

IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No. 273 of 2023

Anamika Mishra aged about 35 years w/o Shandilya Alope Kumar, D/o Sri Lakhani Lal Mishra, Permanent Address: Dihbasti, P.O.-Dariyapur, P.S.-Sajore, District-Bhagalpur (Bihar); presently residing at Hanuman Nagar, Adampur, P.O.-Adampur, P.S.-Jogsar, District-Bhagalpur (Bihar).

... .. **Appellant/ Petitioner**

Versus

Shandilya Alope Kumar, son of Sri Satish Chandra Jha, resident of 6th Lane, Bartand, Jai Prakash Nagar, P.O. & P.S.-Dhanbad, District-Dhanbad (Jharkhand).

... .. **Opp. Party/Respondent**

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

For the Appellant : Mr. Sumir Prasad, Advocate
: Mr. Arbind Kumar Jha, Advocate
: Mr. Manish Sharma, Advocate
For the Respondent : Mr. Lukesh Kumar, Advocate
: Mr. Namashyu Kejriwal, Advocate
: Mr. Praveen Shankar Prasad, Advocate

C.A.V. on 26th March, 2026

Pronounced on 16/04/2026

Per Sujit Narayan Prasad, J.

1. The instant appeal, under Section 19(1) of the Family Court Act, 1984, is directed against the order/judgment dated 05.09.2023 and decree signed on 18.09.2023 passed by the learned Principal Judge, Family Court, Dhanbad in Original Suit No. 525 of 2021, whereby and whereunder, the suit filed by the respondent-husband for dissolution of marriage by decree of divorce u/s 13(1)(i-a)(i-b), (iv) of Hindu Marriage Act, 1955 against the appellant-wife, has been allowed.

2. The brief facts of the case, leading to filing of the suit for dissolution of marriage by the respondent/petitioner/husband as taken note in the impugned order, needs to be referred herein, which reads as under:

The marriage of the respondent/petitioner with appellant was solemnized on 05.07.2018 at Bhagalpur as per Hindu rites and customs devoid of any form of demand of dowry.

3. He has stated that on the date of marriage, to the utter surprise to him and his family members, at the time of rituals of marriage only a few members were present from the bride side (appellant herein) raising a doubt in his mind and his family members yet they kept quiet in expectation of a happy married life.

4. He has further stated that as per rituals when he and his family members requested for Bidai of the respondent/wife (appellant herein), surprisingly enough, the respondent and her family members refused to the same on one plea or the other and the same continued for months and thereafter for years together without any cogent reason. Not only this in course of the same he along with the elders of the family even visited the residence of the respondent/wife (appellant herein) to bring her to her matrimonial house and get Bidai, but to his utter surprise, the respondent and her family refused to the same rather they put forth a weird and

non-acceptable demand wherein they directed him to live as a "Gharjamai" at Bhagalpur ceasing all relation with his family. Though being shocked and surprised yet in order to save his matrimonial life as he belongs to a traditional family, he tried to settle with the respondent/wife (appellant herein) and her family members but of no use.

5. Thereafter, several Panchayati was convened between the parties and the respondent/wife (appellant herein) somehow agreed to come to his house at Dhanbad wherein she arrived at her matrimonial house on 17.01.2019 wherein she was heartily welcomed and introduced to the new society and bestowed with a lot of best wishes and gifts.

6. It has been stated that the mother of the respondent/petitioner-husband handed over the family traditional ornaments to the respondent/wife (appellant herein) to be kept in her custody as per family ritual but surprisingly enough it was found that the respondent was quite apathetic towards her in-laws and even refused to discharge any duty. Not only this from the very initial days of reaching her Sasural it was also revealed that the respondent/wife (appellant herein) is a lady of bad temper wherein she would pick up fights with anybody and everybody in his family without any rhyme or reason and got agitated and annoyed at trivial issues yet with the hope of a happy

married life, he and his family members tried to adjust to the temperament of the respondent but all went in vain.

