IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No.202 of 2025

Rani Parween, wife of Md. Mubarak Ansari, aged about 30 years, resident of Village-Bairiya, P.O.-Bairiya, P.S.-Deori, District-Giridih. Naihar resident of Village-Pinra, P.O.-Pinra, P.S.-Gawan, District-Giridih.

… … Respondent/Appellant

Versus

Md. Mubarak Ansari, Son of Md. Islam Ansari, aged about 32 years, Resident of Village-Bairiya, P.O.-Bairiya, P.S.-Deori, District-Giridih.

Petitioner/ Respondent

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

For the Appellant : Mr. Prabhat Kr. Sinha, Advocate
Mr. Mayank Mridul, Advocate
For the Respondent : Mr. Alok Kumar Verma, Advocate
Mr. Dhananjay Kumar Bhagat, Advocate

CAV on 18.07.2026 ***Pronounced on: 7th August, 2026***

Per Sujit Narayan Prasad, J.

Prayer

1. The instant appeal has been filed under Section 19(1) of the Family Courts Act 1984, challenging the legality and propriety of impugned judgment dated 06.08.2025 and decree signed and sealed dated 19.08.2025 by the learned Principal Judge, Family Court, Giridih in Original Suit No.198 of 2022, whereby and whereunder, the petition filed by the petitioner/respondent herein under Section 281 of the Mohammedan Law against his wife/appellant herein, namely, Rani Parween, has been allowed.

Factual Matrix

2. The brief facts of the case, as per the petition, which requires to be enumerated, needs to be referred as under:

3. The respondent-husband and appellant-wife were married on 27.05.2013 as per Muslim Law and customs. It has been further pleaded

that the respondent-husband and appellant-wife started living as husband and wife soon after their marriage. It has been further pleaded that the appellant-wife started creating nuisance with the respondent-husband as well as her in Laws after passing of two years of her marriage exerting pressure upon the respondent-husband to live separately from his parents. Ultimately, the respondent-husband took away the appellant-wife to Bangalore, where he works. It has been further pleaded that the appellant-wife remained there peacefully for a period of two years. Thereafter, the appellant-wife again started quarreling and abusing the respondent-husband after coming to her Sasural at Village Bariya. The respondent-husband tolerated these things with a hope that the nature and mood of appellant-wife shall change after passing of some time.

4. It has been further pleaded that the respondent-husband used to send money through the account number of the elder sister of the appellant-wife, who is permanently living at her Naihar. It has been further pleaded that the respondent-husband began to keep the appellant/wife separately from his parents since the year 2017. It has been further pleaded that when the appellant-wife did not become mother after passing of two years of her marriage, the respondent-husband got her medically treated at Tilaiya and Bangalore.

5. The respondent-husband has further pleaded that he made expense of Rs.2,00,000/- for the treatment of the appellant-wife, where after the appellant-wife became pregnant, but the pregnancy terminated after three months. It has been further pleaded that the appellant-wife along with her brothers, sister, mother and other family members came to her Sasural on 10.04.2022 in the absence of the respondent-husband and took away cash

amount of Rs.1,00,000/-, ornaments worth of Rs.2,00,000/- and all the belongings from her room through tempo.

6. It has been further pleaded that the appellant-wife does not want to live with the respondent-husband and wants Khulla. It has been further pleaded that the respondent-husband likes the appellant-wife from the core of his heart and will continue to do so in coming future also. It has been further pleaded that the appellant-wife wants to live at her Naihar and her brother and sister had come to her Sasural and had taken away her to her Naihar on 10.05.2022. It has been further pleaded that the respondent-husband himself went to his Sasural for Bidagri of his wife, but his wife i.e., the appellant-wife did not come to her Sasural on false pretext. The respondent-husband has further pleaded that he again sent Sadar Anjuman, Bariya Sri Razaque Ansari for Bidagri of the appellant-wife, but the appellant-wife flatly denied to live with the respondent-husband. Thereafter, the Sadar returned back to his village. It has been further pleaded that a Panchayati was also held into the matter on 29.05.2022 at Bairiya High School for solving the conjugal dispute, but the appellant-wife remained adamant saying that she will not live at her Sasural, whereas the respondent-husband wants to keep his wife with him.

