

In the Court of Principal Judge, Family Court, Siwan
Present- Manoj Kumar-II, Principal Judge, Family Court.

Divorce Case No. 362/2022
Under section 13(i-1) (i-2) of the Hindu Marriage Act
Page No.-1/21

Prashant Kumar Gaurav, aged 36 years, S/o-Kaushal Kishore Pathak, R/o village-Daulatganj Mirchaiya Tola Dubey Niwas, P.S.-Bhagwan Bazar, District-Saran, Mob. No.-9162560757. Plaintiff

Versus

Madhubala Devi, D/o-Trilok Nath Pandey, W/o- Prashant Kumar Gaurav, R/o village-Anand Nagar, P.O.-Siwan, P.S.-Siwan Town, District-Siwan.

..... Defendant

Learned Counsel for the plaintiff - Ld. Advocate Sri Shambhu Nath Pathak

Learned Counsel for the Respondent - Ld. Advocate Sri Triloki Nath Pandey

Date of Judgment- 01.06.2026

JUDGMENT

1. The plaintiff instituted instant petition/suit on 15.09.2017 u/s 13(i-1) (i-2) of the Hindu Marriage Act, 1955, before the Family Court, Chhapra seeking dissolution of his marriage on the ground of cruelty. It was registered as Divorce suit No. 197/2017 in that court, from where it was transferred to this court in compliance of order dated 11-07-2022, passed by the Hon'ble High Court in Miscellaneous Jurisdiction Case No. 317/2018, and it was re-registered here on CIS as Divorce Case No. 362/2022.

2. Plaintiff's case in brief is that the marriage of Plaintiff-Prashant Kumar Gaurav was solemnized on 30.11.2014 with defendant -Madhubala Devi at Royal Hotel in Mohalla-Anand Nagar, P.O.-Siwan, P.S.-Siwan Town, District-Siwan in accordance with Hindu rites and customs. After marriage, the defendant started living in the plaintiff's house situated at Chhapra. Since from very first night of the marriage, the defendant's behaviour towards the plaintiff was not good, and she refused to establish physical relations behaving cruelly with him that caused several mental agony to him. For about 2-3 days after the marriage, the defendant's behaviour towards the plaintiff and his family members remained normal, but thereafter she started behaving cruelly and disrespectfully with them. The defendant's behaviour towards the plaintiff and his family members kept on worsening day by day. On trivial matters, she started threatening to falsely implicate the plaintiff and his family members in criminal cases and sending them to jail. She threatened to harass and ruin the plaintiff's family by filing false cases relating to dowry harassment, domestic violence , theft, rape, etc. The defendant also showed no interest in daily household work and used to threaten that she would give poison to the entire family and put them to eternal sleep. On 09.3.2016, the defendant went to her parental home with her father taking her jewellery, clothes and Stridhan without the permission of the plaintiff or his

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parents. The plaintiff made several efforts to bring the defendant back, but she clearly refused. Consequently, the plaintiff was compelled to file Matrimonial Case No.01/2016 on 17.03.2016 before the family court, Chhapra, for Judicial Separation. Meanwhile, on 27.03.2016, the defendant lodged a false FIR being Siwan Nagar P.S. Case No.237/2016 under Sections 498A and 34 of the Indian Penal Code and Section 3 of the Dowry Prohibition Act against the plaintiff and his family members, making them accused persons. Due to this reason, the plaintiff got his R.C.R. Case No.01/2016 dismissed. On 06.04.2016, the defendant also filed Maintenance Case No.60/2016 before the Family Court, Siwan which is still pending. Due to these criminal proceedings, the plaintiff and his family members suffered heavy financial, mental and physical hardship, and the cordial relationship between the plaintiff and the defendant has come to an end. Because of the aforesaid conduct of the defendant, the plaintiff had to undergo severe mental, financial, and physical suffering. The plaintiff works as a Clerk in a private school on a monthly salary of Rs.3,300/-. Due to the strained matrimonial relationship between the plaintiff and the defendant physical relation could not be established till now. Because of the defendant's cruel behaviour and false criminal cases, the relationship between the parties are completely broken down. There is no collusion between the parties, and this petition has not been filed by the plaintiff as part of any conspiracy against the defendant. Both parties had been residing in rented house at Chhapra since the year 2014, and the cause of action arose on 09.03.2016 when the defendant left the plaintiff's house situated at Chhapra. He, at last, prayed for a decree of divorce.

Case of the defendant

3. The defendant filed her written statement denying all allegations leveled by the petitioner. And further stating that the divorce case filed by the plaintiff against the defendant is not legally maintainable. The plaintiff has got not valid cause of action to file this divorce case against the defendant. The defendant went to her matrimonial home on 01.12.2014 and thereafter the plaintiff made physical relationship with the defendant. First night ceremony was also fulfilled, but the plaintiff has falsely stated that no physical relationship with the defendant was established. This ground has been set up by the plaintiff to make out divorce case based on mental cruelty. The defendant has never misbehaved with the plaintiff or his family members during the period of her living at her matrimonial home. It was the plaintiff and his family members who did not behave the defendant properly after her going to her matrimonial home, and they began torturing the defendant for Rs.4,00,000/-(Rupees Four Lakh) cash and a four

