



2026:CGHC:3834-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

FA(MAT) No. 432 of 2024

*{Arising out of judgment and decree dated 23-9-2023 in Civil Suit
No.22A/2021 of the Judge, Family Court, Mahasamund, Camp Court/
Link Court, Saraipali}*

Tikeshwar Panda, S/o Janamjay Panda, presently aged about 33 years,
Occupation Laborer, R/o Village Bade, Post Gobarsingha, Thana Sariya,
District Raigarh (C.G.)

Presently residing at Vidhya Sahu's House, Janakpur, Bus Stand
Tamnar, Tehsil Tamnar, District Raigarh (C.G.)

(Plaintiff)

--- **Appellant**

Versus

Smt. Sangeeta Panda, wife of Tikeshwar Panda, D/o Shravan Sathpathi,
presently aged about 30 years, Occupation Sewing, Embroidery, R/o
Mohanmuda Pandripani, Post Office Kendua, Thana & Tahsil Saraipalli,
District Mahasamund (C.G.)

(Defendant)

--- **Respondent**

AND

FA(MAT) No. 17 of 2025

*{Arising out of judgment and decree dated 23-9-2023 in Civil Suit
No.9A/2020 of the Judge, Family Court, Mahasamund, Camp Court/
Link Court, Saraipali}*

Tikeshwar Panda, S/o Janmjay Panda, presently aged about 33 years,
Occupation Laborer, R/o Village Bade, Post Gobarsingha, Thana Sariya,
District Raigarh (C.G.)

Presently residing at Kudhrikhar Post, Tehsil Tamnar, District Raigarh
(C.G.)

(Respondent)

--- **Appellant**

versus



Smt. Sangeeta Panda, wife of Tikeshwar Panda, D/o Shravan Sathpathi, presently aged about 30 years, Occupation Sewing, Embroidery, presently residing at Mohanmunda Pandripani, Post Office Kendua, Thana & Tahsil Saraipalli, District Mahasamund (C.G.)

(Plaintiff)
--- **Respondent**

For Appellant : Mr. Hari Agrawal, Advocate.
For Respondent : Mr. S.B. Pandey, Advocate.

Division Bench: -
Hon'ble Shri Sanjay K. Agrawal and
Hon'ble Shri Arvind Kumar Verma, JJ.

Judgment On Board
(22/01/2026)

Sanjay K. Agrawal, J.

1. The appellant herein/husband has preferred an application for divorce on the ground enumerated under Section 13(1)(ia) of the Hindu Marriage Act, 1955 seeking dissolution of marriage being the subject matter of Civil Suit No.22A/2021, whereas the respondent herein/wife has preferred an application for restitution of conjugal rights being Civil Suit No.9A/2020. Both the applications have been heard analogously by the Family Court and separate judgments have been passed. The Family Court has dismissed the application for divorce filed by the appellant/husband resulting into filing of FA (MAT) No.432/2024 questioning the rejection of his application seeking dissolution of marriage, whereas the application for restitution of conjugal rights filed by the respondent/wife has been granted against which the appellant/husband has preferred FA (MAT) No.17/2025 questioning the same that the respondent/wife is not entitled for decree of restitution of conjugal rights.



2. Since in both the cases, husband is the appellant and wife is the respondent, they have been clubbed together, heard together and are being disposed of by this common judgment.
3. The aforesaid judgments & decrees have been challenged by the appellant herein/husband on the following factual backdrop: -
 - 3.1) Marriage between appellant Tikeshwar Panda and respondent Sangeeta was solemnized on 26-4-2012 at Village Mohanmuda Pandripani, District Mahasamund as per Hindu rites and ceremonies and out of their wedlock, they were blessed with two sons namely Aadarsh Panda, aged about 12 years and Aarush Panda, aged about 8 years. Aadarsh Panda is residing with appellant Tikeshwar Panda – husband and Master Aarush Panda is residing with respondent Smt. Sangeeta Panda – wife. After seven years of marriage, matrimonial discard took place between the parties.
 - 3.2) It is the case of the appellant herein/husband in the divorce petition that when he used to go to his work, thereupon taking advantage of his absence, the respondent herein/wife befriended many male friends and used to do obscene chatting and video calls with them. Thereafter, when the appellant/husband got a hint about the same, he tried to convince the respondent/wife to improve, but she did not listen leading to installation of two CCTV cameras in the bedroom and he himself saw that the respondent/wife used to make video call with her male friends and exposes her body/private parts to them.