7. It has been further pleaded that the Panchse had obtained the signature of the respondent-husband forcibly on Panchnama and had prepared a paper for separation after giving Rs.2,25,000/- to the appellant-wife. It has been further pleaded that the cause of action for filing the instant suit arose on 19.05.2022 and day to day within the jurisdiction of this court. Accordingly, the respondent-husband had preferred original suit praying for a decree of restitution of his conjugal rights with the appellant-wife.

Submission of the learned counsel for the appellant-wife:

8. It has been contended on behalf of the appellant-wife that the factual aspect which was available before the learned Family Judge supported by the evidences has not properly been considered and as such, the judgment impugned is perverse, hence, not sustainable in the eyes of law.

9. It has been submitted by the learned counsel for the appellant-wife that there is a criminal case lodged by the appellant-wife against the respondent-husband and she after being given *Talaque* by the respondent-husband in presence of public and refusing to give the same on paper had obtained *Khula* from office of Kaji-e-Shahar and due to that now the appellant-wife cannot go for restitution of conjugal life with the respondent-husband.

10. It has also been submitted that the learned Family Judge has failed to consider that as per Section 281 of the Mohammedan Law essential facts which a husband is required to establish is that his wife has *"without a lawful cause refused to cohabit with him"* and here the wife has lawful cause to refuse to cohabit.

11. It has also been submitted that the respondent-husband was having cruel behaviour towards the appellant-wife and as such, the appellant-wife has not withdrawn herself from the society of the respondent-husband without any reasonable cause.

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

Submission of the learned counsel for the respondent-husband:

13. *Per contra*, learned counsel appearing for the respondent-husband, while defending the impugned judgment, has submitted that there is no error in the impugned judgement. The learned Family Judge has considered all aspects of the matter in right perspective and hence, allowed the suit on contest.

14. It has been contended that the appellant-wife, without any reasonable cause, has withdrawn herself from the society of the respondent-husband she left the house of the petitioner-husband (respondent herein) without any cogent reason.

15. It has been submitted that the petitioner-husband (respondent herein) had made several attempts to bring the appellant/wife but she always refused to come and join the society of the petitioner-husband (respondent herein).

16. It has also been submitted that the learned Family Court after taking into consideration the material available on record has found that the respondent wife(appellant herein) has deserted the petitioner/husband (respondent herein) without any reasonable excuse and, therefore on the pretext of the aforesaid categorical finding of the Family Court, the impugned order requires no interference.

17. Learned counsel, based upon the aforesaid grounds, has submitted that the impugned judgment cannot be said to suffer from an error.

Analysis:

18. We have heard the learned counsel for the parties, gone through the Trial Court records, the impugned judgment, the testimonies of the witnesses and the documents exhibited therein.

19. The admitted fact herein is that the respondent-husband and appellant-wife married on 27.05.2013 under Muslim law and lived together as husband and wife. After two years, disputes arose when the wife allegedly pressured the husband to live separately from his parents. He later took her to Bangalore, where they lived peacefully for two years.

20. The wife allegedly resumed quarrels after returning to her marital home in Village Bariya. The husband claims he bore medical expenses of ₹2,00,000 for her infertility treatment, which led to a pregnancy that ended in miscarriage. He also asserts that she and her family took away cash, ornaments, and belongings from his house on 10.04.2022, and that she expressed a desire for *Khulla* (divorce).

21. The husband/respondent herein maintains he still loves his wife and tried to bring her back through personal visits, community elders, and Panchayati was held on 29.05.2022. However, the wife allegedly refused to return, and a separation paper was prepared after payment of ₹2,25,000 to her. He then filed a suit for restitution of conjugal rights.

22. In her written statement, the wife/appellant herein admits the marriage but denies all allegations. She claims the husband and his family were cruel, abusive, and threatened her. She disputes the husband's claim of bearing medical expenses, stating her brother paid for her treatment, and alleges her miscarriage was due to his cruelty. She denies taking money or ornaments, instead alleging that her husband and in-laws sold the said ornaments. She further asserts that she was not provided food, clothing, or comfort, and that the husband failed to honour the Panchayati settlement. Overall, she refutes each allegation and portrays herself as a victim of harassment and cruelty.

