



2025:PATHC:92918-DB

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.639 of 2013

Sunila Devi W/O Pankaj Kumar D/O Sidhnath Rai Resident Of Village Baligaon, P.S. Nasariganj Rajpur, District Rohtas.

... .. Appellant/s

Versus

Pankaj Kumar S/O Janeshwar Pandey Resident Of Village Pandhuri, P.S. Nasariganj, District Rohtas. Presently Subash Nagar, P.S. Dehri, District Rohtas.

... .. Respondent/s

with

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... .. Respondent/s

Appearance :

(In Miscellaneous Appeal No. 639 of 2013)

For the Appellant/s : Mr. Ajay Kumar Tiwari, Advocate

For the Respondent/s : Mr. Dharmendra Kumar Singh, Advocate

(In Miscellaneous Appeal No. 640 of 2013)

For the Appellant/s : Mr. Ajay Kumar Tiwari, Advocate

For the Respondent/s : Mr. Dharmendra Kumar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE S. B. PD. SINGH
CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 14-10-2025

Heard the parties.

2. Both the appeals have been heard together and are being disposed of by the common judgment.

3. The appellant-wife (Sunila Devi) has come up in these appeals against the judgment dated 27.07.2013 and decree dated 17.08.2013 passed by the learned Principal





Judge, Family Court, Rohtas at Sasaram wherein Matrimonial Case No. 45 of 2003 filed by the appellant-wife under Section 9 of the Hindu Marriage Act for restitution of conjugal rights was rejected and Matrimonial Case No. 47 of 2003 filed by the respondent-husband under Section 13 of the Hindu Marriage Act for dissolution of marriage was allowed and the marriage between the appellant and the respondent was dissolved by a decree of divorce.

4. Succinctly, the marriage of appellant-Sunila Devi was solemnized with respondent-Pankaj Kumar on 09.05.1997 as per Hindu rites and ceremonies. The marriage was duly consummated; however, no child was born out of the wedlock.

5. The pleaded case of respondent-husband in his petition filed before learned Family Court is that the marriage of the respondent-husband with the appellant-wife was solemnized on 09.05.1997. The appellant was a literate lady and the only child of her parents. After marriage, the appellant went to her *Sasural* and started living with her husband (respondent). The appellant was a quarrelsome





lady and soon after marriage, her behaviour with her husband and other in-laws family members was very rude. She frequently used to abuse the respondent and other family members. After marriage, the appellant stayed only 10 days and thereafter went to her parents house. The appellant went to complete her study at Banaras Hindu University without consent of the respondent. The appellant came to her matrimonial house in February, 1999 and after staying for about one month, she again went to her parents house. The appellant again came to her matrimonial house in the year 2001 and after staying for about 15 days she left her matrimonial house and went to her parents house. The behaviour of the appellant with the respondent and other in-laws family members during her stay at her matrimonial house was not good and she used to abuse and quarrel with them without any rhyme and reason. She always used to threaten to commit suicide or implicate them in false cases and this was the reason, the respondent has filed informatory petition before the concerned police station and father-in-law of the appellant has filed Miscellaneous Appeal Nos. 548/2002, 123/2003, 215/2003 against the





appellant. Ultimately, the appellant has filed a false and concocted case bearing Dehri P.S. Case No. 163 of 2003 against the respondent and other in-laws family members under Sections 498(A)/34 of the Indian Penal Code in which case, the respondent, his parents and unmarried sister had to go to jail. The respondent has challenged the order of conviction passed in connection with Dehri P.S. Case No. 163 of 2003 before learned 3rd Additional Sessions Judge, Rohtas at Sasaram in Cr. Appeal No. 29 of 2013 which was allowed in favour of the respondent and the respondent and his family members were acquitted from all the charges levelled against them vide order dated 30.07.2018. The matrimonial relation between the appellant and respondent has already irretrievably broken down and there is no hope of restoration of their conjugal life. Hence, the respondent has filed Matrimonial Case No. 47 of 2003 for dissolution of marriage with the appellant.

6. The appellant-wife has appeared in pursuance to the notice issued to her and filed her written statement. In her written statement, she has denied all the allegations made against her. She has stated that the matrimonial case is





not maintainable either on fact or law and the respondent has got no cause of action to file this case. The respondent-husband has no interest to continue conjugal relationship with the appellant. Soon after marriage, the appellant-wife was tortured for non-fulfillment of dowry demand. The respondent-husband himself deserted the appellant-wife and did not make any concrete effort to restore the matrimonial relation with the appellant-wife. The appellant had never given threat, nor ill behaved, humiliated or quarreled with any in-laws family members and all the allegations made against the appellant-wife are fake with a view to take divorce from her. The appellant has also filed a case for restitution of conjugal rights. Hence, the divorce petition is liable to be dismissed.

