



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Civil Miscellaneous Appeal No. 1003/2019

Smt. Manju Devi W/o Vinod Kumar Soni D/o Lalit Kumar Soni,
B/c Soni R/o Village Didwana Tehsil Lalsot District Dausa (Raj)

----Appellant

Versus

Vinod Kumar Soni S/o Mahesh Kumar Soni Sunaliya, B/c Soni
R/o 21-A, Chitrakut Colony, Jhotwara Jaipur (Raj)

----Respondent

For Appellant(s)	:	Mr. Rajneesh Gupta Mr. Rahul Sharma Ms. Chanchal
For Respondent(s)	:	Mr. Vijay Singh Mr. Ritul Sharma

**HON'BLE MR. JUSTICE SUDESH BANSAL
HON'BLE MR. JUSTICE ANIL KUMAR UPMAN**

Judgment

16/02/2026

1. Appellant-wife is before us in this appeal, to assail the decree of divorce dated 25.01.2019 passed in favour of husband on his divorce petition bearing case No.2/2016 (CIS No.13/2016) by Additional District Judge, Lalsot, District Dausa.
2. Marriage between parties was solemnized on 30.11.2010 and out of this wedlock, a daughter born to wife on 24.01.2013. Thereafter, their matrimonial relations turned strained and wife filed a criminal case for the offence under Sections 498-A & 406 of IPC against her husband and left matrimonial home. Since 18.01.2016, wife is living separately from her husband and in the criminal case, husband has been acquitted vide judgment dated 27.02.2025.



3. In the evidence of parties, it has come on record that wife levelled allegations against her husband to have illicit and extra marital relationship with his *bhabhi* and such allegations were not proved. In the statement of wife (NAW-1), she clearly denied to return to matrimonial home to live with husband. In this backdrop of evidence, trial Court passed the decree of dissolution of marriage on the ground of cruelty and desertion in favour of husband.

4. Counsel for appellant-wife, during course of argument, pointed out that specific issues of cruelty and desertion were not framed by the trial Court and a general issue was framed hence the impugned judgment stands vulnerable.

5. In the light of argument of counsel for appellant, we considered the judgment and findings of Family Court. It is true that only a general issue has been framed by the trial Court but in the body of judgment, the points of cruelty and desertion have been considered in detail. In the divorce petition, pleadings to constitute grounds of cruelty and desertion were made and wife could understand the true nature of divorce petition that same has been filed on the grounds of cruelty and desertion and the averments of divorce petition were replied accordingly. Concededly, both parties also adduced their evidence with full awareness that the issues of cruelty and desertion are involved in this divorce petition. Hence not framing of specific issues, does not lead to any adversarial effect on the interest and right of appellant. As far as merits of findings of facts on the point of cruelty and desertion is concerned, no perversity, manifest



illegality or jurisdictional error has been pointed out, hence, warrant no interference in appeal.

Therefore, although we do not appreciate the practice of trial Court of not framing specific issues of cruelty and desertion, and deprecate this practice of trial Court but on merits do not find that any prejudice caused to wife, due to not framing of specific issues.

6. In addition to the findings of cruelty and desertion, in view of a subsequent fact that husband has been acquitted from the charges of offence under Sections 498-A & 406 of IPC, it is apparent that wife falsely implicated and prosecuted the husband in a criminal case. The Hon'ble Supreme Court in case of **Rani Narasimha Sastry Vs. Rani Suneela Rani [(2020) 18 SCC 247]**, held and observed that when a person undergoes a trial in which he is acquitted from allegation of offence under Section 498-A IPC, levelled by wife against the husband, it cannot be accepted that no cruelty has been meted out on the husband. The Hon'ble Supreme Court, finally granted a decree of divorce in favour of husband on the ground of cruelty.

Hence on this ground as well, the decree of divorce passed on the ground of cruelty deserves to be affirmed.

7. In respect of desertion, separation of parties for more than 2 years on the date of filing of divorce petition and the *animus deserendi* on the part of wife is well evident, since in her statements wife clearly denied to return back and categorically deposed that she does not wish to live with her husband and is not interested for restitution of Conjugal Rights.

