

IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 16 of 2024

Payal Sahoo @ Payal Gupta @ Payal Shah, aged about 38 years, wife of Sri Sohan Lal Shah, daughter of late Girdhari Prasad Sahoo, resident of Ashirbad Mandap, Canteen No.2, Sector-5, Near V.I.P Market, Rourkella, PO & PS-Rourkella, District-Sundergarh, State Odisha.

... .. Respondent/ Appellant

Versus

Sohan Lal Shah, son of Late Radhe Shyam Shah, resident of Ward No.3, Main Road Chakradhapur, PO & PS-Chakardhapur, District-West Singhbhum, State-Jharkhand, at present residing at Gnagotri Nagar (In the House of Sri Bal Krishna Sharma) Thana Road Chakradhapur, P.O & PS-Chakardhapur, District-West Singhbhum, State Jharkhand

... .. Petitioner/Respondent

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

For the Appellant : Mr. R.C.P Sah, Advocate
Mr. Chandra Gupta Ashok Bardhan, Advocate
Mrs. Ragini Kumari, Advocate
For the Respondent : Mr. Kripa Shankar Nanda, Advocate

C.A.V on 19.06.2026

Pronounced on 14/07/2026

Per Sujit Narayan Prasad, J.

1. The instant appeal under Section 19(1) of the Family Court Act, 1984 is preferred against the order/judgment dated 23.12.2023 and the decree sealed and signed on 05.01.2024 passed by the learned Principal Judge, Family Court, Chaibasa in Original Suit No. 34 of 2023, whereby and whereunder, the petition filed under Section 13(1) (i-a) of the Hindu Marriage Act, 1955 by the respondent/petitioner /husband seeking a decree of divorce against his wife (appellant herein), has been allowed.
2. The brief facts of the case leading to filing of the divorce petition by the husband needs to be referred herein as under:

- (i) The marriage between the appellant and the respondent was solemnized on 08.02.2019 at Rajasthan Bhawan, Bishtupur, Jamshedpur, East Singhbhum as per Hindu rites and custom.
- (ii) After the marriage, both parties lived together as a husband and wife at Ward No.3, Main Road, Chakradharpur, P.O and P.S- Chakradharpur, District-West Singhbhum (Jharkhand) and their marriage was consummated.
- (iii) At the time of marriage respondent/petitioner/husband and his family members had given one piece of Gold Necklace, two piece of Gold Churi (Kangan), two pieces of Gold Jhumka, one set of Gold Tops, one piece Lady Diamond Ring, one piece Gold Lady Ring, one piece Gold Mangalsutra, once piece Gold Nath, one pair silver payal, clothes worth of Rs.95000/- and one-piece Samsung Mobile worth Rs.12000/-.
- (iv) Initially, the matrimonial life of parties was normal and happy but after few days of marriage, the behaviour of the respondent (appellant herein) towards the petitioner-husband was hostile. She had told to the petitioner that she had no love and devotion towards him. The parties have no issue out of their wedlock.
- (v) There were three litigations between the parties prior to filing of Original Suit No.34 of 2023 which are:
 - I. Original Suit No.26 of 2020 which was filed by the petitioner-husband against the respondent-wife under

sections 13(1) (i-a) (i-b) of the Hindu Marriage Act, 1954 which was disposed of as withdrawn;

II. Original Suit No.28 of 2021 under section 9 of the Hindu Marriage Act, 1954 filed by the petitioner-husband against the respondent/wife/appellant which was dismissed vide order dated 14.03.2022 and

III. Original Maintenance Case No.05 of 2022 under section 125 Cr.P.C which was disposed of on compromise. Thereafter the Original Suit No.34 of 2023 was filed which is the subject matter of the present appeal.

(vi) That on the date of disposal of Original Maintenance Case No.05 of 2022 the respondent came with the petitioner in a rented house at Gangotri Nagar (In the House of Sri Bal Krishna Sharma) Thana Road, Chakdradharpur, P.O. & P.S.- Chakradharpur, District-West Singhbhum Jharkhand) and started residing together as husband and wife.

(vii) It has been alleged that after few days, respondent had started to commit physical, mental and economic cruelties upon the petitioner. Several times, respondent pushed the petitioner from the bed, which cause pain to the petitioner. The respondent also took money from the pocket of petitioner without his consent and in his absent, when petitioner told her not to do such acts, then she gave threatening that she will put his Khandan, behind the bar.

(viii) The respondent told to the petitioner that she had a boyfriend.

She regularly commented to petitioner by saying her relation with her boyfriend. After checking the mobile of the respondent, the petitioner came to know that she was chatting and talking with an unknown person, on mobile and the mobile number of said unknown person was xxxxxx7648. The petitioner told to the respondent that why she is making relation with the said person, then she said that she will do that. She also threatened the petitioner that she will implicate him and his family in a case of dowry and cruelty.

(ix) After hearing the same, the petitioner (respondent herein) informed the matter to the office-in-charge, Chakradharpur Police Station. The petitioner was residing in the above-mentioned rented house with respondent from 13.04.2022. The respondent always told to the petitioner that she will live with her boyfriend Dharmveer, as because he is her life. She also told that he was only A.T.M. for her for making money and she will enjoy with said Dharmveer and she was continuing her relation with Dharmveer. Due to that the petitioner went under mental agony and depression.

(x) Further, on 31.12.2022, the respondent (appellant herein) quarreled with petitioner and told him that she will enjoy New Year 2023 with Dharmveer, but the petitioner opposed it, then on 03.01.2023, she left the house of the respondent/petitioner without his consent and told him that she is going to enjoy with

Dharmveer at Rourkela and since then she is residing at Rourkela.

(xi) On 05.04.2023, the respondent/wife came to Chakradharpur and gave threatening to the petitioner/husband and his family members to implicate them in the case. Thereafter, on the same day, the petitioner made an application to the office-in-charge of Chakradharpur police station about the said incident.