23. The evidence has been led on behalf of the parties. The respondent-husband has examined four witnesses. For ready reference, the evidences led on behalf of the petitioner-husband, respondent herein, are being referred as under:

24. P.W.-1, Razak Ansari, has deposed that he knows both the parties and the marriage of the appellant-wife and respondent-husband has been solemnized on 27.05.2013 as per the Islami customs and thereafter, they started to lead conjugal life. He has further deposed that two years after their marriage, the nature and behaviour of the appellant-wife changed and she started pressurizing the respondent-husband to stay separate from his parents and even after settling the said dispute, the appellant stayed on her own words to stay separate from the parents of the respondent-husband. Thereafter, the respondent took his wife, Rani Parween, to Banglore where he used to work and there, they stayed for almost two years. He has further deposed that after returning from Banglore, the appellant-wife, Rani Parween, started quarrelling with her father and mother-in-law. He has further deposed that when the appellant did not become pregnant, the respondent got her treated in Village-Tilaiya and even in Banglore and finally she conceived but accidentally had a miscarriage. He has also deposed that the appellant does not want to lead conjugal life with the respondent but the respondent is willing to stay with the appellant and lead married life. On 17.05.2022, in the absence of the respondent, the brother of the appellant took her to her parental house and thereafter she did not return to her maternal house and she is not ready to stay with the respondent.

25. P.W.-2, Prahlad Singh, has deposed that he recognizes both sides and the marriage of both the parties was solemnized on 27.05.2013 as per

Islamic law and customs. He has further deposed that after marriage, both the parties started living as husband and wife and after two years of marriage, the appellant-wife started pressurizing the plaintiff to live separately from his parents. He has further deposed that the respondent-husband, her father and the villagers advised the appellant-wife to live peacefully in her matrimonial home, but the appellant-wife remained adamant and when the appellant-wife came to her in-laws' village Bairiya from Bangalore, she started fighting and started threatening to go to her parents' house. He has further deposed that the respondent-husband used to send money every month from Bangalore to the account of the appellant's sister Najma Khatun, who always lives in her parental home, for his wife's food expenses. He has further deposed that when the appellant-wife could not become a mother even after two years of marriage, the respondent got the appellant treated by a doctor in Tilaiya and a doctor in Bangalore and she also became pregnant but unfortunately had a miscarriage. On 10.04.2022, the appellant, along with her brother, sister and mother, in the absence of the respondent, went from her in-laws' house to her parents' house in a tempo along with Rs. 1 lakh in cash and jewellery worth Rs. 2 lakh.

26. He has further deposed that the appellant does not want to live with her husband and wants *khula* (divorce) and the respondent is ready to keep his wife with respect. He has also deposed that on 29.05.2022, a panchayati was held in which the panchs had pressurized the respondent to give divorce to the appellant and took sign of the respondent on a paper and asked to give Rs.2,25,000/- to the appellant but the respondent refused to give divorce to the appellant.

27. P.W.-3, Md. Islam Ansari, has deposed that the appellant and respondent are his daughter-in-law and son and their marriage was solemnized as per Islamic Law and custom on 27.05.2013. After two years of marriage, the appellant started living separately and started putting pressure on her husband for separate food arrangements. Thereafter, the respondent, Mohammad Mubarak Ansari, took his wife to Bangalore, where he used to work, for her happiness.

28. He has further deposed that when the appellant came to her in-laws' village Bairiya from Bangalore, she started fighting with the in-laws and started threatening to go to her parents' house. He has further deposed that the respondent used to send money every month from Bangalore to the account of the appellant's sister. He has further deposed that when the appellant could not become mother even after two years of marriage, the respondent got the appellant treated by a doctor in Tilaiya and a doctor in Bangalore and she also became pregnant but unfortunately had a miscarriage. The appellant, along with her brother, sister and mother, in the absence of the respondent, went from her in-laws' house to her parents' house in a tempo.

29. He has further deposed that after 10 days of his daughter-in-law's refusal, a Panchayat was held to resolve the marital dispute between his son and daughter-in-law, but his daughter-in-law does not want to live together, then the Panchas forcibly took the signature of my son and made a Panchnama.