3.3) It is the further case of the appellant herein/husband in the divorce petition that when the respondent herein/wife was exposed by him before her parental family members, she threatened to commit suicide and wrote a suicide note mentioning the name of the appellant, which was informed by the appellant to Police Station Sariya. Thereafter, on 7-12-2020, firstly, the respondent/wife filed application for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955 before the Family Court, Saraipali on the ground that the appellant/husband has deserted her and refused to keep her without any reasonable cause. Thereafter, on 19-7-2021, the appellant/husband filed application for grant of decree of divorce on the ground of cruelty contained in Section 13(1)(ia) of the Hindu Marriage Act, 1955 before the Family Court, Link Court Saraipali, District Mahasamund on the ground that the respondent/wife, after marriage, treated him with cruelty by entering into extra marital affairs and adulterous acts.

3.4) It is also the case of the appellant herein/husband in the divorce petition that he has filed a Compact Disc showing the objectionable behaviour of his wife/respondent herein. However, the learned Family Court by its judgment dated 23-9-2023 dismissed the divorce petition and refused to see the contents of the Compact Disc on the ground that the appellant/husband has not filed the certificate under Section 65B of the Indian Evidence Act, 1872 and proceeded to grant the application for restitution of conjugal rights in favour of the respondent/wife and against the appellant/husband against which



the present two appeals have been preferred by the appellant herein/husband, one against rejection of divorce petition and another against grant of application for restitution of conjugal rights. This is how the instant two appeals are before us.

4. Mr. Hari Agrawal, learned counsel appearing on behalf of the appellant herein/husband, would submit that the Family Court is absolutely unjustified in rejecting the application for grant of divorce filed on behalf of the appellant herein/husband. He would further submit that Compact Disc is also a document and strict rule of evidence as contained in the Indian Evidence Act, 1872 would not be applicable to the proceeding before the Family Court by virtue of Section 14 of the Family Courts Act, 1984. He would also submit that the Family Court is well within its power to take into evidence or admit any material which is essential for effective adjudication of the *lis* whether or not requirements under the provisions of the Indian Evidence Act, 1872 including Section 65B are fulfilled. As such, since the Compact Disc is also a document within the meaning of Section 14 of the Family Courts Act, 1984 and the Compact Disc was very much necessary for just and proper disposal of the application for divorce, it ought to have been taken into consideration and considered by the Family Court and it could not have been rejected on the ground of absence of certificate under Section 65B of the Indian Evidence Act, 1872, which is also clear from Section 20 of the Family Courts Act, 1984, which clearly gives an overriding effect to the provisions of the Family Courts Act over other laws i.e. the



provisions contained in the Indian Evidence Act, 1872, as far as the present case is concerned. Therefore, both the impugned judgments & decrees rejecting the application for divorce and granting the application for restitution of conjugal rights deserve to be set aside and the matter be remitted to the Family Court for adjudication afresh after considering the Compact Disc for exhibiting and considering the import of document (Compact Disc) in accordance with law.

5. Mr. S.B. Pandey, learned counsel appearing on behalf of the respondent herein/wife, would support the impugned judgments & decrees and oppose the appeals and submit that since along with the Compact Disc no certificate under Section 65B of the Indian Evidence Act, 1872, was preferred which is mandatory in light of the decision of the Supreme Court in the matter of **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal and others**¹, the Family Court is right in omitting to consider the Compact Disc while passing the impugned judgments rejecting the application for divorce and granting the application for restitution of conjugal rights and as such, both the appeals deserve to be dismissed.
6. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the record with utmost circumspection.
7. The short question for consideration would be, whether the provision contained in Section 65B of the Indian Evidence Act, 1872, is strictly

¹ (2020) 7 SCC 1



applicable in a proceeding initiated by the Family Courts while considering the application for divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955?

8. In order to consider the plea raised at the Bar, it would be appropriate to notice the provision contained in Section 14 of the Family Courts Act, 1984, which states as under: -

“14. Application of Indian Evidence Act, 1872.—A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).”

