

IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No. 327 of 2023

Debleena Dutta, aged about 32 years, Wife of Suman Kumar Ruj, Resident of Poddar Para, Near Brahman Bhawan, Jharna, P.O. & P.S.-Jharia, Dist.-Dhanbad, Jharkhand.

... **Petitioner/ Appellant**

Versus

Suman Kumar Ruj, aged about 34 years, Son of Ashwini Kumar Ruj, Resident of M.C. Road, Raniganj, Paschim Burdhman, P.O. & P.S. – Raniganj, Dist-West Burdhman.

... .. **Respondent/Respondent**

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellant : Mr. Sanjay Prasad, Advocate
For the Respondent : Mr. Abhijeet Kr. Singh, Advocate
Mr. Shashank Kumar, Advocate
Mr. Harsh Chandra, Advocate

CAV on 18.12.2025

Pronounced on 07/01/2026

Per Sujit Narayan Prasad, J.

1. The instant appeal under Section 19(1) of the Family Court Act, 1984 is directed against the judgment dated 19th September, 2023 and decree signed on 3rd October, 2023 passed by the learned Additional Principal Judge, Additional Family Court No. II, Dhanbad in Original Suit No. 914 of 2021, whereby and whereunder, the suit filed by the petitioner-appellant [wife] for dissolution of marriage by decree of divorce u/s 13(1)(i-a) of Hindu Marriage Act, 1955 against respondent/husband, has been dismissed.
2. The brief facts of the case leading to filing of the divorce petition by the appellant-petitioner, as taken note in the

impugned order and as emanated from the plaint, needs to be referred herein, which reads as under:

- 3.** The appellant has legally married with the respondent and their marriage was solemnized on 13-03-2020, at Jhari, Dhanbad, according to Hindu Rites and Customs. After the marriage both the appellant and respondent had been living together as wife and husband at M.C. Road, Raniganj, Burdwan. It is further stated that at the time of marriage the father of the petitioner had given Rs.4,75,000/ cash and ornaments as dowry.
- 4.** It is stated that after one day of marriage when the petitioner-appellant was sleeping in her bedroom, the respondent started checking the mobile phone of the petitioner-appellant and while checking some objectionable photographs were seen by the respondent-husband saved in mobile of the petitioner-appellant, which by mistake she could not remove from the google drive of her mobile. It is further stated that the objectionable photo was transferred by the respondent in his mobile from petitioner's/appellant's mobile phone without her knowledge.
- 5.** It is further stated that the respondent started threatening to put that objectionable photos on social media platform and started assaulting brutally, physically and mentally. In this way the respondent blackmailed the petitioner-

appellant for several occasions and forced to have sex. When the petitioner-appellant opposed it, the respondent showed that objectionable photos to his parents and family members.

6. It is further stated that after this incident the petitioner-appellant informed her father and complaint against her husband. In view of this, the father of the petitioner-appellant came on 10-05-2020 along with his society members and tried to persuade the respondent not to do this kind of torture to the petitioner-appellant trying to settle the dispute but unfortunately matter was not settled.
7. It is further stated that the respondent-husband used to abuse the father of the petitioner-appellant by using filthy language and after that the respondent and his family members snatched the *Stridhan* of the petitioner-appellant and thrown out the petitioner-appellant and her father from the matrimonial house on 10-05-2020 and while leaving, the respondent forced her to write a letter in Bangla that *"unfortunately she could accept Suman Kumar Ruj as husband but there is a cordial relationship between two families and today on dated 10-05-2020 I am leaving with my father to Maika and from today we both husband and wife will live separately and I could not claim anything in future"* and by making such fake letter forcibly from the petitioner-appellant thrown the petitioner-appellant from

her matrimonial house along with her father and while leaving the in-laws house, the respondent-husband threatened the petitioner-wife that if she try to come back to in-laws house again then the respondent will kill the petitioner-appellant and thereafter she is living in parental house since 10-05-2020.

8. On the aforesaid ground, the appellant/wife has made a prayer to pass an order for dissolution of marriage by way of a decree of divorce.
9. Before the learned family court, the respondent-husband appeared and contested the suit by filing the written statement stating inter alia that it is admitted fact that the petitioner-appellant and respondent are legally wedded husband and wife and the marriage of the petitioner with respondent was solemnized at Raniganj under the district of Paschim Burdwan and last residing together at Raniganj. The respondent-husband has flatly denied the allegation made by the appellant-wife. It is further stated that the petitioner-appellant admitted that before getting marriage she was in relation with other boy and it is matter of surprise that the petitioner-appellant saved unwanted photograph in her mobile phone after marriage also and under influence of someone she has filed the above mentioned suit.

- 10.** It is stated that the petitioner-appellant is a working lady who works in private firm at Dhanbad. It is further stated that the respondent is ready to accept her as wife after even knowing every past history of her affair and wants to lead conjugal life with her as husband and wife.
- 11.** On the basis of pleadings available on record, the learned Additional Family Court, mainly framed the issue for consideration as to whether the marriage of the petitioner and respondent is fit to be dissolved on the ground of cruelty u/s 13(1) (i-a) of Hindu Marriage Act 1955; and accordingly evidence was adduced on behalf of parties.
- 12.** The learned Additional Principal Judge, Additional Family Court-II, Dhanbad after appreciating the evidence adduced on behalf of parties, came to the conclusion that the petitioner-wife, the appellant herein, has not been able to prove her case against the respondent-husband even to the extent of preponderance of probabilities.
- 13.** Accordingly, the suit for decree of divorce preferred by the appellant wife was dismissed, against which the instant appeal has been filed.