wheeler vehicle. It is false to state that the defendant began giving threatening that the plaintiff and his family members would be implicated in a false case. The defendant had been doing all domestic work regularly as and when it was given to her to do. The defendant has always been thinking to set all things in right way and in order, but the greedy plaintiff and his family members tried their best to disturb the peaceful atmosphere and they had been mounting pressure upon the defendant to bring Rs.4,00,000/-(Rupees Four Lakh) cash and four wheeler vehicle. The plaintiff and his family members got signature of the defendant on blank stamps and after assaulting the defendant dropped her beside her parental home on 09.03.2016, and told the defendant not to come her matrimonial home without Rs.4,00,000/-(Rupees Four Lakh) cash and four wheeler vehicle. All the ornaments, clothes and Stridhan had been kept by the plaintiff and his family members. The plaintiff never tried to bring the defendant to her matrimonial home nor the defendant refused to come with him. It is false to state that the defendant refused to come to her matrimonial home, the plaintiff filed Judicial Separation Case bearing No.01/2016 against the defendant, and Siwan Town P.S. Case No.237/2016 has been lodged by the defendant against the plaintiff and his family members levelling true and correct allegations. The defendant had been tolerating the cruelty done by the plaintiff and his family members for about one year and some months only with a view to save prestige in the society. But, when it became intolerable, the defendant was compelled to lodge the aforesaid case and sought justice. The defendant never refused to come to her matrimonial home. The plaintiff never came after 09.03.2016 to bring the defendant with him. The plaintiff had filed case of Judicial Separation against the defendant being Case No.01/2016 and it was filed in the Family Court, Saran at Chhapra on 17.03.2016 and R.C.R. Case No.68/2016 was filed on 12.04.2016, and the plaintiff is saying that he had got R.C.R. Case No.01/2016 dismissed. Both the cases R.C.R. Case No.68/2016 and Judicial Separation Case No.01/2016 were dismissed. Thereafter, the present divorce case was filed with ulterior motive. The plaintiff is guilty of cruelty and desertion. Being guilty himself the plaintiff cannot get relief as claimed by him. Guilty spouse is debarred from getting any relief under the provisions of Hindu Marriage Act, 1955. The maintenance case filed by the defendant is disposed of and the plaintiff and his family members have completely disturb the peaceful life of the defendant. It is the plaintiff who has withdrawn the defendant from his society without reasonable excuse. The defendant has filed Restitution of Conjugal Rights Case No.91/2018 against the plaintiff which is also pending in this court. The behaviour of the plaintiff and his family members created panic situation in the life of the defendant. In spite of

that the defendant is trying her best to create peaceful situation in the family. The plaintiff has filed false criminal complaint in the court of Saran at Chhapra against the defendant, her parents and her brothers for committing theft and assault for mounting undue pressure upon the defendant and to vex the defendant and her Maika family. The plaintiff and his family members have made the lives of the defendant, her parents and bothers hell. The plaintiff runs Bethal Mission Public School with partnership of one- Raghu Paithy and earns more than Rs.1,00,000/-(Rupees One Lakh) per month. The plaintiff is not a Clerk in Private School nor earns Rs. 3,300/- per month. Their marriage has been consummated and the marriage is completed. The plaintiff and the defendant were married on 30.11.2014 in accordance with Hindu Rites and Ceremonies, and on 01.12.2014, the defendant came at her matrimonial home. The plaintiff and the defendant fulfilled their marital relation and marriage was consummated. First night (Suhaag Raat) ceremony was celebrated, but after a few days, the plaintiff and his family members began to torture the defendant for Rs.4,00,000/- (Rupees Four Lakh) cash and a four wheeler vehicle. The plaintiff and his family tried to burn the defendant on 05.02.2015. The defendant was brought to Siwan on 05.02.2015 and began to live at her Maika. Then, the plaintiff and his family members brought the defendant on 26.11.2015 giving assurance that they will keep the defendant in a good manner, but the plaintiff and his family members again began torturing the defendant for dowry of four lakh cash and four wheeler vehicle. On 07.02.2016, the plaintiff and his family members administered poison to her in the food, and on 08.02.2016, the parents of the defendant and brothers went to Chhapra and inquired into the matter. Then, the plaintiff and his family calling their men began to assault the parents and brothers of the defendant. Thereafter, the parents and the brother of the defendant went to Bhagvan Bazar police station made complain. Bhagvan Bazar police called the plaintiff and his family members, but only the mother of the plaintiff came there and she gave assurance to the defendant that they would kept her in good manner. So, at that time, no case was lodged against them for the cruelty done by the plaintiff and his family members. The defendant was to appear at the examination of M.A. English 1st Semester and was to fill up the form in D.A.V. College, Siwan. She requested the plaintiff and his family members to allow her to go there and said that she would come back after submitting that form, but, they were not ready for it and they were not ready for filling up form for M.A. English 1st Semester, even she told them that there was matter of her career, then taking her signature upon blank stamps paper, the plaintiff and his family members assaulted brutally, snatched her ornaments, clothes and Stridhan, and

dropped her beside her Maika's house situated at Siwan saying unless and until she gives them Rs. 4,00,000/-(Rupees Four Lakh) cash and a vehicle, he would not keep her with him as his wife. The plaintiff had filed case for judicial separation being case No.01/2016 and a R.C.R. Case No. 68/2016 against the defendant in Saran court at Chhapra, but both the cases became dismissed. The plaintiff and his family member filed A.B.P. No.736/2016 and 811/2916 in which they had furnished undertaking in the court of District and Sessions Judge, Siwan on 18.05.2016 and 19.05.2016 that they would keep the defendant with love and respect, but they did not take the defendant. The plaintiff and his father had assaulted the father of the defendant and had snatched money for which Siwan Town P.S. Case No.128/2020 was lodged against them. The defendant had filed case under the provisions of Domestic Violence bearing D.V. Case No.32/2018 in which the learned court of Shri Sparsh Agrawal found the plaintiff and his family members guilty of domestic violence done to the defendant. In vengeance, the plaintiff filed false criminal complaint case no.3483/2018 against the defendant, her parents and her brother alleging falsely that they had committed theft and brutally assaulted entering into his house situated at Mirchaiya Tola Chhapra, the aforesaid case has been quashed by Hon'ble High Court. The case filed by the defendant being Siwan Town P.S. Case No.237/2016 is true and the defendant has also filed Restitution of Conjugal Rights case being Case No.91/2018 against the plaintiff because the plaintiff has withdrawn the defendant from his society and he is not fulfilling the marital obligation to which he is bound to fulfill. It is the plaintiff who is guilty of cruelty and has deserted the defendant. The defendant is not guilty of cruelty and desertion. The plaintiff has never tried to take the defendant with him nor is ready to fulfill marital obligations. The defendant has always been ready to go with the plaintiff and is ready to fulfill all marital obligation which are the very purpose of the marriage. The plaintiff has falsely stated that marriage has not been consummated and is still incomplete. The plaintiff is not entitled to get any relief as claimed by him and his suit is liable to dismissed. At last, she prayed for dismissing the petition/suit.

4. To substantiate his version of plaint, the plaintiff has produced altogether 3 witnesses i.e. PW1-Prashant Kumar Gaurav is plaintiff himself, PW2- Kaushal Kishore Pathak is father of the plaintiff, and PW3- Arun Kumar is a neighbour of the plaintiff.
5. On behalf of the petitioner/plaintiff following documentary evidence has also been filed.