9. A careful perusal of Section 14 of the Family Courts Act, 1984, would show that the Family Court is entitled to receive as evidence any report, statement, documents, information or matter which in its opinion would assist the said Court to deal effectually with a dispute irrespective of whether the same would otherwise be relevant or admissible under the Indian Evidence Act, 1872. As such, the Family Court is well within its power to take into evidence any material/document which, as discussed, may be essential for effectively adjudicating the dispute before it whether or not it fulfills the requirements of the Indian Evidence Act, 1872, however, while exercising such discretion, the Family Court ought to bear in mind that it does not violate the basic principles of legal system. The object of Section 14 of the Family Courts Act, 1984 is to remove the rigour of the provisions of the Evidence Act while adjudicating the family disputes under the provisions of the Family Courts Act, 1984.



10. In this regard, the pertinent observations made by the Bombay High Court in the matter of **Deepali Santosh Lokhande v. Santosh Vasantrao Lokhande**² may be noticed herein in which the Bombay High Court while noticing the provision contained in Section 14 of the Family Courts Act, 1984, has clearly held that the intention of the legislature in enacting this provision is to remove complexities in the application of rules of evidence in proceedings before the Family Court, and observed as under: -

“6. A plain reading of the above provision clearly indicates that the intention of the legislature is to permit the Family Court to receive as evidence any report, statement, documents, information or matter which in its opinion would assist the Family Court to deal effectually with a dispute irrespective of whether the same would otherwise be relevant or admissible under the Indian Evidence Act. Significantly the words “Whether or not the same would be otherwise relevant or admissible under the Evidence Act 1872” surely have a different import. The object, effect and consequence of this provision is to remove any embargo on the Family Court to first examine the relevancy or admissibility of the documents under Indian Evidence Act in considering such documents in adjudication of the matrimonial dispute. The Statement of Object and Reasons leading to the enactment of the Family Court's Act would also become a guiding factor so as to ascertain the intention of the legislature in framing section 14 when it uses the above words. One of the objects of the legislation as Clause 2 (h) of the Statement of Object and Reasons would provide is “simplify the rules of evidence and procedure so as to enable a Family Court to deal effectively with a dispute”. This clearly manifests the intention of the legislature to remove complexities in the application of rules of evidence to make the procedure more comprehensible so as to enable a Family Court to deal effectively with a matrimonial dispute under the Family Courts Act, which is a special Act.

7. When section 14 stipulates and says that the Family Court can receive a document in evidence irrespective of the same being relevant or admissible in evidence under the

² 2018(1) Mh.L.J. 944



Evidence Act, it signifies two important facets namely that the Family Court at the threshold cannot reject a document on the ground that the document is not legally admissible in evidence and secondly the test and rigor of relevancy and admissibility of the document can be dispensed with by the Family Court if the Family Court is of the opinion that any evidence would assist it to deal effectively with the dispute. It cannot be disputed that admissibility presupposes relevancy as admissibility is founded on law whereas relevancy is determined by Court using judicial skills, logic and experience. Admissibility does not signify that a particular fact stands proved but merely that such a fact is received by the Court for the purpose of being weighed. The learned Judge overlooked that merely because the documents are marked as Exhibits and the same also becoming available for cross-examination, is neither an admission as to documents nor can be treated as an admission of its contents.”

11. At this stage, it would also be appropriate to notice Section 20 of the Family Courts Act, 1984, which gives an overriding effect to the provisions of the Family Courts Act over other laws. Section 20 states as under: -

“20. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

12. The Family Courts Act is a special Act and the Indian Evidence Act is a general law. The Family Courts Act, 1984 has been enacted to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of disputes relating to marriage and family affairs and for matters connected therewith. One of the objects of the Family Courts Act, 1984, as contained in clause 2(h) of the Statement of Objects and Reasons is to simplify the rules of evidence and procedure so as to enable a Family Court to deal effectively with a matrimonial dispute.



13. As such, Section 20 of the Family Courts Act, 1984, mandates that the provisions of the Family Courts Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the Act.
14. In this regard also, the Bombay High Court in **Deepali Santosh Lokhande** (supra) considered the scope of Section 20 of the Family Courts Act, 1984 and held that the Family Court can receive a document in evidence irrespective of same being relevant or admissible in evidence under the Evidence Act and observed as under: -

“9. A cumulative reading of section 14 and section 20 of the Family Courts Act, takes within its ambit the restricted applications of the provisions of the Evidence Act qua the documentary evidence which includes electronic evidence, whether or not the same is relevant or admissible, if in the opinion of the Family Court such evidence would assist the Family Court to deal effectively with the matrimonial dispute. Considering the above object and the intention of the legislature, in providing for a departure, from the normal rules of evidence under the Evidence Act, in my opinion, there was no embargo for the learned Judge of the Family Court to accept and exhibit the documents as sought by the petitioner-wife. Ultimately, it is the absolute power and authority of the Family Court either to accept or disregard a particular evidence in finally adjudicating the matrimonial dispute. However, to say that a party would be precluded from placing such documents on record and or such documents can be refused to be exhibited unless they are proved, in my opinion, goes contrary to the object of section 14 of the Family Courts Act.