(xii) The aforesaid conduct and acts of the respondent/wife have inflicted upon the petitioner/husband such mental pain and suffering as would make it was not possible for the petitioner to live with the respondent. The petitioner endured these actions in the hope that the respondent's behavior would improve; however, the respondent's cruel acts have escalated day by day.

3. On the aforesaid ground of cruelty, the petitioner husband has sought for a decree of divorce and filed the suit before the learned family Court.

4. The learned Family Judge had issued notices to the respondent-wife (appellant herein) upon which she appeared and filed her written statement mentioning therein that the suit is not maintainable either in law or on facts. The marriage between the parties was admitted. It is admitted that the petitioner (respondent herein) had gifted articles to the respondent/wife as mentioned in the plaint, but it is denied that the respondent was given cloths worth Rs. 95,000/-.

5. The respondent (appellant herein) had denied that she ever made any cruel act upon the respondent/petitioner and it is said that the

respondent/wife always accords due respect, love and affection to the petitioner. The respondent, who is a well-educated and matured lady, has never changed her behavior towards the petitioner at any point of time and she had always normal towards the petitioner/husband but it is the petitioner, who intentionally keeping himself off from the respondent the reason best known to him.

6. It has further been stated that it is wrong to say that the respondent changed her behavior soon after the marriage or she has no love and affection towards the petitioner. The respondent/appellant/wife alleged that it is the petitioner/husband who intentionally did not wish to have issue out of this marriage and used the respondent/wife for sexual pleasure only. Whenever, the respondent proposed the petitioner to have their own child, he always twisted her words with refusal saying that the time was not ripe for them to take such responsibility. He used to say that he wanted a gap of 2-3 years for such matter.

7. The respondent/wife has alleged that the fact of the matter is that the petitioner does not want to keep the respondent with him and in that view of the matter, he is persistently going on the blame the respondent variously and thereby demeaning and derogating the respondent to fulfill his vested interest. It is alleged that the petitioner never tried to open a bank account with the name of the respondent at any point of time. It is averred that there was no quarrel took place between the parties.

8. It has further been stated that the respondent not entangled with the so-called Dharamveer or anybody else. It is pleaded that on 03.01.2023, the respondent/petitioner was to take the respondent to Raurkela as per the

plan to give a visit at respondent's/wife '*Maika*' but the day before 03.01.2023, the petitioner/respondent/husband refused to accompany the respondent/wife and, as such, the respondent himself went to Raurkela to visit her parental home. After a week, as per the schedule, the petitioner had to bring back his wife to Chakradharpur but he did not come. Finally, on 05.04.2023, the respondent after informing the petitioner on mobile came back to Chakradharpur but the petitioner did not allow her to enter into his house, i.e., in the rented accommodation and the house was kept locked. On the day, the petitioner quarreled with the respondent and hurled filthy languages and flatly refused to keep her as wife. The respondent spent hours till night in front of the petitioner's house, requesting him to allow herself in their marital life keeping aside all bitterness if any, but it all went in vain. Lastly, the respondent approached the local police at Chakradharpur to get the house opened as it was night at that time but police did not help stating that it was their personal affair and there were already court cases between the parties. At last, the respondent went to Chakradharpur Railway Station to take the train for Raurkella. On reaching her parental house at Raurkella in the same night, she narrated the whole matter to her mother and brother and subsequently, her family members initiated reconciliatory efforts to settle the dispute if any at all persist between them but the petitioner did not incline for any settlement.

9. The respondent/wife further reiterates that there is no such person Dharamveer other than the petitioner in the life of respondent. The marital

tie between the parties still alive and the respondent/wife is very much willing to be united with the petitioner.

10. On consideration of the evidence, oral as well as documentary, the learned Family Judge has granted divorce in favour of the petitioner-husband (respondent herein) and has observed that the marriage solemnized in between petitioner Sohan Lal Sah and respondent Payal Sahu @ Payal Gupta dated 08.02.2019 stands dissolved on the basis of cruelty u/s 13 (1) (ia) of Hindu Marriage Act.

11. The said judgment and decree of divorce is under challenge in the instant appeal.

Argument on behalf of the learned counsel for the Appellant-wife:

12. Mr. R.C.P. Sah, learned counsel for the appellant-wife has taken the following grounds in assailing the impugned judgment:

- (i) The learned Family Judge, though framing four distinct issues, has failed to consider and answer them in accordance with law. The impugned judgment proceeds to conclude that the marriage has become irretrievable without any proper adjudication of the framed issues. Such a finding, being unsupported by issue-wise determination, is perverse and unsustainable in law.
- (ii) The conclusion that the marriage has irretrievably broken-down rests merely on the presumption that the appellant-wife resides separately. The learned Family Judge has ignored the material fact that the appellant-wife was willing to cohabit, but was forcibly prevented by the petitioner-husband, who locked the matrimonial

home and denied her entry, compelling her to reside at her parental house. The finding is therefore unjust and contrary to evidence.

- (iii) The petitioner-husband himself admitted in his examination-in-chief that he never attempted to bring back the respondent-wife to the matrimonial home. The learned Family Judge's omission to consider this admission vitiates the finding.
- (iv) The petitioner alleged that the respondent-wife behaved cruelly and even pushed him from the bed causing injury. However, no specific date, time, or corroborative evidence was produced to substantiate this allegation. The finding of cruelty is therefore baseless.
- (v) It has been contended that although the ground has been taken by the petitioner that the respondent-wife is having illicit relation with one Dharmveer but the respondent/husband has not impleaded the said Dharmveer as respondent to prove the allegation of adultery as such the allegation that the appellant wants to live with the Dharmveer is not proved.
- (vi) The learned Family Judge erred in holding that the respondent-wife's act of taking money from her husband's pocket amounted to cruelty. Such conduct, being a commonplace domestic affair between spouses, cannot be equated with theft or cruelty. The finding is legally untenable.

13. Learned counsel for the appellant-wife, based upon the aforesaid ground, has submitted that it is, therefore, a fit case to interfere with the

impugned judgment by remitting it before the learned Family Judge for hearing afresh.