Exhibit-01-- Certified Copies of FIR of Siwan(Town) P.S. Case No.128/ 2020.

Exhibit-02- Certified copy of Final Form/ charge-sheet No.313/2023 in Siwan(Town) P.S. Case No.128/2020.

Exhibit-03- Certified copy of Cognizance Order dated 17.06.2020 passed by C.J.M., Siwan in Siwan (Town) P.S. Case No.237 of 2016.

Exhibit-04- Certified copy of Complaint of R.C.R. Case No.91 of 2018.

Exhibit-05- Certified copy of FIR of Siwan (Town) P.S. Case No.237 of 2016.

Exhibit-06- Certified copy of Order dated 02.03.2023 passed in Domestic Violence Case No.32/2018.

Exhibit-07- Certified copy Domestic Violence Case No.32/2018.

6. The defendant has produced altogether 2 witnesses. DW1- Madhubala Devi is defendant herself, DW2-Triloki Nath Pandey is father of the defendant.

7. On behalf of the Defendant following documentary evidence has also been filed.

Exhibit-A- Certified Copy of Order dated 03.03.2023 passed in Cr. Misc. Case No.11435/2021 by the Hon'ble High Court, Patna arising out of Complaint Case No.3483 of 2018.

Exhibit-B- Certified copy of application of Maintenance Case No.60 of 2016 with its supporting affidavit.

Exhibit-C - Certified copy of Show Cause/Objection filed by the plaintiff -Prashant Kumar Gaurav) in Maintenance Case No.60/2016 with its supporting affidavit.

Exhibit-D- Certified copy of Complaint of R.C.R. Case No.91 of 2018 filed by defendant-Madhubala Devi, with its supporting affidavit.

Exhibit-E- Certified copy of written statement filed by the defendant in R.C.R. Case No.91 of 2018 with its supporting affidavit.

Exhibit-F- Certified copy of the Judgment passed in R.C.R. Case No.91/2018.

Exhibit-G- Certified copy of Order-sheet dated 18-12-2018 to 20-02-2020 of Domestic Violence Case No.32 of 2018.

Exhibit-H- Certified copy of Final Order dated 29-09-2022 passed in Domestic Violence Case No.32/2018.

Exhibit-I- Certified copy of Complaint Petition of Domestic Violence Case No.32 of 2018 with its supporting affidavit.

Exhibit-J- Certified copy of Plaint of R.C.R. Case No.68 of 2016 filed by the plaintiff-Prashant Kumar Gaurav.

Exhibit-K- Certified copy of Bail Order dated 22.07.2016 passed in A.B.P. No.736/2016 & 811/2016 along with an undertaking filed by the plaintiff and his family members.

Exhibit-L- Legal notice sent by plaintiff- Prashant Kumar Gaurav through registered post on 05.03.2016.

Exhibit-M- Certified copy of FIR/Siwan(Town) P.S. Case No.237 of 2016.

Exhibit-N- Certified copy of Cognizance Order dated 06.12.2017 passed in Siwan(Town) P.S. Case No. 237 of 2016.

Exhibit-O- Summons of Judicial Separation Case No.01/2016 sent to defendant.

ISSUES

8. On the basis of the pleadings of parties, following issues were framed, on 14-11-2024:-

1. Whether the suit as framed and filed is maintainable?
2. Whether the plaintiff has got valid cause of action for the suit?
3. Whether the O.P has deserted the plaintiff without any reason?
4. Whether the plaintiff has been subjected to cruelty by defendant?
5. Whether the plaintiff is entitled for a decree of Divorce as claimed?
6. Whether the plaintiff is entitled for any other relief or reliefs?

9. PW1, Prashant Kumar Gaurav, plaintiff himself, has supported the same version of his plaint in his evidence affidavit. During cross-examination he deposed that the defendant came at his home after the marriage on 01-12-2014. His parents, his brother were also present there, and she returned to her parental home in February 2015. He took her back again after Bidai on 26-11-2015. It is not correct that they left the defendant at her parental home on 09.03.2016. Rather, the truth is that she herself went to her parental home from his house in February 2016. On 05.03.2016, he sent a legal notice to the defendant, through Ld. Advocate Kamlesh Pandey of Civil Court, Chhapra. At that time, the defendant was not living with him. He does not remember whether he had written in the legal notice that no physical relationship had been established with the defendant or not. But, it is true that no physical relationship was established with her. On 17.03.2016, he filed a suit for Judicial Separation Case in the

Chhapra Court. The defendant has filed Dowry Harassment Case No.273/2016 at Siwan Town Police Station, but the case was false. On 12.04.2016, he has filed R.C.R. Case No.68/2016 at Chhapra Court. He could not recollect whether he filed R.C.R Case first or the defendant's Dowry Harassment Case was filed first. He came Siwan Court for bail, but he could not recollect whether he & his parents had given an undertaking at the time of anticipatory bail that they would keep the defendant with respect and dignity in their home. He filed Complaint Case No. 3483/2018 in the Chhapra Court against the defendant, her three brothers and her parents, and this case was quashed by the Hon'ble High Court. He knows that the defendant has filed an R.C.R. Case against him in this court. He does not want to get the virginity test of the defendant conducted. After 09.03.2016, on which dates he went to bring back the defendant with him, he does not remember the dates. On 14.09.2017, he filed a divorce suit against the defendant. Before 14.09.2017, he had made one attempt to call the defendant and keep her with him. He does not remember the R.C.R. Case Number. He does not remember either the Judicial Separation Case number. In the maintenance case, he appeared and filed his written statement. He does not remember whether in that written statement, he had mentioned that physical relations has not been established between them or not. He has not read the written statement filed by the defendant in the divorce case. He has no written document of defendant quarrel, abusing, not cooking food.