10. In matrimonial cases, the Family Court is expected to adopt standards as to how a prudent person would gauge the realities of life and a situation of commotion and turmoil between the parties and applying the principle of preponderance of probabilities, consider whether a particular



fact is proved. Thus, the approach of the Family Court is required to be realistic and rational to the facts in hand rather than technical and narrow. It cannot be overlooked that matrimonial disputes involve human problems which are required to be dealt with utmost human sensitivity by using all intelligible skills to judge such issues. The Family Court has a special feature where in a given case there may not be legal representation of the parties. Section 13 of the Act makes such a provision. In such a situation, the parties who are not experts in law cannot be expected to know the technical rules of the evidence qua the relevancy, admissibility and proof of documents. Thus, the strict principles as referred in the impugned order on the decisions which are not under the Family Courts Act, would not be of any relevance in the proceedings before the Family Court.”

The Bombay High Court further held that even if there is any electronic record for which certificate under Section 65B of the Evidence Act is necessary, it would also not preclude the Family Court to exhibit such documents and receive such documents in evidence, and observed as under: -

“**11.** Thus, in my opinion, even if there is any electronic record for which certificate under section 65-B of the Evidence Act is necessary, it would not preclude the learned Judge of the Family Court to exhibit such documents and receive such documents in evidence, on forming an opinion as to whether the documents would assist the Court, to deal effectively with the dispute in hand. Such exercise has not been undertaken in passing the impugned order.”

15. Coming to the facts of the instant case, in light of the discussion made herein-above, Compact Disc was produced by the appellant herein/husband, which was also subjected to cross-examination by the parties in their evidence. Undisputedly, the Compact Disc is a document within the meaning of Section 3 of the Evidence Act and so held by the Supreme Court in the matter of **Shamsher Singh**



Verma v. State of Haryana³, but the Family Court has omitted/refused to consider the Compact Disc holding that the mandatory certificate under Section 65B of the Evidence Act has not been produced by the appellant/husband.

16. In our considered opinion, in light of the objects of the Family Courts Act, 1984 and by virtue of Section 14 read with Section 20 of the Family Courts Act, 1984, the document Compact Disc, which is an electronic document, is necessarily required for effective adjudication of the *lis* between the parties, as the allegations of the appellant herein/husband is that it contains CCTV coverage and obscene acts by the respondent herein/wife. Once the document is required for effective adjudication of the *lis*, certificate under Section 65B of the Evidence Act would not be necessary. Therefore, merely because certificate under Section 65B of the Evidence Act has not been produced, the learned Family Court ought not to have refused to consider the Compact Disc which is very much a relevant document and very much necessary for just and proper disposal of the application for divorce and the learned Family Court should not have refused to consider the same.
17. As a fallout and consequence of the aforesaid discussion, the judgments impugned rejecting the divorce application and granting the restitution of conjugal rights, both are hereby set aside and the matter is remitted to the concerned Family Court to firstly mark/exhibit the Compact Disc, which is filed in divorce case, and then

3 (2016) 15 SCC 485



allow the other side to cross-examine/object to the said document in accordance with law and thereafter, to consider the Compact Disc and to decide the suits afresh, in accordance with law. Since more than four years had already elapsed from the date of institution and it is an old one and the matter is pending since more than four years, the Family Court is expected to consider and dispose of both the matters expeditiously.

18. Only the available record of Civil Suit No.22A/2021 be sent back to the Family Court forthwith along with a copy of this judgment.
19. Both the appeals are allowed to the extent indicated herein-above leaving the parties to bear their own cost(s).
20. Decrees be drawn-up accordingly.

Sd/-
(Sanjay K. Agrawal)
JUDGE

Sd/-
(Arvind Kumar Verma)
JUDGE