30. P.W.-4, Md. Mubarak Ansari, has deposed that he married to Rani Praveen on 27.05.2013 as per Islamic law and customs. After marriage, the respondent started living with the appellant taking care of every comfort

and convenience of her. He has further deposed that after two years, the appellant started pressurizing to live separately from the parents but the respondent explained to the appellant that the father is old and a heart patient and also has an old mother, so the respondent cannot leave them and live separately but to make the appellant happy, the respondent took her to Bangalore, where his wife live there for two years.

31. He has further deposed that when he brought the appellant from Bangalore to the home in Bairia, she started abusing and fighting and to keep the appellant happy, the respondent used to send money from Bangalore to the appellant’s elder sister's account. He has further deposed that after marriage, when the appellant did not become mother, the respondent got her treated by a doctor from Tilaiya and a doctor from Bangalore and later the appellant conceived after receiving treatment, but unfortunately, after three months, the pregnancy was aborted.

32. On 17.05.2022, in the absence of the respondent, without the consent, the brother of the appellant came and took the appellant to her parents' house. He has further deposed that on 19-05-2022, the respondent sent Anjuman's head Razzaq Ansari to the in-laws' house so that the in-laws could send the appellant, but they did not send her. On 21.05.2022, the respondent informed the Deori police about the appellant being detained at her parents' home and the police called both the parties and the police tried to convince but the appellant/wife clearly refused to come to the respondent’s place and asked divorce from him. He has further deposed that a meeting was held but the appellant/wife does not want to live with the respondent and wants a divorce.

33. The defendant-wife, appellant herein has examined two witnesses. For ready reference, the evidences led on behalf of the defendant-wife, appellant herein is being referred as under: -

34. O.P.W.-1, Md. Sagar Alam, is the brother of the defendant-wife, appellant herein. He has deposed that the appellant, Rani Parveen was married to the respondent, Mohammad Mubarak Ansari, on 20th May 2013, in accordance with Islamic customs and traditions. At the time of marriage, Rani Parveen was given cash, jewelry, and household goods. After the marriage, Rani Parveen moved to her in-laws' home with her husband, the respondent, and began living her married life as a virtuous wife. He has further deposed that the appellant tried to live her life by enduring all the oppression and hatred she faced, but the respondent treated her like an animal in the loneliness of the nights, which made the appellant's future look bleak. He has further deposed that the respondent had not had physical relations with the appellant even once since the marriage and the respondent used to taunt the appellant by saying this. Furthermore, the appellant's in-laws people also used to taunt that the appellant is a barren woman, has no children, is an unlucky woman. It has further been deposed by this witness that the respondent sold all the jewellery of the appellant saying that you are a woman, we will get you treated but the respondent spent the money of all the jewellery on his family's expenses. After this, the respondent started abusing and beating the appellant saying that if you want to live here in your in-laws' house then you should ask for Rs. 2,00,000/- as dowry from your father and brother and live here as a maid, live as a married widow. It has further been deposed that the appellant informed the witnesses about this matter. The witnesses and the appellant's family tried to reason with

the respondent and his family, but the respondent and his family ignored every request. The respondent used to tell the appellant that he would not keep her with him but would harass and kill him. It has also been deposed that the respondent and his family members then attempted to kill the appellant. Somehow, the appellant escaped from her in-laws' home and filed a case against her husband and in-laws at the Deori police station, which is Deori Police Station Case No. 92/2022. The respondent then stated that, to show off and to escape the law, he would ruin the appellant's youth by filing a false *Bidai* case.

35. O.P.W.-2, Rani Parween, is the defendant-wife herself, appellant herein. She has deposed that the respondent has deliberately kept her away from the rights of a husband and status of love. She has further deposed that the respondent and his family members used to say that they would physically and spiritually torture the appellant. She has further deposed that she had asked the respondent hundreds of times why they were harassing her like this, then, the respondent said that we, the family, are conspiring together so that you get fed up and go away from our life. It has also been deposed by the appellant that the respondent and his family had stated that they will harass the appellant so much that she will commit suicide and honor and dignity will be tarnished in front of the world and will expose her parents and family in the society. She has also deposed that on 08.07.2022, the respondent and his family members had beaten the appellant badly, and attacked deadly and she somehow saved her life and went to her sister's house and gave written information to Deori police station, then a case was registered against the respondent and the respondent's family members in Deori police station, which was registered as Deori police station case no.