Argument on behalf of the learned counsel for the respondent-husband:

14. On the other hand, Mr. Kripa Shankar Nanda, learned counsel for the respondent/husband has taken the following grounds in defending the judgment impugned:

- (i) The ground has been taken that the appellant-wife has separated from the respondent-husband of her own without any reason and, as such, she has acted cruelty upon him, hence, it cannot be said that the judgment suffers from an error.
- (ii) The argument has been advanced that it is admitted by the respondent-wife that Dharmveer is her Facebook friend with whom there was chatting message in between them which clearly shows that she was having an illicit relation with him and, as such, the learned Family Judge has not erred by holding that the respondent intentionally concealed the fact of her relation with said Dharmveer.
- (iii) The learned Family Judge after taking into consideration the evidence on record which was recorded in favour of the petitioner-husband and based upon the same, the ground of cruelty has been found to be there and on account of the aforesaid evidence the consideration has been given by the learned Family Judge holding the marriage to be irretrievable and if in that premise, the decree of divorce has been passed, the same cannot be said to be suffer from any error.

15. Learned counsel for the petitioner-husband, based upon the aforesaid ground, has submitted that the instant appeal therefore needs to be dismissed.

Analysis:

16. We have heard the learned counsel for the parties as also the finding recorded by the learned Family Judge in the impugned judgment as also the record of the learned Family Judge.

17. After going through the pleadings made available in the plaint as well in the written statement, the following issues have been framed by the learned Family Judge for its consideration which reads as under:

(i) *Whether the suit is maintainable in its present form?*

(ii) *Whether there is any cause of action for the suit?*

(iii) *Whether the respondent Payal Sahoo has committed physical and mental cruelty with her husband Sohan Lal Shah by leaving her matrimonial home without the consent of her husband and started living relationship with Dharambir at Raurkela?*

(iv) *Whether the petitioner is entitled any other relief on the basis of pleading?*

18. The issue pertaining to ground for divorce is by formulating a specific issue “*Whether the respondent Payal Sahoo has committed physical and mental cruelty with her husband Sohan Lal Shah by leaving her matrimonial home without the consent of her husband and started living relationship with Dharambir at Raurkela?*” as issue no.(iii).

19. The learned Family Judge has considered the evidence adduced on behalf of the parties for proper adjudication of the lis.

20. This Court in order to appreciate the aforesaid rival submission before entering into the legality and propriety of the impugned judgment needs to discuss herein the relevant part of the evidences adduced on behalf of the parties wherein the element of cruelty has been shown by the respondent/husband as also the evidence adduced on behalf of the appellant/wife wherein the allegation of cruelty has been denied.
21. Altogether four witnesses have been examined on behalf of the respondent/petitioner-husband including, Sohan Lal Shah, the petitioner himself, who has been examined as P.W.1; Vikash Shah as P.W.2; Sunil Kumar Khowala as P.W.3 and; Rajesh Lal Shah has been examined as P.W.-4.
22. The petitioner-husband has produced some documents in support of his contention which were exhibited during the trial which are as under:
- (i) Ext-1:- Original receiving application dated 15.01.2023 addressed to officer-in-charge Chakradharpur P.S. (Two Sheets).
 - (ii) Ext.1/1-C.C of decree dated 09.12.2016 passed in O.S No.68/2015.
23. While on the other hand, the respondent-wife has also examined two witnesses including herself as RW-1 and R.W-2 is Kusum Prasad Sahu, who is the mother of the respondent.
24. In support of his case, P.W.-1 Sohan Lal Shah (Petitioner) has deposed that he has filed the instant suit for divorce against his wife. His marriage was solemnized on 08.02.2019 by Hindu rites and rituals at Rajasthan Bhawan, Jamshedpur. After marriage both arrived to his house at Chakradharpur on 09.02.2019 and their marriage was consummated. No

issue was born out of their wedlock. At the time of marriage, he and his family members gifted one golden neck-less, one diamond ring, one golden ring, one set of golden ears tops, one set of Jhumka, two pieces golden bangles, one gold Mangalsutra, one set silver anklet (Payal), one mobile worth of Rs. 12,000/-, one golden nose-pin and cloths worth of Rs. 95,000/- and the entire gifted items are with his wife Payal Sahoo. The witness further deposed that initially, their relations were good but later on, his wife did not love him as well as did not talk with him and used to torture him. The witness also deposed that he has filed Matrimonial Suit No. 26/2020 & 28/2021 against his wife. His wife had also filed a maintenance case against him bearing O.M.C. No. 5/2022, in which the matter was amicably resolved and both parties started residing in the rented house of Balkishan Sharma. After compromise, the behavior of his wife was good for some days but gradually, she started torturing physical and mental with him. His wife used to push from bed at the time of sleeping. His wife used to say that Dharamveer is her boyfriend and she will reside with him. The witness further deposed that when he checked the mobile his wife, he found that he (Dharamveer) used to send false messages and wrong videos and it came to his knowledge that the relation of chat and has filed in Court. The mobile number of Dharamveer is xxxxx547648. The witness further deposed that when he objected and forbid to his wife not to talk with Dharamveer then she replied that she will reside with him and she will implicate him (husband) in a false case. The witness further deposed that he had given information to police station on 15.01.2023 and 05.04.2023. The witness deposed that his wife told on 31.12.2022 that she will celebrate New Year Party with

Dharamveer, so he objected, but she started quarreling with him and on 03.01.2023, she went to Raurkela without informing him. Now, there is no possibility to lead conjugal life with his wife. The marital bond has been irretrievably broken down. His wife does not permit him to make physical relation. The witness identified the receipt copy of Letter dated 15.01.2023, which was given to Station Officer, Chakradharpur, which has been marked as Ext.-1. The witness also identified the receipt copy of application dated 12.04.2023, which was given to Station House Officer, Chakradharpur which has been marked as Ext.-2. The witness also identified five photographs in which his wife has worn the Jeweleries. The photographs have been identified as Mark-X to X/4. The witness further deposed that he has also filed black colour pen-drive, in which it has been recorded that his wife used to steal money from his pocket. He demanded the C.D.R. of Dharamveer and his wife but police station refused to give the details of calling. The witness denied that he used to commit torture to his wife. The witness denied that it is wrong to say that he does not want to born child from his wife. The witness denied that he did not permit his wife to enter into her matrimonial home on 05.04.2023.