8. In view of above, we do not find any merit in the appeal and the decree of divorce deserves to be affirmed.



9. During course of appeal, counsel for appellant invited the attention of this Court that daughter of parties, born on 24.01.2013 is minor and studying in Class-VIII. She is living with her mother. Learned counsel for wife submits that during course of pendency of divorce petition, the Family Court awarded *pendente lite* @ of Rs.3,000/- per month but after passing the decree of divorce, husband has stopped to pay such interim maintenance.

10. Counsel for appellant submits that an application under Section 24 of Hindu Marriage Act was filed in this appeal on 21.06.2019 which has not been decided but if this Hon'ble Court grants a permanent alimony to the tune of Rs.10,00,000/-, to wife and daughter, as a one time settlement, wife will not claim *pendente lite* maintenance under section 24 of Hindu Marriage Act, for the period of course of appeal.

11. Counsel for respondent-husband, having instructions from husband, states at bar that he is doing private job of goldsmith in the shop of his elder brother and husband does not have his own separate and independent business. He submits that husband hardly earns Rs.10,000/- per month and as per his financial capacity, he can pay only Rs.5,00,000/- as lump sum amount of permanent alimony to his wife and minor daughter, including the *pendente lite* maintenance, if any.

12. It is an established principle of law that the primary objective of granting permanent alimony is to ensure that the dependent spouse is not left without any support and means, after dissolution of marriage, but simultaneously it ought to be kept in mind that while protecting the interests of dependent spouse, other spouse may not be penalized by fixing an excessively exorbitant amount



of permanent alimony. A balanced approach is required to be adopted by the Court while determining the quantum of permanent alimony which should neither be too excessive nor unduly low. Recently Hon'ble Supreme Court in case of **Pravin Kumar Jain Vs. Anju Jain** reported in [(2025) 2 SCC 277], following criteria and factors, enunciated in the celebrated judgment in case of **Rajnesh Vs. Neha**, reported in [(2021) 2 SCC 32], which were also followed and reiterated by the Hon'ble Supreme Court in a subsequent case of **Kiran Jyot Maini Vs. Anish Pramod Patel** reported in [MANU/SC/0629/2024], categorically observed that there cannot be strict guidelines or a fixed formula for fixing the amount of permanent alimony, nevertheless, the Court needs to look into the following factors:-

- i. Status of the parties, social and financial.
- ii. Reasonable needs of the wife and the dependent children.
- iii. Parties' individual qualification and employment statuses.
- iv. Independent income or assets owned by the applicant.
- v. Standard of life enjoyed by the wife in the matrimonial home.
- vi. Any employment sacrifices made for the family responsibilities.
- vii. Reasonable litigation costs for a non-working wife.
- viii. Financial capacity of the husband, his income, maintenance obligations and liabilities."

It was further observed by the Hon'ble Supreme Court that *"these are only guidelines and not a straitjacket rubic. These among such other similar factors become relevant."*



13. Having considered the living standard and financial resources of parties and their liabilities, in our considered opinion, a lump sum amount of Rs.10,00,000/- as a full and final settlement against permanent alimony for wife and daughter would be just and fair arrangement. This amount shall include the amount of pendente lite maintenance, during course of appeal as well. Accordingly, the instant appeal is disposed of in following terms:

I) Impugned judgment and decree of divorce dated 25.01.2019 is hereby affirmed.

II) Against permanent alimony for wife and minor daughter, husband shall pay a lump sum amount of Rs.10,00,000/- to his wife within a period of four months from today. After making full payment of permanent alimony, any interim maintenance, if payable to wife or minor daughter by any Court, same shall stand cease to operate and husband shall not be liable to pay any additional maintenance to wife and daughter.

14. Application under Section 24 of HMA and other pending application(s), if any, also stand(s) disposed of.

(ANIL KUMAR UPMAN),J

(SUDESH BANSAL),J