7. Furthermore, he also found that his wife/the appellant was avoiding any form of intimacy with him and was regularly avoiding him which raised doubt in his mind but soon he and his family members found that the respondent/wife (appellant herein) and her family members had concealed a very vital information regarding the ailment of the respondent that she was suffering from incurable virulent form of Leprosy as revealed by the respondent herself and owing to this reason itself the parents of the respondent were in such haste for the marriage and they were not ready to send the respondent to the Sasural and for the said reason only the respondent was indifferent towards the petitioner.

8. He has further asserted that all of a sudden the father of the respondent/wife (appellant herein) came at his house within days of reaching at Dhanbad and as such at the instance of her father she left with her father by taking all her articles along with gifts and the family ornaments so left in her custody by his mother without any information about the same to either him or his family members.

9. The Respondent/petitioner/husband has further asserted that he and his family members repeatedly requested the respondent/wife (appellant herein) and her family members for Bidagri of his wife, but of no use rather they

continued their earlier demand that he should be a "Gharjamai" at Bhagalpur seizing all relation with his family members forever and also do work therein under their control, but he outrightly refused to do the same.

10. He has further asserted that in order to come to a solution he and his family members requested and called upon the respondent and her family members for a Panchayati at which the father of the respondent/wife (appellant herein) came to his residence at Dhanbad on 07.03.2021 and when he and his father requested for Bidai of the respondent/wife (appellant herein) and to abstain themselves from false character assassination upon his Bhabhi and also to stop spreading such humiliation and baseless rumor, at this the father of the respondent in place of materializing the situation and arriving at a solution and rectifying their illicit activities, reiterated their earlier claim that the petitioner would have to live as a Gharjamai at Bhagalpur on which the father of the petitioner objected to the same, therefore, respondent/wife (appellant herein) started shouting screaming and abusing him and his old father along with his Bhabhi in most derogatory languages and further even accused him and his Bhabhi having illicit relation with each other and the said scenario was being created by the father of the respondent. Seeing the

seriousness of the matter he had filed an online FIR on 09.03.2021.

11. He has further asserted that the continuous mental torture and social humiliation the health of his mother deteriorated day by day wherein she was ever treated medically wherein subsequently she died on 01.10.2021 wherein surprisingly enough after more than two and half a year of living separately on 03.10.2021 the respondent/wife (appellant herein) along with her father forcibly entered the residence of the petitioner and quarreled with him and abused his family members and threatened to implicate in false case thereby causing further mental torture as well as social disgrace to him and the matter was reported to Dhanbad Mahila P.S. on 03.10.2021 and on interference of Mahila Thana Dhanbad she left her matrimonial house and gave an undertaking on 02.11.2021 wherein subsequently in order to further torture to him and his family members, but in spite of that respondent/wife (appellant herein) had filed a false case at Bhagalpur (Bihar).

12. The respondent/petitioner/husband has further asserted before the learned Family Court that the above described behavior of the respondent/wife (appellant herein) cannot be taken as a normal wear and tear in the marriage and the cumulative effect of the same which indicates absolute destruction of matrimonial life along with any

confidence between a husband and a wife and as a result of such prolonged torture and cruelty so inflicted by the respondent and her family members, he has been left with no other option than filing the suit for dissolution of his marriage against the respondent/wife (appellant herein) on the ground of cruelty and long desertion.

13. It has further been stated that the cause of action for this suit arose on the date of marriage on 05.07.2018 and it also arose on several dates when the respondent behaved and committed cruelty and deserted her from 22.02.2019.

14. In the aforesaid circumstances as alleged by the respondent/petitioner/husband, an application under Section 13(1)(i-a)(i-b), (iv) of the Hindu Marriage Act, 1955 had been preferred by him before Family Court for a decree of divorce and the same was numbered as the Original Suit No. 525 of 2021.

15. The case was admitted for hearing and upon notice the respondent wife (appellant herein) appeared.

16. Thereafter, the respondent wife (appellant herein) filed her written statement strongly denouncing the contentions of the appellant, as made in the plaint and refuted the allegations made against her.