7. The respondent-husband has examined four witnesses in order to prove his case which are P.W. 1 Pankaj Kumar (respondent himself), P.W. 2 Janesar Pandey (father of the respondent), P.W. 3 Kameshwar Chaudhary and P.W. 4 Lallan Singh.

8. The appellant-wife has also examined four witnesses in order to prove her case which are O.P.W. 1





Sidh Nath Rai (father of appellant), O.P.W. 2 Ram Nath Rai (uncle of appellant), O.P.W. 3 Sunila Devi (appellant herself) and O.P.W. 4 Digvijay Chaudhary (neighbour of appellant).

9. In view of facts and circumstances and materials available on record, learned Principal Judge, Family Court, Sasaram, Rohtas has held that the respondent-husband has made out a case for divorce and accordingly the suit has been decreed on contest under Sections 13 of the Hindu Marriage Act and the marriage solemnized on 09.05.1997 between the parties was dissolved by a decree of divorce in Matrimonial Case No. 47 of 2003. The learned Principal Judge, Family Court, Sasaram, Rohtas has also dismissed the petition filed by the appellant-wife under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. The appellant-wife, aggrieved by the said judgments of the learned Family Court has filed the instant appeals before this Court.

10. Learned counsel for the appellant-wife has submitted that the learned Family Court has erred in law and facts in allowing the divorce petition filed by the





respondent-husband. Learned counsel has further submitted that the divorce petition has wrongly been allowed on the ground of cruelty, rather the appellant-wife had been treated with cruelty at the hands of the respondent-husband and she had only availed her legal remedies by filing cases as regards the cruelty meted out to her and also as regards the demand of dowry by the respondent-husband and his family members, however the same have been wrongly taken against the appellant. It is further submitted that the Family Court has wrongly concluded that the appellant had deserted the respondent-husband, whereas it was the respondent, who had compelled the appellant-wife to leave her matrimonial home.

11. It is further submitted that no efforts were made by the Family Court to reconcile the matter between the parties. It is therefore contended that the findings returned by the Family Court are not sustainable in the eyes of law.

12. It is submitted by learned counsel for the respondent that after marriage, the appellant-wife did not agree to cohabit with him throughout the subsistence of





marriage. She did not respect the respondent and his family members. The respondent made every effort to convince the appellant to change her behavior and cooperate in leading a happy married life but she did not agree for that and ultimately she left the matrimonial house. Thereafter, the respondent went to the appellant parental house and met their family and asked her to go with him, but they did not agree to do so. The appellant and her family members always insulted and despised the respondent. The appellant always refused to have marital relations with the respondent and voluntarily abandoned the respondent and his family. The appellant has also filed a false and frivolous case against the respondent and other family members in which the respondent, his parents and unmarried sister were sent to jail. Though the case was subsequently not found true and the respondent and other family members were acquitted from all the charges levelled by the appellant. In the aforesaid circumstance, it has become impossible for the respondent to live with the appellant.

13. It is further submitted that learned Family Court has also observed that a unilateral decision to refuse





to have sex with partner for a long period without any physical disability or valid reason comes under the category of mental cruelty. The cruel behaviour of the appellant towards her husband (respondent) and other in-laws family members and threatening to implicate in a false case also comes under the category of mental cruelty. Hence, it was found that the respondent's case is fully covered by the provisions of Section 13(1) (i-a) of the Hindu Marriage Act and the divorce petition was allowed.

14. We have heard learned counsel for the parties and perused the paper-book as well as the impugned judgment.

15. The learned Principal Judge, Family Court, while deciding the Matrimonial Case No. 45 of 2003 filed by the appellant-wife under Section 9 of the Hindu Marriage Act has observed as under:-

“.....In this case, I have made several efforts on various dates to reconcile between the parties but my efforts became fruitless and both parties are not in a position to see each of them. From the evidence, I find that no relation was





established between the parties since 2003 and both parties are living separately since 2003. In this case, one important thing is that the husband himself stated that after the marriage, no physical relation was established. Deprivation of co-habitation is also a reasonable ground of withdrawn from the society of the petitioner. The learned lawyer of the respondent during argument submitted that O.P and his family members were convicted in the criminal case under Section 498A of the I.P.C which has been filed by the petitioner of this case.”

16. The learned Principal Judge has rightly observed that long separation of the parties, denying to co-habit by the appellant and filing criminal cases against the husband and other in-laws have irretrievably broken the relationship of the appellant and respondent and there appears to be no scope of its repair.

