

IN THE HIGH COURT OF JHARKHAND AT RANCHI**F.A No. 01 of 2025**

Sarthak Upadhyay, age about 11 years, Son of Sri Sanjay Upadhyay represented through his natural mother and guardian Bandana Nayan, age about 34 years, W/o Sri Parth Sarthi Mishra, Resident of 392, Ward No.2, Opp. New Telephone Exch. Jhumri Telaiya, Ranchi Patna Road, P.O Jhumri Telaiya, P.S-Telaiya, District-Koderma

..... **Appellant/Plaintiff/Petitioner**

Versus

Sanjay Upadhyay, Son of Lalan Upadhyay, Resident of H. No.39B "D" Block, Gandhi Road, Begum Nagar (Baradih), P.O-Baradih Colony, PS-Jamshedpur, Dist-East Singhbhum Jharkhand at present Employee of Indian Army Force, Employee ID-JC-705312M, Nb Sub (Clk SD), Add. 159, General Hospital, Postal Index No.900345, C/o 56 Army Post Office

..... **Respondent**

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

For the Appellant : Mr. Amit Kumar Chaturvedi, Advocate
For the Respondent : Mr. Sanjay Kumar Pandey, Advocate

Order No.11/Dated: 10th November 2025

Per, Sujit Narayan Prasad, J.

1. Reference may be made to the order dated 14.08.2025.
2. This Court before considering the submission made on behalf of the appellant needs to refer herein the reason for passing the aforesaid order, for ready reference the same is being referred herein as:

"1. The appeal has been filed under Section 19(1) of the Family Court's Act, 1984 against order dated 16.08.2024 passed by learned Family Court, Koderma in Civil Miscellaneous Case No. 05 of 2024 whereby and whereunder the petition filed under Section 28A of the Hindu Marriage Act read with Section 18 of the Family Courts Act, 1984, seeking direction upon the father of the child (minor) to comply with the terms and conditions of the compromise based upon that a decree of divorce, was granted vide judgment dated 13.06.2019 passed in Original Suit No. 68 of 2018 while closing the proceeding instituted on the application filed under Section 13B of the Hindu Marriage Act, 1952, has been dismissed.

2. *The said petition has been rejected on the ground that the child (minor) was not party to the Original Suit No. 68 of 2018. However, at the moment, we are not going into the legality and propriety of the order for the reason that for a sum of Rs. 2,66,500/-, which is alleged to have accumulated on the basis of a*

direction to make payment of Rs. 7500/- per month in favour of son (minor), the appellant herein. It has also been contended that even the monthly maintenance amount to the tune of Rs. 7500/- is not being paid.

3. *This Court, therefore, is of the view that at the moment as per the direction passed by the learned Family Court, the same is to be complied with in letter and spirit. It is for the reason that the decree passed on the application filed under Section 13B, which carries in two parts. The first part is with respect to dissolution of marriage based upon the consent of the parties on the basis of certain terms and conditions, therefore, the part of the direction as contained in the judgment dated 13.06.2019 if has not been given effect to, then it is the accountability and responsibility of one of the parties, the husband, respondent herein, who is duty bound to comply the terms and conditions upon which the decree of divorce has been passed.*
4. *It needs to refer herein, when the matter has been taken up, Mr. Pandey, learned counsel for the respondent-husband on his own has agreed to make payment of arrears of amount as also the amount to be paid in favour of the child on month to month basis but this Court has asked him to have the instruction from his client, therefore, the matter has been passed over for few cases.*
5. *When the case has again been called out, Mr. Pandey, has again appeared having with the telephonic instruction of his client, the respondent herein. Mr. Pandey, on instruction of his client, who is working as Non-Commissioned Officer in the Indian Army, has submitted that the respondent is ready to disburse the arrears of amount to the tune of Rs.2,66,500/- as on date but since the respondent is also to take care of his parents, as such, he has made prayer for the disbursement of the entire amount of Rs.2,66,500/- in four installments.*
6. *Mr. Pandey has also been instructed that within 15 days from today, a sum of Rs.50,000/- shall be paid against the total arrear of Rs.2,66,500/-. It has been contended that the rest of the amount shall be paid in three equal installments at the interval of 15 days.*
7. *In view thereof, the entire amount, therefore, is to be paid within the period of two months from today.*
8. *So far as the current maintenance amount which has been directed to be paid by the learned Family Judge vide judgment dated 13.06.2019, which is to the tune of Rs.7,500/-, Mr. Pandey, on instruction of the respondent, has submitted that by the 10th of each month, the maintenance amount to the tune of Rs.7,500/- shall be paid positively.*
9. *This Court, considering the said submission made on behalf of the respondent, on instruction, as has been submitted at Bar by Mr. Pandey, the following directions are being passed :-*
 - I. *A sum of Rs.50,000/- shall be paid against the total arrear of Rs.2,66,500/- within a period of 15 days from today and the rest of the amount as accrued as arrears shall be paid in three equal installments at the interval of 15 days. The entire amount, therefore, is to be paid within the period of two months from today.*
 - II. *So far as the current maintenance amount, it shall be paid by the 10th of each month.*