25. During cross-examination, PW1 had deposed in para-43 that he had never gone to his *Sasural* with his wife. The witness deposed in para-46 that he never went outside with his wife. The witness deposed at para-53 that police did not make any inquiry on the basis of application dated 15.01.2023 (Ext.-1) and did not register it in station diary. He has deposed in para-54 that neither police registered any case in station-diary nor investigate the case in the light of his application dated 12.04.2023

(Ext.-2). The witness deposed in para- 60 that it is not true that no one contains name as Dharamveer. The witness admitted in para-68 that his wife had come to Chakradharpur on 05.04.2023 and went to rented house but it was locked and at that time, he was at his shop. The witness deposed in para-80 that he does not want to keep his wife in present situation and he wants divorce from his wife as she wants to reside with Dharamveer.

26. P.W.-2 Vikash Shah has deposed that petitioner Sohan Lal Shah is his uncle. The marriage of Sohan Lal Shah was solemnized with Payal Sahoo according to Hindu rites and rituals. There is no issue out of their wedlock. At the time of marriage, golden and silver ornaments were gifted to her and the entire ornaments were taken by his aunt and proceeded to Raurkela. After marriage, Payal Sahoo had been living with them. Initially, the behavior of Payal Sahoo was good but when she went to Raurkela, thereafter, her behavior was changed towards his uncle. The witness further deposed that as per Courts order, his uncle was residing with aunty Payal in a rented house but his aunt used to threaten his uncle to implicate in false case. On 05.04.2023 while he was at his shop, Sohan Lal Shah arrived to his shop at 2:00 PM and told that his wife/respondent is trying to enter into his house forcefully. His uncle was not permitting his aunt to enter into the house as his aunt has illicit relation with Dharamveer. Presently, the marital status in between his uncle and aunt has been completely broken down. There is no possibility to reside together, therefore, his uncle has filed instant suit for divorce.

During cross-examination, PW2 has deposed in para-14 that he does not know Dharamveer. His uncle told him about the relation of his aunt with Dharamveer. The witness deposed in para-16 that his aunt

(respondent herein) arrived at her showroom on 05.04.2023 and threatened that she will implicate the entire family in false case. The witness deposed in para-18 that his aunt has not filed any case against him and his parents.

27. P.W.-3 Sunil Kumar Khowala has deposed that the marriage of Sohan Lal Shah and Payal Sahoo was solemnized on 08.02.2019 at Rajasthan Bhawan, Jamshedpur. He was also present there. Initial talking of marriage was performed in his presence at Karni Mandir, Chaibasa. At the time of marriage, the family members of Sohan Lal Shah had gifted golden ornaments, diamond ring and cloths to Payal Sahoo. She resided 15 days at her matrimonial home, thereafter, proceeded for Raurkela along with her ornaments. After negotiation and compromise made before Court, both Sohan Lal Shah and his wife had been living in rented house since 13.04.2022 at Thana Road, Chakradharpur. Sohan Lal told in the month of December 2022 and January 2023 that his wife is not behaving well with him. She does not provide food to Sohan Lal Shah and used to take money from his pocket. The witness further deposed that Payal Sahoo has relation with Dharamveer and she used to say that she will reside with Dharamveer.

During cross-examination, PW3 has admitted that Sohan Lal Shah (the petitioner) is his *Saala* (brother-in-law).

28. P.W.-4 Rajesh Lal Shah deposed that Sohan Lal Shah is his younger brother. The marriage of Sohan Lal Shah was solemnized with Payal Sahoo. At the time of marriage, golden ornaments were given to Payal Sahoo which is still remain with her. After compromise in Court, his

brother took his wife and had been living in a rented house at Thana Road, Chakradharpur. The wife of his brother (Respondent) used to misbehave with Sohan Lal Shah and also used to torture him. The wife of Sohan Lal Shah used to say that she has illicit relation with Dharamveer and she will reside with him. On 03.01.2023, Payal Sahoo quarreled with Sohan Lal Shah and told that she will reside with Dharamveer, Sohan Lal Shah denied but she left her house without the consent of his brother Sohan Lal Shah and proceeded for Raurkela. Payal Sahoo committed torture to the extreme level so it is impossible to lead conjugal life with Payal Sahoo.

During his cross-examination, PW4 has deposed in para-9 that the occurrence was of dated 03.01.2023 which did not occur in his presence. The witness also deposed in para-10 that he does not know Dharamveer. The witness had deposed in para-15 that it is true that prior to filing case there was no family meeting was convened in regard to matrimonial disputes arose in between the petitioner and the respondent.

29. On the other hand, R.W.-1 Payal Sahoo @ Payal Gupta @ Payal Shah deposed that the instant suit has been filed by her husband for divorce. Her husband has alleged that he was committed cruelty by her. Her marriage was solemnized on 08.02.2019 by Hindu rites and rituals at Bistupur, Jamshedpur. She arrived to her matrimonial home on 09.02.2019 at Chakradharpur. She had come to her matrimonial home with some household articles but the furniture and other items were remained at her parental home. The witness further deposed that one day, she went for bath then her Jethani (Sister-in-law) put off her entire it would be with mother-in-law. She stayed 15 days at her matrimonial