17. The learned Family Court has rightly dismissed Matrimonial Case No. 45 of 2003 filed by the appellant under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and we see no reason as to why, the findings





as recorded by the learned Trial Court should not be upheld.

18. Accordingly, the order dated 27.07.2013 passed by learned Principal Judge, Family Court, Rohtas at Sasaram in Matrimonial Case No. 45 of 2013 is hereby upheld.

19. So far as grant of decree of divorce to the respondent-husband is concerned, the following question arises for consideration before this Court: "Whether the decree for divorce granted on the grounds of cruelty and desertion by the Family Court, requires interference?"

20. The concept of cruelty within the meaning of Section 13 (1)(i-a) of the Hindu Marriage Act has been explained by the Hon'ble Supreme Court in case of "**Joydeep Majumdar v. Bharti Jaiswal Majumdar**", **(2021) 2 RCR (Civil) 289**, by observing as under: -

"10. For considering dissolution of marriage at the instance of a spouse who allege mental cruelty, the result of such mental cruelty must be such that it is not possible to continue with the matrimonial relationship. In other words, the wronged party cannot be expected to condone such conduct and continue to live





with his/her spouse. The degree of tolerance will vary from one couple to another and the Court will have to bear in mind the background, the level of education and also the status of the parties, in order to determine whether the cruelty alleged is sufficient to justify dissolution of marriage, at the instance of the wronged party..."

21. In **"Jagdish Singh v. Madhuri Devi", (2008) 10 SCC 497**, the Hon'ble Supreme Court while considering the scope of interference by first appellate court, observed as under:-

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

25. At the same time, however, the





appellate court is expected, nay bound, to bear in mind a finding recorded by the trial court on oral evidence. It should not forget that the trial court had an advantage and opportunity of seeing the demeanour of witnesses and, hence, the trial court's conclusions should not normally be disturbed. No doubt, the appellate court possesses the same powers as that of the original court, but they have to be exercised with proper care, caution and circumspection. When a finding of fact has been recorded by the trial court mainly on appreciation of oral evidence, it should not be lightly disturbed unless the approach of the trial court in appraisal of evidence is erroneous, contrary to well-established principles of law or unreasonable..."

22. From perusal of evidence of both sides and materials available on record, it is crystal clear that after the year 2002, both parties have not fulfilled the matrimonial obligation as the emotion and faith which are essential parts of marriage have been eroded and it is undisputed fact that there is no consummation of marriage between both the





parties after 2002. Both parties are residing separately. There was no room for reconciliation. In this way, since the year 2002 near about 22 years have elapsed and now the relation has become irretrievably broken and there appears no scope of repair.

23. The marriage occupies an important place and plays an important role in the society. In spite of increasing the trend of filing the Divorce proceedings in the courts of law, the institution of marriage is still considered to be a pious, spiritual, and invaluable emotional life-net between the husband and the wife in the present Indian society.

24. Here, it is necessary to quote *Samar Ghosh vs. Jaya Ghosh* reported in *(2007) 4 SCC 511* wherein it has been observed by the Hon'ble Supreme Court that the Court has to decide as to what would constitute cruelty under Section 13(1) (1-a) of the Hindu Marriage Act. An important guideline in the above decision is on the approach of a Court in determining cruelty. What has to be examined here is the entire matrimonial relationship, as cruelty may not be in a violent act or acts but in a given case has to be gathered from injurious reproaches, complaints,





accusations, taunts etc.

"85. No uniform standard can ever be laid down for guidance, yet we deem it appropriate to enumerate some instances of human behaviour which may be relevant in dealing with the cases of 'mental cruelty'. The instances indicated in the succeeding paragraphs are only illustrative and not exhaustive.

(i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.

(ii) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party.

(iii) Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable.





(iv) Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of other for a long time may lead to mental cruelty.

(v) A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse.

(vi) Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty.

(vii) Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty.

(viii) The conduct must be much more than jealousy, selfishness, possessiveness, which causes unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty.





(ix) Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day to day life would not be adequate for grant of divorce on the ground of mental cruelty.

(x) The married life should be reviewed as a whole and a few Isolated instances over a period of years will not amount to cruelty. The ill-conduct must be persistent for a fairly lengthy period, where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty.

(xi) If a husband submits himself for an operation of sterilisation without medical reasons and without the consent or knowledge of his wife and similarly if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty.

(xii) Unilateral decision of refusal to have Intercourse for considerable period without there being any physical incapacity





or valid reason may amount to mental cruelty..