- 10. PW2-Kaushal Kishore Pathak** is the father of the petitioner/plaintiff. He has supported the same version of the petitioner's plaint in his evidence affidavit. During cross-examination he deposes that his house is situated in Masumganj, Ward No.8. He does not recollect his present House No. He got his house constructed after obtaining permission from the Municipality. Masumganj falls under Bhagwan Bazar Police station. In his affidavit, he has mentioned his residence of Mirchaiya Tola to which he has left in 2020. After 01.12.2014, the defendant again came to her parental home from her matrimonial home on 05.02.2015. On 26.11.2015, they brought the defendant back from her parental home. On 09.03.2016, they left the defendant at her parental home at the request of her father. After 09.03.2016, he and his son went several times to bring the defendant back. Before filing the divorce case, his son had filed Restitution of Conjugal Rights Case No.68/2016. He does not remember the exact date on which it was filed. The defendant did not establish physical relation with his son, yet his son filed the case to call her back and persuade her. His son filed Complaint Case No.3483/2018 against the defendant's father and brother for dacoity. This case is still pending. He had filed Anticipatory Bail Petition

No.736/2016 before the Ld. District and Sessions Judge. He does not remember whether during those bail proceedings they had given in writing that they would keep the defendant with dignity and respect. The defendant filed Restitution of Conjugal Rights Case No.91/2018 against his son. In his deposition in that case, he did not tell that they had not gone to bring the defendant back. He knows that in Restitution of Conjugal Rights Case No.91/2018, his son has been directed to restore matrimonial relations with the defendant. He knows that the respondent is ready for restoration of matrimonial relations with the petitioner, and his son is not ready for restoration of Matrimonial relations. Defendant did not cook food in his house. She used to cook her own food and ate herself. He does not have a daughter. He got his younger son married to a girl of Danapur. His younger son has no child. When the defendant was living in his house, there were three members in his family including himself, his wife and his son(the petitioner). His younger son used to live in Mumbai. He never made any complaint anywhere regarding cruelty allegedly committed by the defendant. The witness himself said that he knows with whom the defendant used to talk and when he caught her talking, she ate that mobile number. During court question, he replied that he could not understand and he has made a mistake in mentioning his old address in his affidavit. He does not remember the exact date, when the defendant swallowed the mobile number, but it is an incident of February 2016.

- 11. PW3, Arun Kumar** is the neighbour of the petitioner from Masoomganj, Chhapra. He has supported the same version of the petitioner's plaint in his evidence affidavit. During cross-examination, he deposes that he works as a labourer. He works at FCI warehouse. He knows that the plaintiff earlier used to live in Mirchaiya Tola. The plaintiff built his house in Masoomganj two-three years ago. He cannot tell the exact dates between which the plaintiff lived in Mirchaiya Tola, but he was living there till 2-3 years ago. The plaintiff lived in Mirchaiya Tola for about five to seven years. Plaintiff lived in Mirchaiya Tola during 2012 to 2023. he met the wife of Prashant Kumar Gaurav in the year 2025, prior to it, he had never met her. He has nothing to do with this case. He is a neighbour of the plaintiff and once, he heard noise and commotion, then he went to the petitioner's house. At that time, the petitioner's wife threatening that his father is an advocate, she can falsely implicate anyone, and she called her father. When he went to the petitioner's house, the petitioner's father had told him about the dispute and quarrel about one and one-and-half months earlier. On 13.12.2025, when the defendant went to the petitioner's house, she was creating quarrels and disputes, therefore the plaintiff refused to keep her with him. The petitioner's father told him that the defendant threatens that she would consume

poison and die and falsely implicate all of them, therefore they did not want to keep her. He did not hear that on 13.12.2025 the defendant had gone to the petitioner's house and said that the court had ordered the plaintiff to keep her with dignity and respect. On 13.12.,2025, the plaintiff had called one of his friends, who is a lawyer, to his house. He did not see that on 13.12.2025, the plaintiff and his friend dragged the defendant out of the house by holding her hands and feet. He also did not hear the plaintiff saying that he would not keep his wife with him even after the court's order. He did not hear the petitioner saying that he had decided to obtain divorce. The plaintiff has been living near his house in Masoomganj since the year 2025. During court question, he deposed that he did not see the defendant abusing or threatening anyone. He also does not remember the exact date, day or year of that incident.

- 12. Defendant Witness No.1, Madhubala Devi**, is the defendant herself, she has supported her objection/reply. All the allegations of divorce case made by petitioner-Prashant Kumar Gaurav against her are false, fabricated and imaginary. She admitted that she is the wife of the plaintiff in this case. Her marriage was solemnized on 30.11.2014 in accordance with Hindu rites and ceremonies at Royal Ashirwad Hotel, Siwan, and she went to her matrimonial home on 01.12.2014. She fulfilled all her marital obligations and the marriage was consummated. After three days, her husband, in-laws, and brother-in-law started demanding Rs.4,00,000/-(Rupees Four Lakh) cash & a four wheeler as dowry and harassing her. On 05.02.2015, her in-laws tried to burn her by pouring kerosene oil on her, after which her father took her back to her parental home in Siwan. Later on 26.11.2015, she was taken back to Chhapra after an assurance that she would be treated respectfully, but harassment for the dowry resumed again. On 07.02.2016, poison was mixed in her food. When her parents and brothers came to Chhapra on 08.02.2016, they were assaulted by the husband's family and others, who were called by them. Her parents and brothers approached the Bhagwan Bazar Police Station, when police came her-in laws, except her mother-in law, went away from home, and the police took her mother-in-law to the police station. Her mother-in-law assured that the defendant would be treated properly, so no immediate case was filed at that time. She states that she wanted to fill her form of M.A. English First Semester Examination at D.A.V. College, Siwan, but her husband and in-laws opposed it. They allegedly forced her signing stamp papers, assaulted, threatened her, snatched her stridhan, and sent her back to her parental home, saying that she would not be accepted as a wife until the dowry demand is fulfilled. The husband filed Judicial Separation Case No.01/2016, and later Restitution of Conjugal Rights Case No.68/2016 in