92/2022. She has also deposed that the respondent/husband publicly divorced the appellant and when people asked him to give in writing then the respondent/husband stated that he would not provide one and would harass the appellant for the rest of her life. Thereafter, the appellant gave an application to the Qazi-e-Adalat, West Bengal stating all the facts, then the Qazi-e-Shariat, West Bengal sent a notice to the respondent to appear, even after receiving the notice several times the respondent did not appear in the office of the Qazi-e-Shahar, then on 09.11.2023, the Qazi-e-Shahar after examining the documents and on the testimony of witnesses accepted her *Khula*. She has further deposed that the respondent has legally obtained a *Khulnama* after the divorce.

36. The learned Family Judge has appreciated the entire evidence as well as the documents exhibited and has formulated altogether five issues which are as under:

(i) Whether the petition for restitution of conjugal rights is maintainable?

(ii) Whether the petitioner got valid cause of action for filing the petition/suit?

(iii) Whether this Court has legal jurisdiction to entertain this suit in view of the Provisions of the Mohammedan Law?

(iv) Whether the respondent/wife Rani Parween had withdrawn herself from the society of the petitioner, Md. Mubarak Ansari and if so, is there any reasonable cause for such withdrawal?

(v) Whether the petitioner, Md. Mubarak Ansari is entitled to a decree of restitution of his conjugal rights against the wife, Rani Parween and for other reliefs?

37. The learned family court, after appreciating the arguments has allowed the suit by holding that the appellant-wife should join the company of her husband, the respondent herein, and to start leading her conjugal life with him.

38. This Court, before entering into the illegality and propriety of the impugned judgment, first needs to refer herein the purport and intent of the provision of Section 19 of the Family Courts Act.

39. Sub-section (1) to section 19 of the Family Courts Act provides that an appeal shall lie from every judgment or order not being an interlocutory order of a Family Court to the High Court "both on facts and on law". Therefore, section 19 of the Family Courts Act is parallel to section 96 of the Code of Civil Procedure, the scope of which has been dealt with by the Hon'ble Apex Court in catena of judgments.

40. The law is well settled that the High Court in a First Appeal can examine every question of law and fact which arises in the facts of the case and has powers to affirm, reverse or modify the judgment under question. In ***Jagdish Singh v. Madhuri Devi, (2008) 10 SCC 497*** the Hon'ble Supreme Court observed that it is lawful for the High Court acting as the First Appellate Court to enter into not only questions of law but questions of fact as well and the appellate Court therefore can reappraise, reappreciate and review the entire evidence and can come to its own conclusion. For ready reference the relevant paragraph of the said judgment is being quoted as under: -

> *"It is no doubt true that the High Court was exercising power as the first appellate court and hence it was open to the Court to enter into not only questions of law but questions of fact as well. It is settled law that an appeal is a continuation of suit. An appeal thus is a rehearing of the main matter and the appellate court can reappraise, reappreciate and review the entire evidence--oral as well as documentary--and can come to its own conclusion."*

41. It needs to refer herein that Section 281 of the Mulla's Principles of Mohammedan Law deals with the aspect of the restitution of conjugal rights but does not throw any light as to in what circumstances, a decree for restitution of conjugal rights can be granted or declined and there is only mention that if wife without lawful cause ceases to co-habit with her husband, the husband may sue the wife for restitution of conjugal rights , for ready reference Section 281 from the ***Principles of Mohammedan Law by Mulla 20th edition at page 367*** which reads as under: -

> *"Where a wife without lawful cause ceases to cohabit with her husband, the husband may sue the wife for restitution of conjugal rights."*

42. The aforesaid would indicate that there is no such law for seeking the relief of restitution of conjugal rights. The parties will be governed by their personal law. It needs to refer herein that a marriage between Mohammedans is a civil contract and a suit for restitution of conjugal rights is nothing more than an enforcement of the right to consortium under this contract.

43. It is equitable proposition of law that in a suit for restitution of conjugal rights by a husband against his wife, if the Court after a review of the evidence feels that the circumstances reveal that the husband had been guilty of unnecessary harassment caused to his wife or of such conduct as to make it inequitable for the Court to compel his wife to live with him, it will refuse the relief.

44. 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.

