick up quarrel with the petitioner without any plausible reason.

26. It is stated that after the birth of the daughter, respondent went to her parental house with the minor child and started living there and thus deserted the petitioner and sometime in the year 2006, the respondent came back to the petitioner's house with her minor child but stayed there only for a period of four months. Thereafter, she again started quarrelling with the petitioner and gradually the behaviour of the respondent became so bad that she started beating the petitioner in present of his parents without any rhyme and reason and abused him in most filthy language.

27. It is stated that the respondent had filed a criminal case under sections 498(A)/406/313/34 of the IPC and section ¾ of the DP Act against the petitioner and his family members, but later on they have been acquitted vide judgment dated 24.06.2019 passed by the learned Sessions Judge-I at Seraikella. It is stated that due to cruel behaviour of the respondent, the parents of the petitioner had died and he anyhow was living alone.

28. It is stated that the respondent thereafter filed a maintenance case against the petitioner in which he is continuing to pay Rs.8000/- per month as maintenance amount to the respondent and minor child.

29. It is stated that due to cruel act of the respondent, the life of the petitioner become hell and she has deserted him since a long period. Before the learned Family Court, it has been stated that both the parties are staying separately for the last 20 years.

30. Thus, from scrutiny of the evidence adduced on behalf of the petitioner, it is evident that the respondent-wife has filed a criminal case under section 498(A)/406/313/34 of the IPC and section ¾ of the DP Act against the petitioner and his parents in which they have been acquitted. It is also evident from the evidence of the petitioner that the respondent-wife has filed a maintenance case praying therein for payment of maintenance amount for herself as well as her child in which the petitioner is paying an amount of Rs.8000/- per month as maintenance and both the parties are staying separately for the last 20 years.

31. It needs to refer herein that the "desertion" is not the withdrawal from a place but from a state of things, for what the law seeks to enforce is the recognition and discharge of the common obligations of the married state; the state of things may usually be termed, for short, 'the home'. The desertion is a course of conduct which exists independently of its duration, but as a ground for divorce it must exist for a period of at least two years immediately preceding the presentation of the petition.

32. It is, thus, evident from the aforesaid reference of meaning of desertion that the quality of permanence is one of the essential elements which differentiates desertion from wilful separation. If a spouse

abandons the other spouse in a state of temporary passion, for example, anger or disgust, without intending permanently to cease cohabitation, it will not amount to desertion. For the offence of desertion, so far as the deserting spouse is concerned, two essential conditions must be there, namely, *(1)* the factum of separation, and *(2)* the intention to bring cohabitation permanently to an end. Similarly, two elements are essential so far as the deserted spouse is concerned: (*1*) the absence of consent, and (*2*) absence of conduct giving reasonable cause to the spouse leaving the matrimonial home to form the necessary intention aforesaid. In such a situation, the party who is filing

33. This Court, on the premise of the interpretation of the word "desertion" has considered the evidence of the petitioner as has been incorporated by the learned Family Court in the impugned judgment dated 29.05.2024. On the Court's query, it has come in the testimony of the appellant-husband as PW1 that the respondent-wife has deserted him since last 20 years.

34. Herein, as per the facts of the case it is evident that after birth of the female child, the respondent-wife had left her matrimonial home sometime in the year 2000 and went to her *maike* and stayed there till the year 2006, meaning thereby, the parties of the instant case is living separately for last 20 years.

35. It has also come in the evidence of the appellant-husband himself that the respondent-wife had lodged a criminal case against the appellant-husband and her in-laws under the provision of Dowry Prohibition Act and in the said case petitioners and petitioner's family member has been acquitted subsequently.

36. In the aforesaid circumstances, the considered view of this Court is that now the marital relation between the parties has become "dead wood marriage" and marital relation has become lifeless and without emotional or practical value. It is settled proposition of law that when a marriage is deemed a dead wood situation, the Courts may consider it a valid reason to grant a divorce, recognizing that forcing a couple to remain in such a relationship only prolongs their suffering and no purpose will be served in sailing the dead wood.

37. The Hon'ble Apex Court in the case of ***Durga Prasanna Tripathy v. Arundhati Tripathy, (2005) 7 SCC 353*****,** while taking into consideration the long period of separation of husband and wife has observed, which reads as under:

> *"28. The facts and circumstances in the above three cases disclose that reunion is impossible. The case on hand is one such. It is not in dispute that the appellant and the respondent are living away for the last 14 years. It is also true that a good part of the lives of both the parties has been consumed in this litigation. As observed by this Court, the end is not in sight. The assertion of the wife through her learned counsel at the time of hearing appears to be impractical. It is also a matter of record that dislike for each other was burning hot. 29. Before parting with this case, we think it necessary to say the following: Marriages are made in heaven. Both parties have crossed the point of no return. A workable solution is certainly not possible. Parties cannot at this stage reconcile themselves and live together forgetting their past as a bad dream. We, therefore, have no other option except to allow the appeal and set aside the judgment of the High Court and affirming the order of the Family Court granting decree for divorce. --------."*

38. The Hon'ble Apex Court in the case of ***Sujata Uday Patil v. Uday Madhukar Patil, 2007 (3) PLR 521*** has observed as under:

> *"Matrimonial disputes have to be decided by courts in a pragmatic manner keeping in view the ground realities. For this purpose a host of factors have to be taken into consideration and the most important being whether the marriage can be saved and the husband and wife*

can live together happily and maintain a proper atmosphere at home for the upbringing of their offsprings. Thus the court has to decide in the fact and circumstances of each case and it is not possible to lay down any fixed standards or even guidelines."

39. Herein, the question is that when both the parties are not at all interested to live together then this Court cannot compel them to live together.