the Family Court at Chhapra was filed, both have been dismissed. She filed a Criminal Complaint at Siwan Town Police Station Case No.237/2016 under Section 498A IPC and Section 34 of the Dowry Prohibition Act. The husband and his family obtained anticipatory bail after assuring the court that they would keep her with dignity, but they did not honor that assurance. She also refers to another criminal case relating to assault on her father, which was later compromised in Lok Adalat. She filed a Domestic Violence Case No.32/2018, in which the court allegedly found the husband's family guilty. She further claims that her husband filed a false theft complaint against her and her family, which was later quashed by the Hon'ble Patna High Court. She filed a Restitution of Conjugal Right Case No.11/2018 in the Family Court, Siwan. On 19.06.2025, the court directed the husband to keep her with dignity and fulfill marital obligations. She states that the husband is guilty of cruelty and desertion because he has not been willing to keep her with him since 09.03.2016, whereas she has always been willing to continue the marriage. She denies the allegations made by the husband, including refusal of physical relations, misbehaviour, threats of false cases, threats to poison the family, and leaving the matrimonial home voluntarily. She states that she had also filed a Maintenance Case No.60/2016 in which the husband was ordered to pay Rs.6,000/- per month, and she disputes his claim that he earns only Rs.3,300/- per month. She further states that her husband's divorce petition is false, legally barred under Section 23 of the Hindu Marriage Act, and liable to be dismissed. During cross-examination, she deposes that she had filed total four cases against her husband and his family members under compulsion. Out of those, three cases have already concluded. Only the Case under Section 498A IPC is still pending, and she has also filed an application for enforcement of the maintenance order. Her marriage took place on 30.11.2014. The marriage ceremony was peaceful. Her Bidai took place on 01.12.2014, and that was also peaceful. Her father had arranged the marriage, he gave gifts according to his financial capacity. After the Bidai, she continuously stayed at her matrimonial home from 01.12.2014 to 05.02.2015. Thereafter, she did not return for studies, rather she was ousted from her matrimonial home. Her husband, mother-in-law, father-in-law, brother-in-law, her husband's Mama, and the driver left her outside her Maika's house and went away. They did not stay there at that time. She stayed at her parental home for about one year. Thereafter, her husband, parents-in-law and her husband's Mama came to take her back, and on 26.11.2015, she returned to her matrimonial home. She went there in the car belonging to her husband's Mama. Thereafter, she stayed in her matrimonial home till 09.03.2016, and her in-laws ousted her for dowry, they again left her at

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her parental home and went away. Thereafter, her father talked many times to her father-in-law regarding her returning. Maintenance case was filed by her on 04.04.2016, and case of harassment for dowry in 2018. The domestic violence case was filed in 2016, though he does not remember the exact date. Before this case, her husband had filed a Judicial Separation Case No.01/2016. She did not appear in that case. Thereafter, her husband filed Restitution of Conjugal Rights, R.C.R. Case No.68/2016 in the Chhapra Court. She did not receive any summon in that case. Thereafter, her husband filed a divorce case in the Chhapra court in 2017. She did not appear in that divorce case either. Subsequently, an application was filed before the Hon'ble High Court at Patna, for transfer of the divorce case to the Siwan Court. She does not remember when the transfer application was filed. This is the same divorce case which is number 362/2022 here. She has always wanted to live with him/her husband. Her husband filed a Complaint Case No.3483/2018 against her, her father and her brother falsely in order to take revenge on them. That case was quashed by the Hon'ble High Court. Her father had also filed a theft case against her husband and father-in-law. That case was ended. On 09.03.2016, she told her in-laws that he had to go to Siwan to fill up the form of M.A. First Semester Examination. Her in-laws did not want to send her, but in anger, they left her at her parental home on the same day, i.e. on 09.03.2016. That day was the last date for filling the form. They left her at home around 1.00 Pm, after which she went alone to the college to fill up the form. When she came to her parental home, she spoke with her parents. The dowry harassment case was filed against her husband, her parents-in-law, and her brother-in-law. These were the people living in her matrimonial home at that time. On 08.02.2016, her father, mother and brother went to her matrimonial home. No quarrel took place there on that date. They remained there for about half an hour. They did not come inside the house. During that time, they stayed there, she did not speak with them. On 08.02.2016, she, her parents and her mother-in-law went to the police station. No written proceedings took place at the police station. Someone from her matrimonial home had informed her father, after which her father came on 08.02.2016. She does not know who gave that information. Information to the police station on 08.02.2016 was given by her parents. On that day, her parents returned to Siwan and she remained in her matrimonial home. She does not have any documentary proof regarding the incident of 07.02.2016 and 08.02.2016. Apart from some court cases, she does not have any documentary evidence regarding the statement made in her evidence affidavit. The evidence affidavit was prepared on her instruction. The poisonous food was brought to her by her mother-in-law. She(mother-in law)

Dated- 01.06.2026

caught hold of her(witness') hair and forced her to eat it. Thereafter, a doctor examined her and found poison, she is not aware whether the Doctor examined the food or not. She does not remember how long after eating the food she remained conscious. When she regained consciousness, she was in the hospital. It was morning time, and nobody was in front of her.

- 13. Defendant Witness No.2- Triloki Nath Pandey** is the father of the defendant. He has supported the case of the defendant in his evidence affidavit. During his cross-examination, he deposes that his daughter told him after two days her vidai that she was performing her conjugal obligations, he fulfilled the demand made at the time of the marriage. He was informed about the incident of sprinkling kerosene by his daughter. He reached there at 9.00p.m. and brought his daughter back after talking her-in-laws. After talking to her in-laws, he felt danger for his daughter's life. He did not report that incident to police as he wanted to save the marriage of his daughter. Thereafter, his daughter remained with him for 3 months and 5 or 7 days. In the meantime, her-in-laws contacted him, they came to his home on 20-11-2015 and talked about his daughter's Vidai, and they took his daughter with them on 26-11-2015. No paper regarding the settlement between them at that time was prepared. Then she remained in her matrimonial home for around 3 months and some days. During that period she was again tortured except for initial 2 or 3 days. He also went there on 30-11-2015, her daughter also told him about their demand of dowry, they also demanded dowry in his presence. When he reached there, he was not welcomed, and they demanded Rs. 4 Lakh and a four wheeler. At that time they were living in a rented house of 3 rooms, and parking space for a four wheeler was there. He said to them that he has fulfilled their demand, now he cannot give Rs. 4 Lakh and a four wheeler. They were demanding the dowry one after other. They were saying the same thing in different words, and he replied to all of them once. He stayed there after replying for half an hour. He could not recollect at what time left from there. Then he went her matrimonial home on 08-02-2016 with his wife, sons- Ajit Kumar Pandey and Sushil Kumar Pandey. He went there not to meet his daughter only but to inquire about the incident of administering poison to his daughter on 07-02-2016. When he reached there, her-in-laws brought her back from a hospital. When the witness started asking about the matter, they(her-in-laws) called outsiders and started committing beating with him and his sons. His daughter was not speaking, she was conscious. He was asking in peaceful manner, quarrel was continue for 20 minutes. They along with outsiders were assaulting with knife and brick bits, but anyhow the witness and his sons save and could not sustain any serious injury as they committed beatings with hand