45. 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.*
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> ***25.*** *In* ***Parry's*** *(Calcutta) Employees' Union v. Parry & Co. Ltd. [AIR 1966 Cal 31] the Court observed that “perverse finding” means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber & Plastics v. CCE [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.*
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> ***26.*** *In M.S. Narayanagouda v. Girijamma [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough [(1878) 1 LR 1r 331] the Court observed that a “perverse verdict” may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.*
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> *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:*
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> *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."*

46. Thus, from the aforesaid, it is evident that any order said to be perverse 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.

47. The question of legality and propriety of the impugned judgment is the issue of consideration in the present appeal.

48. In the instant from factual aspect, it is evident that Respondent-husband's case was that his appellant/wife left matrimonial home without any lawful ground and further even without informing anyone.

49. Per contra the appellant/wife who had been examined as O.P.W.-2, has stated before the learned Family Court about her marriage with the respondent/husband and she had further stated that that the respondent and his family had stated that they will harass the appellant so much that she will commit suicide and honor and dignity will be tarnished in front of the world and will expose her parents and family in the society. She has also deposed that on 08.07.2022, the respondent and his family members beat up the appellant badly, attacked her deadly and somehow she saved her life

and went to her sister's house and gave written information to Deori police station, then a case was registered against the respondent and the respondent's family members in Deori police station, which was registered as Deori police station case no. 92/2022.

50. She has also deposed that the respondent/husband publicly divorced the appellant and when people asked to give him in writing then the respondent/husband stated that he would not provide one and would harass the appellant for the rest of her life. It has further been deposed that the appellant gave an application to the Qazi-e-Adalat, West Bengal stating all the facts, then the Qazi-e-Shariat, West Bengal sent a notice to the respondent to appear, even after receiving the notice several times the respondent did not appear in the office of the Qazi-e-Shahar, then on 09.11.2023 the Qazi-e-Shahar after examining the documents and the testimony of witnesses, the Khula of the appellant was accepted. She has further deposed that the she has legally obtained a Khulnama after the divorce.

51. Thus, from the aforesaid fact it is evident the appellant wife has alleged serious instances of cruelty and the same was substantiated by the statement of **O.P.W.-1, Md. Sagar Alam,** the brother of the appellant-wife.

52. At this juncture in the aforesaid context, it would be apt to refer Section 14 of the Family Courts Act, 1984. Section 14 reads thus;

> *"14. Application of Indian Evidence Act, 1872-A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872."*

53. Thus, from the aforesaid it is evident that the consideration of evidence by a Court in the matrimonial matter is not restricted by the rules of relevancy or admissibility provided under the Evidence Act. The Court is left free to receive any evidence or material which assists it to deal effectually with a dispute and the provisions of the Evidence Act would not be applicable in toto. Further the Court deals with disputes concerning the family and should adopt an approach different from that adopted in any ordinary civil proceedings.

54. Thus, it is considered view of this Court that in the cases of the present type, more particularly, matrimonial disputes, the Family Court owes a duty to read something in between the lines so as to try to understand the root cause of the discord between the parties rather than going by the strict rules of evidence.

55. Admittedly as discussed hereinabove the appellant wife has alleged serious act of cruelty against the respondent husband and had particularly stated that the respondent and his family members beat up the appellant badly, attacked her deadly and she somehow saved her life and went to her sister's house and gave written information to Deori police station, then a case was registered against the respondent/husband and the respondent’s family members in Deori police station, which was registered as Deori police station case no. 92/2022.

56. It needs to refer herein that for cruelty; there must be violence of such a character as to endanger personal health or safety or there must be reasonable apprehension of it. A simple chastisement on one or two occasions would not amount to such cruelty. The Mohammedan law on the question of what is legal cruelty between man and wife does not differ

materially. A good deal of ill-treatment, even if it is short of cruelty, may amount to legal cruelty.

57. It appears from the materials on record and, more particularly, the case put up by the appellant-wife before this Court that she was being compelled to leave her matrimonial house. It is evident from oral evidences that this is not a case in which it could be said that the appellant wife left her matrimonial home on her own will and without any compulsion. It is more than clear having regard to the evidence on record that the wife was not comfortable at her matrimonial home on account of various instances of cruelty. If on account of all such problems, one fine day if she decided to walk out of her matrimonial home, could it be said that the husband straightway is entitled to have a decree for restitution of conjugal rights.