home and on 24.02.2019, her elder brother arrived to her matrimonial home and took her to Raurkela. The witness further deposed that thereafter she did not go to her matrimonial home as none came to take her. When her husband filed a case for restitution of conjugal right in the year 2022, then she came to her matrimonial home. The witness further deposed that it was resolved with consent that both husband and wife shall reside together, therefore, she went to her matrimonial home. Her husband kept her in a rented house in spite of matrimonial home where necessary items were made available. Her husband also lived with her. She went to her parental home on 18.05.2022 and returned with all domestic household articles on 06.06.2022. She stayed till 03.01.2023 at her matrimonial home. She went to her parental home at Raurkela on 03.01.2023 and returned to her matrimonial home on 05.04.2023. The witness deposed that she was willing to come at her matrimonial home on 13.03.2023 but her husband informed her that someone has died in his family, therefore, don't come so she came to her matrimonial home on 05.04.2023. She returned to rented house prior to that she went to Pawan Chawk, Chakradharpur to take key but her husband replied that wait for some time and he will give key but she waited from 1:00 p.m. to 3.30 p.m. Her husband and Vikash arrived there and started abusing and clearly told that they will not keep her. Thereafter, she went to T.V. showroom where she met with Vikash Shah, who told that uncle has gone to Chaibasa and Vikash Shah did not permit her to enter into the house (Matrimonial Home). She went to police station. Her husband was called by police. Her husband arrived at 9.00 p.m. till then she was sitting in Thana premises, her husband told in presence of police that he will not keep her. She

requested before police to open the door but police did not help her, as a result, she return to Raurkela in night. She went to Sector-4 police station Raurkela where her husband was called but did not appear there. The witness further deposed that she never committed any cruelty with her husband and she wants to live with her husband. She has not filed any criminal case against her husband and she has not filed any case for maintenance also. Her husband has filed false case against her and she has not entitled relief as claimed by him. The witness deposed that the saying of her husband that she had gone to celebrate New Year Party with Dharamveer on 31.12.2022 is wrong. Dharamveer is her facebook friend but she never meets with him.

During her cross-examination, the witness deposed in para-22 that she has not filed any document which could establish that she had filed a petition before Mahila Thana, Raurkela for calling her husband. The witness deposed in para-23 that she has not filed any paper before Chakradharpur police station on 05.04.2023. The witness deposed in para-27 that she has completed M.C.A. and B.Ed course. The witness further deposed in para-28 that it is wrong to say that after 15 days of marriage, she returned to her parental home at Raurkela along with all ornaments and her ornaments has been kept at Raurkela till date. The witness deposed in para-33 that her facebook friend had not sent message to her as (I Love You) but once he sent a message (Thank You Meri Jaan) and it was objected by her.

30. R.W.-2 Kusum Prasad Sahu (Mother of respondent) deposed that the instant suit has been filed by her 'Damad' (Son-in-law) against her

daughter for getting divorce. The marriage of her daughter was solemnized on 08.02.2019 at Rajasthan Bhawan, Jamshedpur. After marriage, her daughter went to her matrimonial home at Chakradharpur. She has further stated that her son-in-law had a joint business. The witness further deposed that she had gifted one golden chain, one golden ring, one Titan Watch and Rs. 51,000/- cash for cloths and Rs. 35,000/- for the cloths of family members. All the household articles were also given at the time of marriage. She had also gifted golden ornaments to her daughter. This witness further deposed that her daughter was beaten on 05.04.2023 and since then her daughter is residing at her parental home. The witness further deposed that she got treatment on 10.01.2023. City-scan was also made. Thereafter, she also gets treatment on 20.01.2023, 14.02.2023 and 03.03.2023. The witness deposed that her daughter arrived to her parental home on 03.01.2023 after getting information about her disease (P.W.-2). There is no issue out of the wedlock of Sohan Lal Sahu and Payal Sahoo. She does not want divorce in between her daughter and son-in-law.

During cross-examination, RW2 has deposed in para-21 that her daughter Payal Sahoo never told her that Dharamveer is her facebook friend. The witness denied in para-24 that her daughter has filed a suit for getting family property. The witness deposed in para-27 that her daughter reached Raurkela on 05.04.2023 at 10.30 PM. The witness denied in para-28 that her daughter reached Raurkela on 06.04.2023 in spite of 05.04.2023. The witness deposed that it is wrong to say that her daughter committed cruelty with her husband and Sohan Lal has no alternative to take divorce.

31. On the basis of the evidence led by both the parties the learned Court has passed the decree of divorce by taking into consideration that there is no reasonable cause to the appellant-wife to live separately. The learned Family Judge has also come to the conclusion that there is irretrievable breakdown of marriage and because of such breakdown of marriage, the marriage between the parties is beyond repair and no useful purpose will be served by keeping such a marriage alive.

32. The aforesaid impugned judgment is under challenge in this appeal.

33. It needs to refer herein that since appellate jurisdiction has been invoked herein, therefore, before entering into merit of the case, at this juncture it would be purposeful to discuss the appellate jurisdiction of the High Court.

34. It also needs to refer herein that under section 7 of the Family Courts Act, the Family Court shall have an exercise all the jurisdiction exercisable by any District Court or any Sub- ordinate Civil Court under any law for the time being in force in respect of suits and proceedings of the nature which are described in the explanation to section 7(1).

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

36. The law is well settled that the High Court in a First Appeal can examine every question of law and fact which arises in the facts of the

case and has powers to affirm, reverse or modify the judgment under question.

37. In "*Jagdish Singh v. Madhuri Devi*" (2008) 10 SCC 497 the Hon'ble Apex Court observed that it is lawful for the High Court acting as the First Appellate Court to enter into not only questions of law but questions of fact as well and the appellate Court therefore can reappraise, reappreciate and review the entire evidence and can come to its own conclusion. For ready reference, the relevant paragraph of the said judgment is being quoted as under:

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

38. In the backdrop of the aforesaid settled position of law, now this Court is re-adverting to the factual aspect of the case. Herein the fact about filing of suit on the ground of cruelty is admitted one and the petitioner-husband (respondent herein) has tried to establish the element of cruelty upon him at the hands of the respondent-wife (appellant herein).

39. The respondent husband all along has alleged the issue of cruelty which he was subjecting to by his wife and in order to establish the same the evidences has been laid before the learned Family Court as has been referred hereinabove.