17. In her written statement the appellant-wife has stated that the present suit is not maintainable either in law or in fact.

18. She has further asserted that the petitioner has no cause of action to institute the suit.

19. She has asserted that after marriage both husband and wife indifferences due to traditional family background and the allegation leveled against her are in general. She has further asserted that her father transferred Rs. 5 lac to the Bank Account of her father-in-law and her brother-in-law (Bhaisur) and 15 Bhars gold ornament i.e. Chain, Bali, Kangan, Mantika etc. and 20 Bhars of silver ornaments i.e. Payal, Bichiya etc. to the petitioner and 2 Bhars of golden chain and 8 Annas of gold ring to the petitioner for happy matrimonial life. But the petitioner/husband (respondent herein), his father, brother and his Bhabhi demanded Rs. 3 lac and one flat for "Duragaman" and have intentionally created an unhealthy situation so as to force her to leave her matrimonial house. Her father has approached and requested several time to consider the matter for matrimonial conjugal life of his daughter and ultimately numerous Panchyati in near relative and somehow agreed to live with her and the customary rites in Brahmin as "Duragaman" the petitioner and his elder brother came at Bhagalpur on 13.03.2019 and she went to Sasural on 13.03.2019 first time after marriage with her husband and brother-in-law and her father presented some articles cash, shirt pant ornament etc. at the time of Duragaman, but the respondent/petitioner/husband

and his family started physical and mental torturing day by day due to non-fulfillment of demand of dowry by her and her family members, because of which her condition became critical then petitioner/husband (respondent herein) and his brother came back with her at her father's house on 07.05.2019 and the petitioner and his brother uttered in abusing language to her father by giving threatening that if the demand of dowry was not fulfilled they would no bring her back to her Sasural and the petitioner(respondent herein) and his family members forcibly kept the ornament of her of Rs. 8 lac.

20. She has further asserted that her mother-in-law died in October 2021 and after getting information from the family of her Sasural she came at Dhanbad with her father and after cremation her husband started abusing filthy language to her and her father. Even after this inimical behaviour and creating an inhuman atmosphere, she returned back to matrimonial house with her father.

21. There after she lodged an FIR in Mahila PS vide No.02/2022, U/s 498(A) and Section 3/4 of D.P. Act against the petitioner and his family 'members.

22. She has further asserted that her husband/ the petitioner (respondent herein) is an affluent and gainful proprietor of reputed coaching institute namely "Shristi" situated at Housing Colony Road, Bartand, Dhanbad and also

has various other regular source of income of Rs. 3,00,000/- per month. She has further asserted that the petitioner had cheated and committed frauds with five hundred students for which C.I.D Kolkata remanded him in judicial custody on 06.03.2014 and the petitioner/husband (respondent herein) concealed the fact from her and her parents.

23. She has further asserted that the petitioner has started torturing from March 2019 and hence on 08.05.2019 she has been living in her parents' house, accordingly, she has prayed before the learned Family Court that the suit filed by the plaintiff/husband for divorce may be dismissed.

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

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

- (i) Whether the plaintiff has valid cause of action for filing this suit against the defendant/respondent?
- (ii) Whether the suit filed by the plaintiff is maintainable or not?
- (iii) Whether the plaintiff is entitled to a decree of divorce U/s 13(1) (i-a) of the Hindu Marriage Act on the ground of cruelty?
- (iv) Whether the plaintiff is entitled to a decree of divorce under Section-13(1)(i-b) of the Hindu Marriage Act on the ground of desertion?
- (v) Whether the plaintiff is entitled to a decree of divorce U/s 13 (1) (iv) of the Hindu Marriage Act on the ground of virulent disease?
- (vi) Whether the plaintiff is entitled for any other relief/reliefs?