40. However, since the appellant is interested in settling the dispute in terms of money [permanent alimony], which has been agreed by learned counsel for the respondent, therefore, this Court is taking the plea in this regard but the amount which has been offered is not acceptable to the respondent.

41. However, on the offer being made by learned counsel for the appellant for final settlement by way of permanent alimony, submission has been made on behalf of the respondent that she has no source of income to survive and further she has also no means to continue the higher studies of her daughter and further she has also no money for purpose of her daughter's marriage.

42. Further submission has been made that before taking voluntarily retirement, the petitioner appellant was working in the Tata Steel Company Limited and he has received a handsome amount from the said company. It has also been stated that the appellant-husband has movable and immovable properties at Adityapur and Chakulia, therefore, submission has been made that considerable amount of maintenance may be directed to be paid to the respondent-wife so that she can live in reasonable comfort considering the status and mode of life she would have used to live when they lived with appellant-husband and further for future

prospects of her daughter the money is also required as daughter of the petitioner wants to continue her higher studies

43. 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 daughter 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 appellant?”

44. 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.

(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].”

45. It is evident from the aforesaid provision that concept of permanent alimony as provided under Section 25 of the Act, 1955 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.

46. 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.

47. 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.

48. 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) 14 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.

49. 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."*

50. 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.

51. 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.

52. 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 that 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 materials 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.*

53. 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.

54. 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.*

55. 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.*
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> *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) 19 290]*
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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.

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.

56. Recently, 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.

57. 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 21 that the respondent-husband had failed to prove cruelty.

58. 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.

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

60. 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.

61. 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.

62. 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 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.

63. 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.

64. 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.

65. 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.*
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> *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."

66. 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 appellant-husband annexing therewith the details of retiral benefit as also the details of movable and immovable property.

67. We have perused the affidavit which has been filed by the appellant-husband in compliance of the order of this Court wherein it has been stated that he has received Rs.1,13,000/- as gross salary per month till his retirement from his employer and a sum of Rs.74,98,522/- has been received under various heads after retirement. He has stated that the immovable property situated at Adityapur is his ancestral property in which his brother is co-sharer whereas the movable property at Chakulia has been purchased by him after paying an amount of Rs.6,50,000/- during his service tenure. Petitioner/appellant has shown his desire to pay an amount of Rs.10 lakhs for education and marriage expenses of the daughter.

68. Further, the aforesaid fact has been substantiated by the employer of the appellant, i.e., Tata Steel who has been impleaded as party respondent no.2 in this case in compliance of the order of this Court.

69. In the instant case, an affidavit has also been filed by the party respondent no.2 in which it has been stated that a sum of Rs.74,01,469/- has been paid as total settlement amount to the petitioner/appellant herein.

70. Whereas on the other hand it is evident from record that the respondent-wife has to survive for her livelihood as also take care of upbringing and better education of the daughter born out of their wedlock solely on the amount of permanent alimony so given by the appellant-husband. At present, the respondent-wife is only 44 years of age and taking into life expectancy of even 72 years, she has to survive for long 28 years on the amount of permanent alimony given by her husband beating the inflation etc. and further her daughter who is unmarried is planning to pursue her higher studies, therefore, substantial amount of alimony is required herein .

71. As per submission advanced by learned counsel for the respondent-wife and taking into consideration the voluntarily retirement of the petitioner/appellant, as also taking into account the present capacity of the appellant and his liability, this Court is conscious that the appellant-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 respondent-wife and the daughter, they would have enjoyed during subsistence of the marriage as per income and status of her husband/father, the appellant herein.

72. Further, the appellant being the father, has got every duty to maintain his daughter and to discharge his accountability so as to bring his daughter to a responsible position in the society. We all know that a kid, particularly a female child, is in requirement of financial means for her study, upbringing, higher studies and solemnization of marriage.

73. For the reasons aforesaid, this Court thought it proper that a sum of Rs. 50,00,000/- [Rupees Fifty lakhs] in total as one time permanent alimony would be just, fair and reasonable, for sustenance of the

respondent-wife who has no other source of income than the alimony so received by the appellant-husband and the daughter born out of their wedlock for her study and future prospects.

74. In such view of the matter, the appellant-husband is directed to pay a sum of Rs. 50,00,000/- [Rupees Fifty lakhs], which shall be paid by him in four equal installments within a period of 12 months from the date of passing of the order and first installment shall be paid within a period of one month from today. It is made clear that out of the said amount of Rs. 50 lakhs, the appellant is directed to do fix deposit of Rs. 10 lakhs in the nationalized bank in name of his daughter for her education etc.

75. It is made clear that the daughter's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

76. This Court, considering the factual aspect involved in the case and particularly the fact that due to financial crunch the survival of the respondent-wife and daughter as also the study of the daughter may not get disturbed, grants liberty to the respondent-wife that if the amount is not credited to her account, as per the direction passed by this Court, the respondent-wife will be at liberty to approach the Court of law in accordance with law.

77. This Court, however, hope and trust that the appellant-husband will not invite such situation and will abide by the direction so passed by this Court for permanent alimony in favour of respondent-wife and the daughter.

78. Accordingly, the impugned order/judgment dated 29.05.2024 and the decree signed on 03.06.2024 passed in Original Suit No.615 of 2022 by the learned Additional Principal Judge, Additional Family Court

No.2, East Singhbhum at Jamshedpur is hereby quashed and set aside, subject to the final payment of alimony, as directed by this Court.

79. With the aforesaid directions and observations, as made hereinabove, the instant appeal stands disposed of and decreed in the above terms.

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

(Sujit Narayan Prasad, J.)

I Agree.

(Arun Kumar Rai J.)

(Arun Kumar Rai J.)

Sudhir
Dated:12/03/2026
Jharkhand High Court, Ranchi
AFR

Uploaded on 13/03/2026.