40. Herein, it has been urged by learned counsel for the appellant that although the learned Family Judge formulated four issues, the primary

issue being cruelty as a ground for divorce, none of the issues have been answered in accordance with law. Instead, the Family Court has selectively relied upon the statement recorded in the evidence adduced on behalf of the respondent-husband and, on that basis alone, proceeded to hold that the marriage has irretrievably broken down. Such reliance, without proper issue-wise adjudication, and the consequent use of irretrievable breakdown as a ground for granting divorce, is manifestly perverse and unsustainable in the eyes of law.

41. This Court, while appreciating the argument advanced on behalf of the appellant-wife on the issue of perversity, needs to refer herein the interpretation of the word “perverse” as has been interpreted by the Hon'ble Apex Court which means that there is no evidence or erroneous consideration of the evidence.
42. The word ‘perverse’ has been interpreted by the Hon'ble Apex Court which means that there is no evidence or erroneous consideration of the evidence. The Hon'ble Apex Court in *Arulvelu and Anr. vs. State [Represented by the Public Prosecutor] and Anr., (2009) 10 SCC 206* while elaborately discussing the word perverse has held that it is, no doubt, true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law. Relevant paragraphs, i.e., paras-24, 25, 26 and 27 of the said judgment reads as under:

“24. The expression “perverse” has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court observed that the expression “perverse” means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.

25. In Parry's (Calcutta) Employees' Union v. Parry & Co. Ltd. [AIR 1966 Cal 31] the Court observed that “perverse finding” means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber & Plastics v. CCE [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.

26. In M.S. Narayanagouda v. Girijamma [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough [(1878) 1 LR 1r 331] the Court observed that a “perverse verdict” may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In Godfrey v. Godfrey [106 NW 814] the Court defined “perverse” as turned the wrong way, not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.

27. The expression “perverse” has been defined by various dictionaries in the following manner:

1. Oxford Advanced Learner's Dictionary of Current English, 6th Edn.

“Perverse.—Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable.”

2. Longman Dictionary of Contemporary English, International Edn.

Perverse.—Deliberately departing from what is normal and reasonable.

3. The New Oxford Dictionary of English, 1998 Edn.

Perverse.—Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.

4. The New Lexicon Webster's Dictionary of the English Language (Deluxe Encyclopedic Edn.)

Perverse.—Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.

5. Stroud's Judicial Dictionary of Words & Phrases, 4th Edn.

“Perverse.—A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.”

43. Since the principal ground urged before the learned Family Court was cruelty, and the decree of dissolution has been passed on that basis, it becomes imperative to examine the legal constituents of cruelty.

44. The concept of cruelty, as envisaged under matrimonial law, encompasses both physical and mental dimensions, requiring cogent evidence of conduct so grave and weighty as to render cohabitation insufferable. Therefore, before affirming dissolution on the ground of cruelty, the Court is duty-bound to assess whether the acts alleged and proved rise to the threshold contemplated by law.

45. It needs to refer herein the definition of ‘*cruelty*’ as has been defined by Hon’ble Apex in the judgment rendered in ***Dr. N.G. Dastane Vs. Mrs. S. Dastane [(1975) 2 SCC 326]***, wherein it has been held that the Court is to enquire as to whether the charge as cruelty, is of such a character, as to cause in the mind of the petitioner, a reasonable apprehension that, it will be harmful or injurious for him to live with the respondent.

46. The cruelty has also been defined in the case of ***Shobha Rani Vs. Madhukar Reddi [(1988) 1 SCC 105]***, wherein the wife alleged that the husband and his parents demanded dowry. The Hon’ble Apex Court emphasized that “cruelty” can have no fixed definition.

47. According to the Hon’ble Apex Court, “cruelty” is the “conduct in relation to or in respect of matrimonial conduct in respect of matrimonial duties and obligations”. It is the conduct which adversely affects the spouse. Such cruelty can be either “mental” or “physical”, intentional or unintentional. For example, unintentionally waking your spouse up in the middle of the night may be mental cruelty; intention is not an essential

element of cruelty but it may be present. Physical cruelty is less ambiguous and more “a question of fact and degree.”

48. The Hon’ble Apex Court has further observed therein that while dealing with such complaints of cruelty that it is important for the Court to not search for a standard in life, since cruelty in one case may not be cruelty in another case. What must be considered include the kind of life the parties are used to, “their economic and social conditions”, and the “culture and human values to which they attach importance.”

49. The nature of allegations need not only be illegal conduct such as asking for dowry. Making allegations against the spouse in the written statement filed before the court in judicial proceedings may also be held to constitute cruelty.

50. In *V. Bhagat vs. D. Bhagat (Mrs.)*, (1994)1 SCC 337, the wife alleged in her written statement that her husband was suffering from “mental problems and paranoid disorder”. The wife’s lawyer also levelled allegations of “lunacy” and “insanity” against the husband and his family while he was conducting cross-examination. The Hon’ble Apex Court held these allegations against the husband to constitute “cruelty”.

51. In *Vijay kumar Ramchandra Bhate v. Neela Vijay Kumar Bhate*, (2003)6 SCC 334 the Hon’ble Apex Court has observed by taking into consideration the allegations levelled by the husband in his written statement that his wife was “unchaste” and had indecent familiarity with a person outside wedlock and that his wife was having an extramarital affair. These allegations, given the context of an educated Indian woman, were held to constitute “cruelty” itself.

52. The Hon'ble Apex Court in *Joydeep Majumdar v. Bharti Jaiswal Majumdar*, (2021) 3 SCC 742, has been pleased to observe that while judging whether the conduct is cruel or not, what has to be seen is whether that conduct, which is sustained over a period of time, renders the life of the spouse so miserable as to make it unreasonable to make one live with the other. The conduct may take the form of abusive or humiliating treatment, causing mental pain and anguish, torturing the spouse, etc. The conduct complained of must be "grave" and "weighty" and trivial irritations and normal wear and tear of marriage would not constitute mental cruelty as a ground for divorce.