(xiii) Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.

(xiv) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty..."

25. In the present case, we take into consideration the facts as they exist. We are convinced that in the present case, continuance of the marriage would mean continuance of cruelty, which now inflicts on the other. Irretrievable breakdown of a marriage may not be a ground for dissolution of marriage, under the Hindu Marriage Act, but cruelty is. A marriage can be dissolved by a decree of





divorce, *inter alia*, on the ground when the other party "has, after the solemnization of the marriage treated the petitioner with cruelty". In our considered opinion, a marital relationship which has only become more bitter and acrimonious over the years, does nothing but inflicts cruelty on both the sides. To keep the facade of this broken marriage alive would be doing injustice to both the parties. A marriage which has broken down irretrievably, in our opinion spells cruelty to both the parties, as in such a relationship each party is treating the other with cruelty. It is therefore a ground for dissolution of marriage under Section 13(1)(1a) of the Hindu Marriage Act.

26. The Hon'ble Supreme Court in the case of ***Rakesh Raman vs. Kavita*** reported in ***2023 SCC OnLine SC 497*** at para 18, 19, 20 held as under:-

"18. Cruelty has not been defined under the Act. All the same, the context where it has been used, which is as a ground for dissolution of a marriage would show that it has to be seen as a 'human conduct' and 'behaviour' in a matrimonial relationship. While dealing in the case of Samar Ghosh (Supra) this Court opined that cruelty can be physical as well as mental:-





"46.... If it is physical, it is a question of fact and degree. If it is mental, the enquiry must begin as to the nature of the cruel treatment and then as to the impact of such treatment on the mind of the spouse. Whether it caused reasonable apprehension that it would be harmful or injurious to live with the other, ultimately, is a matter of inference to be drawn by taking into account the nature of the conduct and its effect on the complaining spouse.

19. Cruelty can be even unintentional:-

.....The absence of intention should not make any difference in the case, if by ordinary sense in human affairs, the act complained of could otherwise be regarded as cruelty. Intention is not a necessary element in cruelty. The relief to the party cannot be denied on the ground that there has been no deliberate or wilful ill-treatment."

20. This Court though did ultimately give certain illustrations of mental cruelty. Some of these are as follows:-

(i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.

(xii) Unilateral decision of refusal to have intercourse for considerable period without





there being any physical incapacity or valid reason may amount to mental cruelty.

(xiii) Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.

(xiv) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.

(emphasis supplied)

27. In view of forgoing discussion, we conclude that respondent-husband has made a ground for grant of decree of dissolution of marriage on the ground as mentioned in Section 13(1)(i-a) of the Hindu Marriage Act, 1955."

28. Considering the totality of circumstances, in our considered view, learned Family Court has rightly passed a decree of dissolution of marriage between the parties and we see no reason as to why, the findings as





recorded by the learned Trial Court should not be upheld. The point of determination is answered accordingly and the impugned judgment and decree of divorce passed in favour of respondent-husband is hereby upheld.

29. Before we part with this order, it is apposite to state here that while granting the decree of divorce, the learned Family court has not granted anything to the Appellant towards Permanent Alimony. Here it is useful to refer to Section 25 of the 1955 Act, which reads thus:

"Section 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 appellant 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 (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."

30. The Hon'ble Supreme Court in the case of **Rajnish v. Neha** reported in **(2021) 2 SCC 324**, 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, with 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**.

31. 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.”

32. The Hon’ble Apex Court, taking note of Rajnesh v. Neha (supra) and Kiran Jyot Maini (supra), in para 32 of Pravin Kumar Jain (supra) laid down the following eight factors to be looked into in deciding the





quantum:

“i. Status of the parties, social and financial.

ii. Reasonable needs of the wife and the dependent children.

iii. Parties’ individual qualifications and employment statuses.

iv. Independent income or assets owned by the applicant.

v. Standard of life enjoyed by the wife in the matrimonial home.

vi. Any employment sacrifices made for the family responsibilities.

vii. Reasonable litigation costs for a non-working wife.

viii. Financial capacity of the husband, his income, maintenance obligations, and liabilities.

These are only guidelines and not a straitjacket rubric. These among such other similar factors become relevant.”

33. It is pertinent to mention here that duration of the marriage i.e., how long the marriage existed is also a relevant factor in determining the quantum of permanent alimony. Generally, marriages that lasts more than 10 years





are entitled to be granted a lifetime alimony. The Hon'ble Supreme Court in Rajnesh v. Neha (supra) in para 74 observed that:-

“74. In contemporary society, where several marriages do not last for a reasonable length of time, it may be inequitable to direct the contesting spouse to pay permanent alimony to the applicant for the rest of her life. The duration of the marriage would be a relevant factor to be taken into consideration for determining the permanent alimony to be paid.”