- 10. It is made clear that the child, under the guardianship of his mother, will be at liberty to make application before this Court in case any of the undertakings furnished by the respondent before this Court will be flouted.*
- 11. If such situation will arise, then the Court may pass appropriate order to communicate the same to the employer of the respondent-husband.*
- 12. Let the matter be posed after four weeks, i.e., on 17.09.2025.”*

3. Mr. Amit Kumar Chaturvedi, the learned counsel appearing for the appellant has submitted that the amount in pursuance to the settlement arrived at although has been paid but the amount which was to be paid by the respondent from August, 2024 to July, 2025 has not been paid, however, the maintenance amount for the month of August, 2025 and September, 2025 have been paid.
4. It has been submitted that the appellant who is aged about 11 years is studying and, as such, due to the irregular payment of the said maintenance amount it quite impractical and impossible for the mother of the appellant to carry forward his education and even his maintenance for his upbringing. The respondent is working as a Naik Subedar in the Indian Army.
5. This Court is of the view that since the settlement has been arrived in between the mother of the appellant and the respondent but taking care of such situation, i.e., of non-payment of the amount as agreed, a liberty was given to the child, the appellant herein, to make an application before this Court in case of any of the undertaking furnished by the respondent before this Court will be flouted. However, the undertaking so furnished has been complied with but the same is not considered to be sufficient for the reason that the monthly payment of maintenance amount to the tune of Rs.7500/- is required to be paid regularly for better study of the son, the appellant herein, and for his proper upbringing.
6. This Court, therefore, is of the view that an order is to be passed giving liberty to the appellant through his mother that in case of non-payment of the maintenance amount on month to month basis, i.e., the 10th day of each month, then the direct correspondence is to be made to the competent authority/Company Commander of the respondent where the respondent is now posted and will be posted in future along with the

copy of the order passed by this Court dated 14.08.2025 along with the present order.

7. If such communication will be made to the concerned competent authority/Company Commander of the respondent having the administrative control, the competent authority of the Battalion will consider it positively and after deducting the maintenance amount of Rs.7,500/- per month which is to be deposited directly to the bank account of the mother of the appellant.
8. Such order is being passed with the trust that whenever such communication will be made, the competent authority being the public functionary will adhere strictly to the same. In addition thereto, a liberty is reserved with the appellant to make an application in case of non-compliance of the order passed by the competent authority, as directed above, for passing further necessary order in the present appeal.
9. In view thereof, the order dated 16.08.2024 passed in Civil Miscellaneous Case No.05 of 2024 by the learned Family Court, Koderma is hereby quashed and set aside.
10. With the aforesaid observation and direction, the present appeal being F.A 01 of 2025 stands disposed of.
11. Pending I.As, if any, stands disposed of.

(Sujit Narayan Prasad, J.)

(Pradeep Kumar Srivastava, J.)

Dated:10.11.2025
Sudhir
AFR