and legs. He went to Bhagwan Bazar Police Station but he did not lodge an FIR because he wanted to save the marriage of his daughter. He did not bring his daughter back with him, but her husband with his father and 3 or 4 his friends left her daughter near his home on 09-03-2016 and went away from there. Thereafter, he did not ask her husband as to why they went away leaving his daughter near his home or as why they did not come to his home. His daughter lodged an FIR for harassing her for dowry demand on 27-03-2016 against all her in-laws. Then she filed a case maintenance on 04-04-2016, and thereafter a case of domestic violence. He became aware of the cases filed by the plaintiff after receiving the summons. He filed a criminal case against the plaintiff and his father, but he got that case disposed of in Lok Adalat on the basis of a compromise after an assurance to keep his daughter with honour and dignity. It is wrong to suggest that he had lodged that false case only for the purpose of mounting pressure. It was fixed for evidence but he did not depose in it due to a compromise. Thereafter, the plaintiff filed the present case in Chhapra. It is wrong to suggest that his daughter filed R.C.R. case no. 91/2018 after getting information of filling present case. He could not recollect after how many days of filling present case, the case of R.C.R was filed. In the R.C.R Case No. 91/2018, the court has directed the plaintiff of present case to keep his wife with him and discharge his conjugal obligations towards her. He is not aware whether it is mentioned the order of that R.C.R case or not that the defendant of the present case go her matrimonial home and remain there forcibly. He identify the application dated 13-12-2025 given by the defendant regarding her going to her matrimonial home, and the same is mark-1. His daughter, after the order of R.C.R, went to her matrimonial home to live there in October and November 2025. She went alone in October 2025, but in November 2025, he and Chandra Bhushan Mishra were with her. Plaintiff's father said that they did not accept that order and they are talking to an Hon'ble Judge of the Hon'ble Supreme Court. They did not say anything about the present case. His daughter's treatment of administering poison to her was made by her-in-laws, so they would have prescription papers with them. The witness further denies the suggestions given to him regarding threatening by his daughter to her-in-laws to implicate in false cases, committing cruelty by filing 5 cases against her-in-laws, lodging false case/ Siwan Town Police case No. 128/2020 and compromising it due to lack of evidence, or going to his daughter's matrimonial home taking criminal persons with his daughter to plant his daughter in her matrimonial home forcibly.

ARGUMENT OF THE PARTIES

14. Ld. counsel for the plaintiff has submitted that the behaviour of the defendant towards the plaintiff and his family members was cruel as she refused to follow the basic rituals prescribed for newly couples. She used to commit assault, beating and abusing to them. The plaintiff and his witness have established his case on the basis of preponderance of probabilities. He further argued that she has levelled false allegations in different cases, she used to give threatening to implicate her-in-laws in false cases as her father is a practicing advocate in the Siwan District courts, she threatened to consume poison and implicate them in false case, or to administer poison to all her-in-laws. The plaintiff had filed a suit of judicial separation in the Chhapra family court, thereafter a suit of R.C.R has been filed by him to bring her back, and the defendant lodged an FIR for dowry and harassing her for it. Then the plaintiff got his case of judicial separation and R.C.R dismissed, and he filed this suit for divorce. The defendant filed false cases in revenge after the plaintiff's cases. Lodging of a false case is amount to cruelty, thus the plaintiff is entitled to a decree of divorce on the ground of cruelty.

15. On the other hand, Ld. Counsel of the defendant has submitted that the plaintiff has filed the present suit with baseless allegations and he has failed to prove the allegation levelled by him against the defendant regarding her misbehaviour, assault, beating or abusing the plaintiff or his family. The defendant has been residing at her parental home with her parents. The defendant is an Indian woman who respects her husband and her in-laws. She did not want to start legal proceedings, but her husband initiated the same, by giving baseless legal notice, filing suits for judicial separation and R.C.R. in Chhapra court, and false criminal complaint against her and her family members. The criminal complaint filed by the plaintiff against her and her family members has been quashed by the Hon'ble High Court. The defendant has always been and is ready to live with him, but he & his family members are not ready unless demand of dowry is fulfilled. For the purpose of compelling her and her father, the plaintiff has started various proceedings with false statements. He filed the suit for judicial separation, and R.C.R. Both his suits have been dismissed. This is third suit of plaintiff. In order to eliminating her, the plaintiff and his family members, tried to burn her, and administered poison to her in her food, despite that she is ready to live with him if he or any member of his family does not torture her for the demand of dowry. With an intention to saving her marriage and living with him, her father compromised in the case lodged by him. They filed undertakings while seeking bail in the case lodged by the defendant, but they did not take the defendant with them. The plaintiff has contradictory versions in the different

proceedings. The suit filed by the defendant for the restitution of conjugal rights has been decreed, wherein the plaintiff has been directed to discharge his conjugal obligation and to keep her with him, even she herself went to her matrimonial home to comply the decree, but he is not ready until their demand is fulfilled. The version of the plaintiff's suit is not reliable, his witness are unreliable, the plaintiff and his family dropped her near her parental home, committing beating, snatching her belongings and obtaining her signature on some stamps paper. Thereafter, he or his family never came to bring her back. At last prayed to dismiss the suit of plaintiff.

Analysis of the evidence of the parties

- 16.** Issue nos. 1 and 2 - Whether the suit as framed and filed is maintainable; and Whether the plaintiff has got valid cause of action for the suit - are decided together as they are related to maintainability of the suit. They are formal issues, no specific argument has been advanced regarding these issues. The plaintiff has claimed that he was married to the defendant on 30-11-2014 at Royal Hotel in Mohalla-Anand Nagar, P.O.-Siwan, P.S.-Siwan Town, District-Siwan in accordance with Hindu rites and customs. And the defendant has also admitted her marriage with the plaintiff at that place, so it is undisputed that the plaintiff is the husband of the defendant. The plaintiff has claimed that the defendant did not allow him to consummate the marriage, after 4 days of the marriage, she started behaving cruelly and disrespectfully with him and his family members. Thereafter, her misbehaviour towards them kept on worsening day by day. On trivial matters, she started threatening to falsely implicate the plaintiff and his family members in criminal cases and sending them to jail. She threatened to harass and ruin the plaintiff's family by filing false cases relating to dowry harassment, domestic violence, theft, and rape. She also showed no interest in daily household work and used to threaten that she would give poison to the entire family and put them to eternal sleep. On 09.3.2016, the defendant went to her parental home with her father taking her jewellery, clothes and Stridhan without the permission of the plaintiff or his parents. The plaintiff made several efforts to bring the defendant back, but she clearly refused. The defendant has denied these allegations. The courts finds no illegality or irregularity in the framing of the suit. In the light of the pleadings of the parties, it cannot be said that the plaintiff has no cause of action to institute the suit or it is not properly framed. Thus, the issue no.1 and 2 are decided in favour of the plaintiff against the defendant.