58. It has to be borne in mind that the decision in a suit for the restitution of conjugal rights does not entirely depend upon the right of the husband. The Family Court should also consider whether it would make it inequitable for it to compel the wife to live with her husband. Our ideas of law in that regard have to be altered in such a way as to bring them in conformity with the modern social conditions. Nothing has been shown before this Court in the form of any rule or otherwise which compel the Courts to always pass a decree in a suit for restitution of conjugal rights in favour of the husband. As long as there is no such rule, it would be just and reasonable for the Court to deny the said relief to the plaintiff-husband (respondent herein) if the surrounding circumstances indicate that it would be inequitable to do so.

59. It is settled position of law that if cruelty in a degree rendering it unsafe for the wife to return to her husband's dominion were established, the Court might refuse to send her back.

60. In ***Anis Begum v. Muhammad Istafa Wali Khan, 1933 SCC OnLine All 138 : (AIR 1933 All 634) Sulaiman, C.J***., observed as follows:

> *"Their Lordships of the Privy Council in the case of Moonshee Buzloor Ruheem v. Shumsoonnissa Begum, 11 Moo IA 551 (PC) observed that a suit for restitution of conjugal rights, though in the nature of a suit for specific performance is in reality a suit to enforce a right under the Muhammadan law and the Courts should have regard to the principles of Muhammadan law. The observation of their Lordships was directed to emphasising the point that Courts should not exercise their discretion in complete supersession of the Muhammadan Law, but that in exercise of their discretion they should refer to that law. But the principle was fully recognised that in passing a decree for the restitution of conjugal rights, the Court has power to take into account all the circumstances of the case and impose terms which it considers to be fair and reasonable."*

61. It follows, from the aforesaid that in a suit for restitution of conjugal rights by a Muslim husband against his wife, if the Court after a review of the evidence feels that the circumstances reveal that the husband has been guilty of unnecessary harassment caused to his wife or of such conduct as to make it inequitable for the Court to compel his wife to live with him, it will refuse the relief.

62. Even in the absence of satisfactory proof of the husband's cruelty, the Court will not pass a decree for restitution in favour of the husband if, on the evidence, it feels that the circumstances are such that it will be unjust and inequitable to compel her to live with him.

63. Upon careful consideration of the foregoing discussion and on perusal of the impugned judgment, this Court is of the considered view that the

learned Family Court has failed to appreciate the entire factual matrix and the evidences available on record in their proper perspective. In particular, the testimony of the appellant-wife, wherein she categorically alleged that the respondent-husband and his family members assaulted her, subjected her to a deadly attack, and that she narrowly escaped with her life before taking shelter at her sister's residence, has not been duly weighed. It further emerges from the record that the appellant-wife lodged a written complaint at Deori Police Station, pursuant to which a criminal case was registered against the respondent-husband and his family members, being Deori Police Station Case No. 92 of 2022.

64. Thus, from the aforesaid discussion, it is evident that the learned Family Court failed to take into consideration the aforesaid instance of cruelty in its proper perspective.

65. Thus, from the perusal of the impugned order, it is evident that the learned family Judge while allowing the appeal in favour of the plaintiff/petitioner (respondent herein) has not appreciated properly the factual aspect and further without applying the test of reasonableness, has passed the order of restitution of conjugal rights.

66. Thus, on the basis of discussion made hereinabove, this Court is of the considered view that it is a case where it can be said that the findings of the learned Family Court are based on no evidence and the order of restitution of conjugal rights has been passed without due deliberation of the entire factual aspect along with the proper appreciation of evidences laid by both the parties, and therefore there is perversity in the order/judgment of the learned Family Court.

67. The upshot of the whole discussion, therefore, is that this appeal succeeds and the impugned judgment dated 06.08.2022 and decree signed on 19.08.2025, passed in Original Suit No.198 of 2022 by learned Principal Judge, Family Court, Giridih is hereby quashed and set-aside.

68. Accordingly, the instant appeal stands allowed, as such, disposed of.

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

(Sujit Narayan Prasad, J.)

I Agree,

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

7th August, 2026

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

Uploaded on 07.08.2026