26. Thereafter, the case proceeded for evidence during which the respondent/petitioner/plaintiff/husband has produced and examined two witnesses including himself in support of his case, as P.W.1-Shandilya Alope (plaintiff himself/respondent herein) and P.W.2-Shandilya Amresh (Brother of the plaintiff). Whereas the respondent/defendant/wife (appellant herein) has examined two witnesses in her support as D.W. 1-Anamika Mishra (defendant/wife herself/appellant herein) and D.W.-2 Pushpa Jha (Mother of the defendant/appellant herein).

27. The learned Principal Judge, Family court, after appreciating the evidence adduced on behalf of parties, came to the conclusion that the petitioner-husband, the respondent herein, has been able to prove and substantiate the factum of cruelty meted out to him by the defendant, the appellant herein, as such it was held that the petitioner-husband, the respondent herein is entitled to get a decree of divorce, against which, the instant appeal has been preferred by the appellant/respondent/wife.

28. The matter was taken up by this Court on 12.07.2024 and the parties were directed to appear before the Mediator, JHALSA for mediation. But the parties did not appear before JHALSA and the mediation has remained a non-starter as would be evident from order dated 18.11.2024.

29. Thereafter, one interlocutory application being I.A. No.4337 of 2025 has been filed on behalf of the appellant/wife stating therein that there is no chance of mediation/re-union, since, the respondent/husband has already solemnized second marriage as such, prayer has been made to heard the case on the issue of permanent alimony as one time settlement.

30. Although the respondent/husband has denied the fact of second marriage, however he has shown his willingness to settle the matter on the issue of permanent alimony and accordingly he has filed the affidavit regarding his source of income and existing property.

31. Accordingly, the matter proceeded and learned counsel for the respondent/husband was directed to file affidavit regarding the amount of alimony which is to be paid in favour of the appellant-wife.

32. The affidavit has been filed by the appellant disclosing his income etc. and accordingly the matter has been heard on the point of determination of permanent alimony without going in to the merit of the impugned judgment.

Submission of the learned counsel for the appellant:

33. Learned counsel for the appellant has submitted that though the appellant intends to reside with the respondent but since the respondent/husband has now solemnized

second marriage and not ready to keep her, as such the only question remains for alimony.

34. Learned counsel for the appellant has submitted that he will not argue the case on merit and he has filed one interlocutory application being I.A. No.4337 of 2025, praying therein for providing the alimony for one time settlement.

35. Lastly, he has submitted that the appellant-wife has no source of income to survive.

Submission of the learned counsel for the respondent:

36. Learned counsel appearing for the respondent has submitted that he also does not want to go into the merit of issue and he has filed reply of the aforesaid interlocutory application wherein it has been stated that the respondent/husband is ready to make payment of Rs.7,500/- per month to the appellant in the form of maintenance/permanent alimony.

Analysis:

37. This Court has heard the learned counsel for the parties and gone through the finding recorded by the learned Family Judge in the impugned judgment.

38. Being aggrieved with the impugned judgment passed by the learned family court, the appellant-wife has preferred the present appeal. However, after appearance of the respondent-husband, the parties have agreed for permanent

alimony and accordingly submission has been made in support thereof.

39. 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 the appellant/wife on the basis of pleadings available on record?*”

40. 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].”

41. It is evident from the aforesaid provision that concept of permanent alimony as provided under Section 25 have been enacted with the object of removing the hardship of the wife or the husband with no independent income sufficient for living or meeting litigant expenses; such a leave can be granted as well who may also be deprived of the same on proof of having sexual intercourse outside the wedlock. It is also settled position of law that the Court may grant permanent alimony to the party while disposing of the main application even if application has been moved; meaning thereby the intent of the Act is to remove the handicap/hardship of a wife

or 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.

42. 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.