- 17.** **Issue no.3-**Whether the O.P has deserted the plaintiff without any reason.

The plaintiff has claimed that both the parties have been living in Chhapra since 2014 and the defendant has left her matrimonial home on 09-03-2016 taking her belongings without the permission of the plaintiff or his family members. And thereafter she did not come back despite the efforts made by them to bring her back. It means she was with him at her matrimonial home prior to 09-03-2016. and present suit has been filed on 14-09-2017 i.e. within 2 years of her leaving her matrimonial home. It is also submitted by Ld. Counsel for the plaintiff that desertion may be started during her living in her matrimonial home as she did not allow the plaintiff to consummate the marriage. So the desertion has been mature between the parties. Ld. Counsel for the defendant has argued that the marriage was very well consummated. The plaintiff has claimed in his plaint that the marriage was not consummated till the filing of plaint, but in his evidence affidavit he has not stated specifically non consummation of the marriage, rather he has stated that she refused him to consummate the marriage on first night due to her refusal he suffered agony and during cross-examination in para 16 he tells that no physical relation between them has been established. On the other hand it consistent version of the defendant wife in her written statement and her evidence that the marriage was consummated. Plaintiff/PW1, in his evidence affidavit states that he filed suit number 68/2016 for restitution of conjugal rights on 17-03-2016 when her family refused to send her back. Certified copy of that plaint has been filed by the defendant and the same is Ext-J along with its order-sheet. It shows that he filed this suit on 12-04-2016 for restitution of conjugal rights. But he did not mention in it non consummation of the marriage or her refusal to consummate the marriage on first night. No reason has been assigned by the plaintiff as to why he did not mention in his R.C.R. suit regarding non consummation of the marriage. Plaintiff/PW1 has admitted at para 13 of his deposition that he got his advocate to send a notice to the defendant on 05-03-2016, and he could not recollect what was mention in that notice. The defendant has filed that notice dated 05-03-2016 and the same is Ext-L. From perusal of Ext-L, it is clear that nothing has been mentioned regarding non consummation of the marriage. No reason has been assigned for not mentioning in Ext-L regarding non consummation of the marriage or her refusal to consummate the marriage on the first night or thereafter it. Further, PW2 father of the plaintiff has admitted that she came at her matrimonial home on 01-12-2014 and went to her parental home on 05-02-2015. Thereafter, she was brought to her matrimonial home on 26-11-2015 and she was left at her parental home on 09-03-2016. It means the defendant was at her matrimonial home with the plaintiff during 01-12-2014 to 05-02-2015, and 26-11-2015 to 09-03-2016. Ext-L shows that this

notice was sent on 05-03-2016 when the defendant was with her husband, and the plaintiff said to defendant's father through it to take her daughter back. Ext-L is first written document sent through his counsel to the defendant's father indicating the dispute between the parties, and the same discloses nothing regarding non consummation of the marriage. Ext- C is his reply in Maintenance case 60/2016 filed by the defendant against him, in Ext-C he mentioned nothing regarding non consummation of the marriage. When the defendant had been living with plaintiff in his home during 01-12-2014 to 05-02-2015 and 26-11-2015 to 09-03-2016, and nothing has been mention regarding non consummation of the marriage in the notice sent/Ext-L, Ext-C or in the plaint of his R.C.R. suit number 68/2016 filed on 12-04-2016/Ext-J, it cannot be said that the marriage between the parties was not consummated. The plaintiff has stated that he filed suit No.1/2016 for judicial separation, but he did not filed the copy of the plaint of that suit, the court is unable see the ground of that suit. The defendant has filed the judgment dated 19-06-2025 passed in R.C.R. suit no. 91/2018, Madhubala Devi Vs Prashant Kumar Gaurav, u/s-9 of the Hindu Marriage Act. It is Ext-F, the suit was decreed and the present plaintiff has been directed to perform his conjugal obligation towards the present defendant. After the decree of section 9 of the Hindu marriage Act in favour of the defendant and she tried to comply that the decree going to her matrimonial home and her husband refused to keep her in his home as per mark-1(during the deposition of DW2), it cannot be said the defendant has deserted the petitioner/plaintiff for a continuous period of not less than two years immediately preceding the presentation of the petition. Thus, the plaintiff has failed to establish the ground of desertion. Therefore, the issue no.3 is decided against the plaintiff in favour of the defendant.

18. Issue no.4- Whether the plaintiff has been subjected to cruelty by defendant. In other words whether the defendant has treated the plaintiff with cruelty. The plaintiff has claimed that she refused him to consummate the marriage on the first night, after 2 or 3 days she started behaving cruelly and disrespectfully with him and his family members, thereafter her misbehaviour gradually became more cruel to them. She started threatening to them to implicate in false case of domestic violence, dowry harassment, theft, and rape. She did not take interest in household works, and threaten to kill them by administering poison. Plaintiff/PW1 in his evidence affidavit has deposed that she started threatening to them to implicate in false case of dowry harassment & rape, and to kill them by administering poison to them. Similar is deposition of his father PW2. Deposition of PW3 is not reliable as he did not hear or see her abusing or threatening to her in law. Further PW3 never met the defendant except

in 2025, but the question before the court is whether the defendant has abused, threatened to implicate the in false cases or eliminate them by administering poison prior to instituting the suit. The plaintiff failed to bring on record the date or time or year of the abusing or threatening, he did not disclose the manner of her alleged misbehaviour or cruelty done by the defendant against him or his family, in other words the plaintiff has not disclosed her act or activity which was cruel or disrespectful to them or as to what was the reason of misbehaving or what she wanted by being cruel or disrespectful. The court does not believe the plaintiff or his father on the point of non consummation of the marriage as per the discussion made in deciding the issue no.3. PW2 father of the plaintiff has admitted that they bring the defendant back at his home on 26-11-2015 after her leaving to her home on 05-02-2015. The plaintiff has failed to assign any reason as to why he brought her back if she was cruel, disrespectful and threatening to them.