53. "Cruelty" has an inseparable nexus with human conduct and is always dependent on social strata or milieu to which parties belong, their ways of life, relationship, temperaments and emotions that are conditioned by their social status, reference be made to the judgment rendered by the Hon'ble Apex Court in the case *Vishwanath Agrawal v. Sarla Vishwanath Agrawal*, (2012) 7 SCC 288.

54. The Hon'ble Apex Court in the case of *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226 has observed that cruelty is evident where one spouse so treats other and manifests such feelings in other, as to cause reasonable apprehension in mind of other that it would be harmful or injurious to reside with other spouse and cruelty may be physical or mental. It has further been observed that staying together under the same roof is not a precondition for mental cruelty. Spouse can cause mental cruelty by his or her conduct even while he or she is not staying under the same roof.

55. In matrimonial relationship cruelty mean absence of mutual respect and understanding between spouses which embitters relationship. Sometimes it may take form of violence, or at times may just be an attitude or approach. Silence in some situations may also amount to cruelty reference be made to the case of ***Ravi Kumar v. Julmidevi, (2010) 4 SCC 476.***

56. For considering dissolution of marriage at instance of a spouse who alleges mental cruelty, result of such mental cruelty must be such that it is not possible to continue with matrimonial relationship reference may be taken from the judgment rendered by the Hon'ble Apex Court in the case of ***Joydeep Majumdar v. Bharti Jaiswal Majumdar, (2021) 3 SCC 742.***

57. Further the word 'cruelty' is used in relation to human conduct or human behaviour. It is the conduct in relation to or in respect of matrimonial duties and obligations. It is a course of conduct and one which is adversely affecting the other. The cruelty may be mental or physical, intentional or unintentional. There may be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect on the other spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted, reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Vinita Saxena v. Pankaj Pandit, (2006) 3 SCC 778.***

58. Further, in the case of ***Manish Tyagi v. Deepak Kumar, (2010) 4 SCC 339*** the Hon'ble Apex Court has categorically observed that to constitute 'cruelty', it is enough that conduct of one of parties is so abnormal and below accepted norm that another spouse could not

reasonable be expected to put up with it. Conduct is no longer required to be so atrociously abominable which would cause reasonable apprehension that it would be harmful or injurious to continue cohabitation with another spouse. Hence, it is not necessary to establish physical violence. Continued ill-treatment, cessation of marital intercourse, studied neglect, indifference may lead to inference of cruelty.

59. The word “cruelty” under Section 13(1) (i-a) of the Act has got no static connotation, and therefore, gives a very wide discretion to the Court to apply it liberally and contextually. What is cruelty in one case may not be the same for another and has to be applied from person to person while taking note of the attending circumstances. Harm or injury to health, reputation, the working-career or the like, would be important considerations in determining whether the conduct of the defending spouse amounts to cruelty. It has to be shown that the defending spouse has treated him with cruelty to cause reasonable apprehension in his/her mind that it will be harmful or injurious to live with the contesting spouse.

60. This Court, based upon the aforesaid discussions on the issue of cruelty, has gone through the testimony of witnesses.

61. It is evident from the impugned order that the allegations specific to the ground of alleged cruelty has been made by respondent/husband vide paras- 9, 10, 12, 13, 14, 15 and 16 of his petition/plaint. Starting with paras-9 of the petition/plaint, the respondent/petitioner-husband has alleged that appellant/respondent/wife had started to commit physical, mental and economic cruelties upon the petitioner. Several times, respondent pushed the petitioner from the bed, which cause pain to the

petitioner. The respondent also took money from the pocket of petitioner without his consent.

62. It has further been alleged the appellant/respondent/wife told to the petitioner/respondent/husband that she had a boyfriend. She regularly commented to petitioner by saying her relation with her boyfriend. After checking the mobile of the respondent/wife, the petitioner/husband came to know that she was chatting and talking with an unknown person, on mobile and the mobile number of said unknown person was xxxxxx7648. The petitioner told to the respondent that why she is making relation with the said person, then she said that she will do that.

63. It is further alleged that on 31.12.2022, the respondent quarreled with petitioner and told him that she will enjoy New Year 2023 with Dharmveer, but the petitioner opposed it, then on 03.01.2023, she left the house of the petitioner without his consent and told him that she is going to enjoy with Dharmveer at Rourkela and since then she is residing at Rourkela.

64. The aforesaid pleading has been taken into consideration by the learned Family Judge and it has been observed that “the respondent/wife initially denied any relationship with Dharmveer but during evidence admitted Dharmveer as her facebook friend and also admitted that he sent message like “*Thank You Meri Jan*” which is sufficient to presume that respondent Payal Sahoo was earlier known to Dharmveer and she intentionally concealed the fact at the time of filing written statement.

65. In the aforesaid context, it is pertinent to record that the instant case, though instituted by the petitioner before the learned Family Court

seeking dissolution of marriage on the ground of cruelty, reveals from the averments in the plaint that allegations of illicit relationship have been levelled against the appellant/wife, asserting that she was maintaining a relationship with another person; and it is upon such averments the learned Family Court proceeded to pass the order of dissolution of marriage.

66. From perusal of record as well as from relevant paragraph of the impugned judgment it is evident that the learned family Court while giving its finding on the point of illicit relationship alleged against wife, has totally ignored the testimony of the appellant wife who in her cross examination has categorically stated that Dharamveer is her facebook friend but she has never meet with him. She had further deposed in para-33 that her facebook friend had not sent message to her as (I Love You) but once he sent a message (Thank You Meri Jaan) and it was objected by her.

67. Further, it is pertinent to observe that the allegation that the appellant is residing with another person after deserting the respondent-husband has not been cogently proved. The very contents of the divorce petition do not disclose the exact identity or parentage of the person with whom the appellant is alleged to have maintained an illicit relationship. Moreover, the petition itself records that the relationship between the parties was initially cordial; however, beyond such assertion, no specific date, period, or occasion has been indicated to establish when the matrimonial bond deteriorated or when the alleged misconduct commenced.