43. Thus, a power is conferred on the Matrimonial Court to grant permanent alimony or maintenance on the basis of a decree of divorce passed under the Hindu Marriage Act even subsequent to the date of passing of the decree on the basis of an application made in that behalf. Sub-section (2) of Section 25 confers a power on the Court to vary, modify or rescind the order made under Sub-section (1) of Section 25 in case of change in circumstances. The power under Sub-section (3) of Section 25 is an independent power. The said

power can be exercised if the Court is satisfied that the wife in whose favour an order under Subsection (1) of Section 25 of the Hindu Marriage Act is made has not remained chaste. In such event, at the instance of the other party, the Court may vary, modify or rescind the order under Sub-section (1) of Section 25 of the Hindu Marriage Act.

44. 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.”

45. We may note here that a substitution has been brought to Sub-section (3) of Section 25 of the Hindu Marriage Act with effect from 27th May 1997. 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 substitution has provided that after the facts stated in Sub-section (3) of Section 25 of the Hindu Marriage Act are established, the Court may vary, modify or rescind any such order under Sub-section (1) of Section 25 of the Hindu Marriage Act. Thus, after 1976, there is a discretion conferred on the Court by Sub-section (3) of Section 25 of the Hindu Marriage Act of declining to rescind, vary or modify the order under Sub-section (1) of Section 25 thereof, even if on an Application made by the husband/wife, it is established that the husband/wife has not remained chaste after the decree of maintenance is passed under Sub-section (1) of Section 25.

46. 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 material in addition to the conduct of the parties and other

circumstances of the case, for ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

12. As per Section 25, while considering the claim for permanent alimony and maintenance of either spouse, the respondent's own income and other property, and the income and other property of the applicant are all relevant material in addition to the conduct of the parties and other circumstances of the case. It is further seen that the court considering such claim has to consider all the above relevant materials and determine the amount which is to be just for living standard. No fixed formula can be laid for fixing the amount of maintenance. It has to be in the nature of things which depend on various facts and circumstances of each case. The court has to consider the status of the parties, their respective needs, the capacity of the husband to pay, having regard to reasonable expenses for his own maintenance and others whom he is obliged to maintain under the law and statute. The courts also have to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and mode of life she was used to live when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party. These are all the broad principles courts have to be kept (sic keep) in mind while determining maintenance or permanent alimony.

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

of the husband and other obligations. For ready reference the relevant paragraph is being quoted as under:

33. *We have reproduced the aforesaid orders to highlight that the husband had agreed to buy a flat at Hyderabad. However, when the matter was listed thereafter, there was disagreement with regard to the locality of the flat arranged by the husband and, therefore, the matter was heard on merits. We have already opined that the husband has made out a case for divorce by proving mental cruelty. As a decree is passed, the wife is entitled to permanent alimony for her sustenance. Be it stated, while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the status of the parties, their respective social needs, the financial capacity of the husband and other obligations. In Vinny Parmvir Parmar v. Parmvir Parmar [(2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290] (SCC p. 116, para 12) while dealing with the concept of permanent alimony, this Court has observed that while granting permanent alimony, the court is required to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party.*

48. In the case of ***Rajnish v. Neha & Anr. [(2021) 2 SCC 324]*** the Hon'ble Apex Court has extensively dealt with the issue of granting interim/permanent alimony and has categorically held that the objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

The Hon'ble Apex Court further held that the Court while considering the issue of maintenance, should consider the factors like the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage, for ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

77. *The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.*

78. *The factors which would weigh with the court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. [Refer to Jasbir Kaur Sehgal v. District Judge, Dehradun, (1997) 7 SCC 7; Refer to Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290]*

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. [Reema Salkan 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.*

49. The Hon'ble Supreme Court in the case of **Rajnish v. Neha** (supra), provided a comprehensive criterion and list of factors to be looked into while deciding the question of permanent alimony. This judgment lays down an elaborate

and comprehensive framework necessary for deciding the amount of maintenance in all matrimonial proceedings, which specific emphasis on permanent alimony and the same has been reiterated by Hon'ble Supreme Court in **Kiran Jyot Maini v. Anish Pramod Patel reported in 2024 SCC OnLine SC 1724**.