(emphasis supplied)

34. The conduct of the party seeking the relief is also relevant. The three-judges Bench of Hon'ble Supreme Court in the case of Sukhdev Singh v. Sukhbir Kaur reported in 2025 SCC OnLine SC 299, observed in para 26 as under:

“26.We must note that subsection 1 of Section 25 uses the word “may”. A grant of a decree under Section 25 of the 1955 Act is discretionary. If the conduct of the spouse who applies for maintenance is such that the said spouse is





not entitled to discretionary relief, the Court can always turn down the prayer for the grant of permanent alimony under Section 25 of the 1955 Act. Equitable considerations do apply when the Court considers the prayer for maintenance under Section 25. The reason is that Section 25 lays down that while considering the prayer for granting relief under Section 25, the conduct of the parties must be considered.”

(emphasis supplied)

35. Section 25 of the 1955 Act itself envisages that the wife can initiate proceedings for grant of permanent alimony even after the decree of divorce. Therefore, the court does not become *functus officio* with the passing of the decree and continues to have jurisdiction to award alimony even thereafter.

36. Keeping in view the totality of circumstances and to do justice to the parties, we are of the considered view that while keeping it open to the appellant-wife to institute her claim for grant of permanent alimony before the court of competent jurisdiction, we deem it appropriate





to grant some amount towards Interim permanent alimony subject to any final decision to be taken by the concerned court on an application to be filed under section 25 of the 1955 Act by the appellant-wife.

37. 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: (2011) 3 RCR (Civil) 900: 2011 (4) Recent Apex Judgments (R.A.J.) 357, 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 be 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.

38. Be that as it may, it is the duty of the Court to





see that the wife lives with dignity and comfort and not in penury. The living need not be luxurious but simultaneously she should not be left to live in discomfort. The Court has to act with pragmatic sensibility to such an issue so that the wife does not meet any kind of man-made misfortune.

39. This Court finds that respondent-husband is a Teacher in a private school and he provides tuition to the students. The respondent has share in joint ancestral property which comprises one house constructed over 2 katha at Dehri and 9 Bigha agricultural land. Now the respondent has filed a supplementary affidavit to the effect that he is ready to settle the dispute by offering Rs. 10,00,000/-(Ten Lakhs) as permanent alimony to the appellant-wife. The The appellant-wife is a Government Panchayat Teacher and earns Rs. 28,232 per month as salary. Since appellant is the sole child/legal heir of her parents, she could also inherits house and about 6 bigha of agricultural land.

40. This Court, while hearing the present petition has observed in para 2 of the order dated 05.09.2024 which reads as under :-





“2. Appellant-Sunila Devi filed Matrimonial Case No. 45 of 2003 under Section 9 of the Hindu Marriage Act for restitution of conjugal right. Her grievance was turned down by the Principal Judge, Family Court, Rohtas at Sasaram on 27th July, 2013. Resultently, the present Miscellaneous Appeal has been filed in the year 2013. They are living separately from more than 20 years. Therefore, practically it may not be possible to rejoin among the parties.”

41. We have also observed in para 1 of the order dated 12.02.2025 which reads as under:-

*“ Respondent-Pankaj Kumar, who is stated to be unemployed, is hereby directed to file assets and liabilities in the light of Hon'ble Supreme Court decision in the case of **Rajnesh vs. Neha** reported in (2021) 2 SCC 324. He shall examine the eight factors narrated in the case of **Pravin Kumar Jain vs. Anju Jain** reported in 2024 SCC OnLine 3678 (Paragraph No. 32) and determine what would be the approximate permanent alimony, on the next date of hearing. He shall also be present in the Court in order to*





ascertain certain issues.”

42. Accordingly, after going through the entire facts of this case, we deem it appropriate to grant an amount of Rs. 10,00,000/- (Rupees Ten Lakhs Only) towards Permanent Alimony to be paid by respondent-husband to the appellant-wife. Let the said amount be paid by respondent-husband to the appellant-wife within a period of three months from today; failing which the said amount shall carry simple interest @ 6% per annum.

43. Accordingly M.A. No. 639 of 2013 and M.A. No. 340 of 2013 of 2023 stand disposed of with the aforesaid direction. No order as to costs.

44. Pending I.A(s), if any, stand disposed of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, CJ)

Shageer/-

AFR/NAFR	AFR
CAV DATE	23/04/2025
Uploading Date	14/10/2025
Transmission Date	N/A