68. Further, there was no cogent material to prove that the appellant/wife having illicit relation with some other person, on account of which she has

left the respondent/husband and a such the very allegation is merely a ballpark assessment of the respondent/husband.

69. Further since the finding of adultery would adversely affect the interest of adulterer, opportunity should be given to him to defend himself and to disprove the claim of adultery, the said adulterer should be arrayed in the proceedings which would help the court to effectively and completely adjudicate the controversy. Further, if an allegation is made by husband that is required to be proved by the husband by way of leading the evidence and that cannot be adjudicated effectively without making the adulterer as one of the parties.

70. The rationale behind this mandate, the Court said, is twofold. First, allegations of illicit relationship, if proved, entail serious civil consequences and stigma upon the alleged paramour. To record such findings without affording them a right of hearing would be contrary to the principle of *audi alteram partem*.

71. Second, the Family Court cannot effectively or fairly adjudicate the ground of illicit relationship without the presence of the alleged participant and since the allegations of adultery, by their very nature, touch upon the reputation and dignity of a third party, and therefore justice requires that such person be given a fair opportunity to defend themselves.

72. In the present case, since the finding of illicit relationship against the appellant/wife has been observed by the learned Family Court while disregarding the testimony of the appellant/wife as well as other evidence available on record, this Court is of the considered view that the conclusion reached by the learned Family Judge, holding that the

appellant/wife was maintaining an illicit relationship with another person, stands vitiated and is perverse in nature.

73. The learned Family Judge has further observed that the petitioner, in paragraph 25 of his deposition, alleged that his wife had taken money from his pocket in his absence.

74. Although the respondent denied this allegation in her written statement, she admitted in paragraph 40 of her cross-examination that on two occasions she had taken a nominal sum of Rs.10–20/- from her husband's pocket, explaining that there was no money in the house to purchase essential items such as *sag* and *Murhi*.

75. Further, the respondent-wife has categorically deposed in her evidence that she has taken out Rs.10-20/- twice from the pocket of her husband as there was no money in the house for purchasing *Sag* and *Murhi* which clearly shows that it was the petitioner-husband who has not given any penny to his wife and deprived her to purchase things for daily need even for purchasing *Sag* and *Murhi*. Thus, he has acted cruelty upon the respondent-wife by not providing any penny for purchasing things for daily need.

76. Further, this Court is of the considered view that such allegations are commonplace in the domestic sphere between husband and wife. From the aforesaid, it is evident that while the learned Family Judge considered the evidence relating to cruelty and the alleged act of theft by the wife, he failed to take into account the underlying reason behind such act, namely, the necessity to meet household requirements, which detracts from any inference of cruelty or criminality.

77. It has also come in evidence that the petitioner-husband has admitted that when his wife (appellant herein) come back to his rented house to live there he locked the room and not permitted her to enter into room whereafter she was compelled to remain outside the room at night and thereafter she went to police station to get help but there also she could not get the help of police by saying that it was family affair between the parties and there were already court cases between the parties.

78. It has also come in evidence that the appellant-wife has not been allowed to enter into the rented house. Thereafter, being compelled the respondent went to Chakradharpur Railway Station to take the train for Raurkella. On reaching her parental house at Raurkella in the same night, she narrated the whole matter to her mother and brother and subsequently, her family members initiated reconciliatory efforts to settle the dispute between them but the petitioner did not incline for any settlement. Thus, it shows that it was the respondent-husband who acted cruelty upon the appellant-wife.

79. It has further come in the evidence that the respondent/husband has admitted that he never went to *maike* of this appellant/wife to bring her back which clearly shows that it was the petitioner-husband who has deserted the respondent-wife and compelled her to live in her *maike*.

80. It is evident from record that the appellant/wife has expressed his desire before the learned Family Court that she wants to live with her husband. Further, from record, it is evident that the appellant/wife has not filed any criminal case against her respondent husband and she has not filed any case for maintenance also.

81. From the foregoing discussions, it is manifest that the learned Family Judge has failed to take into account the aforesaid factual matrix and the settled principles of law adverted to hereinabove. The Court has, instead, magnified trivial incidents amounting to mere ordinary wear and tear of matrimonial life into grounds of dissolution, thereby committing a serious error in appreciation of evidence and misapplication of law.

82. This Court after discussing the aforesaid factual aspect along with the legal position and adverting to the consideration made by the learned Family Judge in the impugned judgment has found therefrom that the issue of element of cruelty has not well been considered by the learned Family Judge.

83. Upon consideration of the evidence, it is manifest that the learned Family Judge, while concluding dissolution of marriage, failed to appreciate that the respondent-husband miserably fell short of establishing the ground of cruelty against the appellant-wife. On the contrary, it is the respondent-husband who himself perpetrated cruelty upon the appellant-wife by casting aspersions of her having a boy-friend, namely one Dharmveer, without cogent proof.

84. This Court, on consideration of the finding arrived at by the learned Family Judge and based upon the aforesaid discussion, is of the view that the judgment and decree passed by the learned Family Judge is coming under the fold of the perversity, since, the conscious consideration has not been made of the evidences, both ocular and documentary, as discussed hereinabove.

85. This Court, in view of the aforesaid, is of the view that the judgment dated 23.12.2023 and the decree sealed and signed on 05.01.2024 passed

in Original Suit No.34 of 2023 by the learned Family Judge needs interference.

86. Accordingly, the judgment dated 23.12.2023 and the decree sealed and signed on 05.01.2024 passed in Original Suit No.34 of 2023 is hereby quashed and set aside.

87. In the result, the instant appeal stands allowed.

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

(Sujit Narayan Prasad, J.)

I Agree.

(Sanjay Prasad, J.)

(Sanjay Prasad, J.)

Sudhir
Jharkhand High Court,
Dated: 14/07/2026
AFR

Uploaded on 15/07//2026.