50. The Hon'ble Supreme Court in **Kiran Jyot Maini (supra)**, while discussing the husband's obligation to maintain the wife and the importance of his financial capacity in deciding the quantum, observed under para 26 that:-

"26. Furthermore, the financial capacity of the husband is a critical factor in determining permanent alimony. The Court shall examine the husband's actual income, reasonable expenses for his own maintenance, and any dependents he is legally obligated to support. His liabilities and financial commitments are also to be considered to ensure a balanced and fair maintenance award. The court must consider the husband's standard of living and the impact of inflation and high living costs. **Even if the husband claims to have no source of income, his ability to earn, given his education and qualifications, is to be taken into account. The courts shall ensure that the relief granted is fair, reasonable, and consistent with the standard of living to which the aggrieved party was accustomed.** The court's approach should be to balance all relevant factors to avoid maintenance amounts that are either excessively high or unduly low, ensuring that the dependent spouse can live with reasonable comfort post- separation."

51. The Hon'ble Supreme Court in the case of **Pravin Kumar Jain v. Anju Jain** reported in **2024 SCC OnLine SC 3678** has taken note of the various judgments to clarify the position of law with regard to determination of permanent

alimony and the factors that need to be considered in order to arrive at a just, fair, and reasonable amount of permanent alimony. In para 31 it is held as under:

"31. There cannot be strict guidelines or a fixed formula for fixing the amount of permanent maintenance. The quantum of maintenance is subjective to each case and is dependent on various circumstances and factors. The Court needs to look into factors such as income of both the parties; conduct during the subsistence of marriage; their individual social and financial status; personal expenses of each of the parties; their individual capacities and duties to maintain their dependents; the quality of life enjoyed by the wife during the subsistence of the marriage; and such other similar factors. This position was laid down by this Court in Vinny Paramvir Parmar v. Paramvir Parmar, and Vishwanath Agrawal v. Sarla Vishwanath Agrawal."

52. 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.

53. This Court has considered the factual aspect of the said case and on perusal of the fact, referred therein, it is evident that in the said case, the appellant-wife and respondent-husband were married on 18.06.1997. A son was born to them on 05.08.1998. In July 2008, the respondent-husband filed Matrimonial Suit No. 430 of 2008 under Section 27 of the Special Marriage Act, 1954 seeking dissolution of marriage on the ground of cruelty allegedly inflicted by the appellant-wife. Subsequently, the appellant-wife filed Misc. Case No. 155 of 2008 in the same suit under

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

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

55. 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.

56. The appellant-wife contended that the amount of Rs. 20,000/- per month, which the High Court made final, was originally awarded as interim maintenance. She submitted 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.

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

58. 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.

59. 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 the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

60. Accordingly, the appeal was allowed and the order of the High Court was modified to the extent that the permanent alimony payable to the appellant-wife shall be Rs. 50,000/- per month, subject to a 5% increase every two years, for ready reference the relevant paragraph of the said order is being quoted as under:

“7. Having considered the submissions and materials on record, we are of the view that the quantum of permanent alimony fixed by the High Court requires revision. The respondent-husband's income, financial disclosures, and past earnings establish that he is in a

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

8. *In our considered opinion, a sum of Rs. 50,000/- per month would be just, fair and reasonable to ensure financial stability for the appellant-wife. This amount shall be subject to an enhancement of 5% every two years. As regards the son, now aged 26, we are not inclined to direct any further mandatory financial support. However, it is open to the respondent-husband to voluntarily assist him with educational or other reasonable expenses. We clarify that the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.*

9. *In view of the above, the appeal is allowed. The impugned order of the High Court is modified to the extent that the permanent alimony payable to the appellant-wife shall be Rs. 50,000/- per month, subject to a 5% increase every two years, as noted above.”*

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

62. It is admitted fact that the marriage of appellant-wife and respondent-husband was solemnized in the year 2018 and the respondent-husband has filed the suit for divorce in the year 2021 i.e., after 03 years of marriage, on the ground of cruelty, desertion and virulent disease.

