

IN THE HIGH COURT OF JHARKHAND AT RANCHI
First Appeal No.27 of 2011

 Manoj Kumar Jain @ Manoj Jain son of Ram Gopal Jain,
 resident of Kasim Bazar, Rajmahal, Sahibganj, P.O. and
 P.S. Sahibganj, District Sahibganj, Jharkhand.

----- Appellant

Versus

Chandni Jain wife of Manoj Kumar Jain @ Manoj Jain,
 daughter of Ajay Chirania, resident of Kasim Bazar,
 Rajmahal, Sahibganj, P.O. and P.S. Rajmahal, District
 Sahibganj, Jharkhand.

----- Respondent

CORAM:HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Appellant : Mr. Mahesh Tewari, Advocate

For the Respondent: Mr. Raja Ravi Shekhar Singh, Adv.

JUDGMENT

Per R. Mukhopadhyay, J.

19/03.11.2025 Heard Mr. Mahesh Tewari, learned counsel for the appellant and Mr. Raja Ravi Shekhar Singh, learned counsel appearing for the respondent.

2. This appeal is directed against the judgment and decree dated 09-03-2011 (decree signed on 22.03.2011) passed by Shri Bhola Prasad, learned Principal Judge, Family Court, Sahibganj in Matrimonial Suit No. 43 of 2009 whereby and where under the suit preferred by the appellant under Section 9 of the Hindu Marriage Act has been dismissed.

3. For the sake of convenience, both parties are referred to in this judgment as per their status before the trial court.

4. The petitioner/husband (appellant herein) had filed a suit under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights with the respondent (respondent herein also) in which it has been stated that the marriage of the petitioner was solemnized with the respondent on 29.11.2008 at Rajmahal according to Hindu rites and customs. The marriage was an ideal marriage as the entire cost of the marriage was

borne by the petitioner and no dowry was accepted by the petitioner from the parents of the respondent. The respondent after marriage was brought to her matrimonial house where they stayed for a week and the marriage was consummated. Thereafter the couple left for Kolkata where the petitioner was working where they stayed peacefully and after a month the respondent returned to her parents' house where she stayed for two months and during this period the petitioner had regularly visited the respondent and also gave her money for her maintenance. It has been stated that the respondent was once again taken to Kolkata where the parents and brother of the respondent started making frequent visits and poisoned the mind of the respondent. The respondent was allowed by the petitioner to visit her paternal house on the insistence of the respondent and she stayed for three months disassociating herself from the company of the petitioner without any reasonable cause. On 17.06.2009 on the insistence of the parents and brother of the respondent, the petitioner and the respondent came to Rajmahal where they stayed in the house of the petitioner happily till 26.06.2009 after which the respondent was taken away by her parents with an assurance that she would be sent back on 30.06.2009. When the petitioner went to the house of the respondent on 30.06.2009 for taking the Bidai of the respondent, he came to know that a false case has been instituted against the petitioner and a demand of Rs. 2 lakhs was made and if such demand is not fulfilled a threat was extended that the petitioner will be sent to jail. The parents of the respondent were intending to get the respondent married off to a wealthy person after obtaining divorce from the petitioner. The petitioner has given an undertaking that he will keep the respondent with him with full honour and dignity.

5. On being noticed, the respondent had appeared and filed a written statement in which the allegations made by the petitioner has been denied. The age difference between the

petitioner and the respondent has created problems in her marital life. The petitioner habitually intakes liquor and compels the respondent to also consume liquor. The respondent feels a threat to her life if she stays with the petitioner. It has been stated that the petitioner had misbehaved with the respondent on several occasions and has also compelled her to smoke cigarette and drink liquor. The petitioner had taken the respondent to Barakpur court on 19.06.2009 and compelled the respondent to sign on 4/5 written papers in which it was stated that the petitioner has divorced the respondent.

6. Based on the pleadings of the parties, the following issues have been framed for adjudication:-

- (i) Is the suit as framed maintainable?
- (ii) Has the defendant wife deserted the plaintiff husband for any valid cause?
- (iii) Is the plaintiff entitled for any relief or reliefs as claimed for in the petition?

7. The petitioner has examined around 8 witnesses on his behalf including himself while the respondent has examined 3 witnesses including herself.

8. Both the parties and their witnesses have basically reiterated what has been stated by them in their respective applications.

9. It has been submitted by the learned counsel for the petitioner/appellant that the respondent has disassociated herself from the company of the petitioner without any reasonable cause and despite the best efforts made by the petitioner to restore his marital life, the respondent without any valid reason has refused to accede to such requests. It has been submitted that the allegation of torture is falsified by the fact that in the case under Section 498A IPC instituted by the respondent, the learned trial court while granting bail has observed that no case under Section 498A IPC is made out against the petitioner. It was the petitioner who had borne the

entire expenses of the marriage and had also not taken any dowry from the parents of the respondent. The marriage was solemnized with the consent of the respondent and her parents. It has been submitted that the learned trial court has erroneously dismissed the suit on frivolous grounds without taking into consideration the grounds put forward by the petitioner.

10. The learned counsel for the respondent on the other hand has stated that innumerable instances have been highlighted by the respondent which would indicate the manner of torture meted out to the respondent and the institution of a case under section 498A IPC by the respondent against the petitioner itself is a pointer to the impossibility of the respondent to stay with the petitioner.

11. We have heard the learned counsel for the respective parties and have also perused the trial court records.

12. The evidence of the witnesses indicate that at the initial stage of the marriage the relationship between the petitioner and the respondent was blissful and cordial but the peace prevailing was only for a short span of time as the respondent has reflected on various instances which according to her made her stay with the petitioner undesirable and difficult. As per the respondent she was compelled to drink liquor and smoke cigarette and was also tortured and misbehaved with by the petitioner. The petitioner, on the other hand, has tried to present a picture that he was all along willing to keep the respondent with him with full honour and dignity and attempts were made by him to reconcile the dispute and restore the marital relationship between the petitioner and the respondent. The respondent and the petitioner are staying separate since 26th June 2009 and the refusal on the part of the respondent to resume her marital life with the petitioner despite such long lapse of time would itself be an indicator of the fractured and tumultuous relationship between them. The other

aspect of the case is the institution of a criminal case by the respondent under Section 498A IPC which furthermore cements the truthfulness of the allegations made by the respondent in the suit and gives validity to the act of the respondent of staying separate from the petitioner. The learned trial court has given appropriate reasons while dismissing the suit preferred by the petitioner / appellant and having found no reason to conclude otherwise, we hereby dismiss this appeal.

13. Pending interlocutory application, if any, stands closed.

(Rongon Mukhopadhyay, J.)

(Deepak Roshan, J.)

Dated: 3rd November 2025

Shamim/-

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