19. The plaintiff has claimed the defendant went to her parental home on 09-03-2016 and same is his deposition, but his father/PW2 has deposed in para 14 of deposition that she was left at her parental home by the plaintiff on 09-03-2016. The plaintiff has filed certified copies of FIR/Siwan Town P.S. Case No. 128/2020, u/s 341, 323, 379, 504, 506 and 34 IPC/ Ext-1 and its charge sheet No. 313/20 that is Ext-2, cognizance and summoning orders dated 13-03-2020 that is Ext-3. It is argued by Ld. Counsel for the plaintiff that this case was false and defendant's father got it disposed of through Lok Adalat. And her father did not have any evidence for this case, so he got it disposed on the basis of compromise. Ld. Counsel for the defendant has argued that it was disposed of by way of compromise as her-in-laws made a promise to keep his daughter. The court is of the view that it is possible that the father of the defendant thought it better not lead evidence before the court in that case because he wanted to save his daughter's marriage. Further, it is submitted that she used to threaten to implicate in false case and she lodged an FIR/ Siwan Town P.S. case No. 237/ 2016 on 27-03-2016 falsely implicating them, it is Ext- 5. It is not submitted that the accused persons in this case have been acquitted nor the copy of it judgment has been filed, it means the trial of this case is still pending. Before its conclusion it cannot be said that she lodged a false case. Ext- 4 is certified copy of plaint of suit No.91/2018. Ext-4 shows that the defendant had filed the suit for restitution of her conjugal rights. Ext- F shows that this suit was decreed in her favour against the present plaintiff and he could not establish the reasonable cause for leaving his wife at her matrimonial home. He was directed to perform his conjugal

obligations towards his wife. The defendant/wife may also seek the legal remedy from the court, only seeking her legal remedy or filing case of domestic violence, maintenance, or restitution of conjugal rights cannot be said to be cruelty against the plaintiff.

- 20.** The defendant has consistent version that she was tortured for the demand of 4 Lakh cash and a four wheeler, they tried to kill her by burning and administering poison, and she was left near her parental home on 09-03-2016, there is nothing to disbelieve the defendant/DW1 or her father/ DW2. Despite that she filed a suit of restitution of conjugal rights, and the same has been decreed in her favour. Even after that decree, she went to her matrimonial home during the pendency of the present suit but she was not allowed by the plaintiff or his father to enter in her matrimonial home. This record also shows that matter was referred to mediation but the parties could not reach at any compromise. The conduct of the defendant and her father indicates that the defendant wants to live with her husband, but the plaintiff did show any interest to keep his wife except his filing the suit No. 68/2016 for restitution of conjugal rights, that suit has been left by him after filing it.
- 21.** The plaintiff in this suit has alleged that she used to misbehave, abuse and threatened them to implicate them in false cases, he said similar thing in his notice dated 05-03-2016 with an addition that she threaten to commit suicide consuming poison. It appears from perusal of Ext-O/ summons of matrimonial suit number 01/2016, that this summons was issued on 21-03-2016 to the defendant/wife, the plaintiff has also stated that he filed suit of Judicial Separation in Saran/Chhapra. It means after sending notice dated 05-03-2015/Ext-L, he filed suit for judicial separation no.01/2016 prior to 21-03-2016. But he has not produced the copy of the plaint of judicial separation bearing No. 01/2016. it appears that it was filed between 06-03-2016 and 20-03-2016- after sending notice/Ext-L and before issuing summons on 21-03-2016. Thereafter, he filed suit no. 68/2016 for restitution of conjugal rights on 12-04-2016, its plaint is Ext-J, in which he did not level any such allegation against the defendant, nor he assigned any reason of not levelling such allegations in that suit. The plaintiff has failed to assign any reason for filing suit of the restitution of conjugal rights immediately after filing the suit of judicial separation, the suit of judicial separation ordinarily remains similar to the suit of divorce. The plaintiff may have amended the prayer of that suit of judicial separation instead of filing the present suit. Not producing the copy of the plaint of suit no. 01/2016 filed for judicial separation, thereafter filing suit of restitution of conjugal rights bearing No. 68/2016 on 12-04-2016 without any allegation of misbehaviour,

abusing or any threatening, and then filing the present suit with such allegation, raised doubts on his version of such allegations. Further, he has been failed to establish reasonable cause for withdrawing himself from the company of his wife as the decree of restitution of conjugal rights has been passed against him. Ext- A shows that the cognizance order dated 14-06-2019 passed in complaint case no. 3483/ 2018, by ACJM XIV Chhapra against the defendant and her family members has been quashed by the Hon'ble Patna Courts, in Criminal Miscellaneous No. 11435/2015 vide order dated 03-03-2023. The plaintiff has admitted filing this criminal complaint and quashing it by the Hon'ble High Court in his deposition at para 23. it also an indication that he filed a false criminal complaint against the defendant and her family members. Considering, the facts, circumstances, and material available on record, the court is of the view that the preponderance of probabilities inclines in favour of the defendant against the plaintiff that she has been tortured for dowry demand and ousted from her matrimonial home. Thus, the plaintiff has failed to prove his case even by preponderance of possibilities. Hence, issue no. 4 is decided against the plaintiff and in favour of the defendant.

22. Issues Nos. 5 and 6 - Whether the plaintiff is entitled for a decree of Divorce as claimed and whether the plaintiff is entitled for any other relief or reliefs- are concerned, they are related to the result of this suit. The plaintiff has failed to prove issues number 3 and 4, they have been decided against the plaintiff and in favour of the defendant. Thus, the plaintiff is not entitled to a decree of divorce or any other relief or reliefs.

23. Hence, the suit of plaintiff is dismissed with cost. Office is directed to prepare the decree of dismissal and consign the record to the record-room after completing formalities.

Dictated and corrected

(Manoj Kumar-II)
Principal Judge
Family Court, Siwan
Dated: 01st June, 2026.

Pronounced in the open court

(Manoj Kumar-II)
Principal Judge
Family Court, Siwan
Dated: 01st June, 2026.