63. The suit filed for divorce by the respondent-husband has been allowed, against which the present appeal has been filed.

64. Before this Court, the learned counsel for the parties, on instruction, has submitted that there is no chance of re-union.

65. Learned counsel for the appellant-wife has submitted that since the respondent has solemnized second marriage and did not want to live with her, as such the parties agreed for settlement by way of permanent alimony. Accordingly, affidavit has been filed on behalf of appellant-husband showing his income etc.

66. We have perused the affidavit filed by the respondent-husband annexing therewith ITR of the respondent-husband for the last three years.

67. It has been stated in the affidavit at paragraph 7 that the business of the respondent/husband has ended about five years back and at present he has been earning very meager amount by giving tuition to some of the students. But, on the other hand, he has annexed ITR for the Assessment Year 2022-23, 2023-24 and 2024-25 wherein the gross turnover or gross receipts has been shown to be Rs.27,72,159 for the Assessment year 2022-23. Similarly, the gross turnover or gross receipts for the Assessment Year 2023-24 has been shown to be Rs.19,31,497/- and the 32,02,646 for the Assessment Year 2024-25.

68. The appellant has shown his taxable income for the Assessment Year 2024-25 to the tune of Rs. 6,45,930 and if

we take its average for monthly basis it comes to Rs. 54000 approx. per month.

69. This Court, taking into consideration, the Income Tax Return filed by the respondent-husband, is of the view that the respondent-husband has constant source of income but the appellant-wife is to survive on the amount of interest to be received from the amount of permanent alimony and the future inflation etc. is also required to be kept in mind before allowing the permanent alimony.

70. The respondent has stated in his affidavit that he is ready to pay Rs.7500/- per month but the appellant has filed interlocutory application for one time settlement and therefore, taking into consideration the life expectancy of a female in India which is 70 years approximately, the permanent alimony is to be calculated for next 33 years as the appellant-wife who is 37 years of age. Now, if Rs.7500/- per month is calculated for 33 years, it would come to Rs.30,00,000/- approximately.

71. This Court, considering the submissions advanced on behalf of parties and law laid by Hon'ble Apex Court as referred hereinabove, has again perused the affidavit filed by the respondent-husband and found therefrom that the respondent's taxable income for the last Assessment year is about Rs.6,45,930/-. Whereas on the other hand, the appellant-wife has to survive for his livelihood solely on the

amount of permanent alimony so given by the respondent-husband.

72. This Court, taking life expectancy of the wife and 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 vis-à-vis 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, is of the view that a minimum amount of Rs. 30 lakhs would be just and proper.

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

74. It needs to refer herein that there is no rigid mathematical formula to determine maintenance. However, the Supreme Court in ***Kalyan Dey Chowdhury vs Rita Dey Chowdhury*** (Supra) observed that around 25 per cent of the husband's net salary may serve as a reasonable benchmark, though this is not a universal rule. Courts generally assess the paying spouse's "free income", allowing deductions only

for statutory liabilities such as income tax or provident fund, while disregarding voluntary expenses like equated monthly instalments (EMIs) on loans or insurance premiums.

75. For the reasons aforesaid, this Court thought it proper that a sum of Rs. 3000000/- [thirty lakhs] in total as onetime permanent alimony would be just, fair and reasonable, for sustenance of the appellant-wife, who has no other source of income other than the amount of alimony so received from the respondent-husband for her livelihood and sustenance.

76. The said amount shall be paid by the respondent-husband in three 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 two months from today.

77. Accordingly, the order/judgment dated 05.09.2023 and decree signed on 18.09.2023 passed by the learned Principal Judge, Family Court, Dhanbad in Original Suit No.525 of 2021, **is hereby affirmed**, and the marriage is dissolved, subject to the final payment of alimony to the tune of Rs.30,00,000/- [thirty lakhs], as directed by this Court.

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

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

I Agree

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

(Sanjay Prasad, J.)

Dated : 16/04/2026

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

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