Submission of the learned counsel for the appellant-wife:

- 14.** It has been contended on behalf of the appellant that the factual aspect which was available before the learned family court supported by the evidences adduced on behalf of the

appellant has not properly been considered and as such, the judgment impugned is perverse, hence, not sustainable in the eyes of law.

15. It has been submitted that the issue of cruelty has not been taken into consideration in the right perspective.

16. Submission has been made that the judgment passed by learned court below is perverse in the eye of law as the husband has committed mental as also the physical cruelty towards the appellant by continuous torturing the appellant. After marriage, her husband in her absence checked her mobile and transferred some objectionable photographs from her mobile and by showing those photographs used to assault and threaten her to upload the same on social media. It has been stated that even those objectionable photographs were made to seen by her in-laws which caused immense mental cruelty as the things which are in between the husband and wife, now has been flashed in the family and society.

17. On the strength of said photographs, submission has been made that time and again her husband, the respondent herein, used to threaten her to kill and demanded rupees five lakhs and in case of non-fulfilment of the same threatened to upload the said photographs on social media. It has been submitted that for that her in-laws also used to abuse and insult her.

18. Submission has been made that the relationship of husband and wife is on the thread of trust which itself has been broken and there is no chance of re-union.

19. Learned counsel for the appellant, based upon the aforesaid grounds, has submitted that the judgment impugned suffers from perversity, as such, is not sustainable in the eyes of law.

Submission of the learned counsel for the respondent-husband:

20. *Per contra*, learned counsel appearing for the respondent-wife, while defending the impugned judgment, has submitted that there is no error in the impugned judgment. The learned Additional Principal Judge has considered the issue of cruelty and having come to the conclusion that no evidence has been adduced to establish the act of cruelty has dismissed the suit.

21. Submission has been made that after marriage, the petitioner-wife kept on talking with another person till late night and when the respondent/husband came to know about illicit relationship of petitioner-appellant with another person he asked her about the same and then she admitted the truth and stated that she is having relationship with another person but she stated that she will not break her previous relationship.

22. Submission has been made that even he respecting the relationship of husband and wife, intends to continue with her. The learned family court, after taking into consideration these aspects of the matter, since has found no material of cruelty and been refused grant the decree of divorce, the impugned judgment cannot be said to suffer from an error.

Analysis:

23. This Court has heard the learned counsel for the parties and gone through the finding recorded by the learned Family Judge in the impugned judgment.

24. Before entering into merit of the case it needs to refer herein that on 15th April, 2025 this Court has passed an order on basis of the submission of the learned counsel for both the parties by which the instant case was referred for mediation to JHALSA with a direction to submit the report within a period of four weeks, for ready reference the order dated 15th April, 2025 is being quoted as under:

07/Dated: 15th April, 2025

1. In pursuance of the order dated 20.08.2024, by which notice was issued upon the sole respondent, the sole respondent has appeared and is being represented by Mr. Shashank Kumar at the instance of vakalatnama filed on his behalf.

2. Learned counsel for both the parties have submitted that there is chance of settlement and as such, the matter may be sent to JHALSA.

3. Considering the aforesaid submission, let the matter be sent to JHALSA for conciliation/ mediation.

4. Let the report be submitted within a period of four weeks.

5. Let this matter be listed on 10.06.2025.

25. Consequently, the Mediation Report was submitted wherein it has been reported that the mediation between the parties failed and the dispute between the parties could not be settled. Accordingly, the matter was heard on merit.

26. Now coming to the merit of the case, the admitted fact herein is that the suit for divorce has been filed on the ground of cruelty i.e., by filing an application under Section 13 (1) (i-a) of the Hindu Marriage Act, 1955 and accordingly, issues have been framed and decided against the petitioner-appellant.

27. The evidence has been led on behalf of both the parties. On behalf of petitioner-wife, the appellant herein two witnesses namely, Debleena Dutta, the petitioner herself [PW 1]; and Bhuwan Chandra Dutta [PW 2]. However, no documentary evidence has been adduced on her behalf. The respondent-husband has also produced and examined altogether two witnesses, namely, D.W. 1-Suman Kumar Rui, the respondent-husband and D.W. 2-Ashwini Kumar Rui. However, some documentary evidence has been produced on his behalf.

28. This Court, in order to appreciate the testimony available on record, has gone through the testimonies of the witnesses.

29. P.W. 1-Debleena Dutta, the petitioner-wife, the appellant herein, has stated in his examination-in-chief that she married with respondent on 13-03-2020 as per Hindu rites and customs at M.C. Road, Raniganj, West Bengal. After marriage she came to her sasural. After marriage her husband checked her mobile and transferred some objectionable photographs from her mobile set without her knowledge to his mobile. Thereafter, his behaviour got changed towards her and he started abusing and assaulted her also. By showing the aforesaid objectionable photographs he started torturing her and demanded Rs. five lakh and threatened that if demand is not fulfilled, all the photographs shall be uploaded in Social media. The aforesaid photographs were seen to her in-laws thereafter her in-laws started torturing her. She was locked in the room and demanded to bring money from her maika. Whereupon, she informed the matter to her paralyzed father and he came to her sasural on 10-05-2020. He tried to persuade her in-laws but her father was abused and insulted by them. Her all *Stridhan* was snatched and they forcibly took her signature on an agreement to save their skin and on 10-05-2020 she was driven out from her matrimonial home.

30. In cross-examination, she has stated that she resided in her Sasural for two months only. She was in relationship

prior to marriage with one Satyam Bhadani. She does not remember as to on which date she was abused and beaten and demanded Rs. five lakh by her in laws. Regarding cruelty towards her made by her in-laws she does not inform the matter to police as because he was not allowed to go outside the house. She did not make any complain in Thana regarding the incident occurred on 10-05-2020. An agreement was executed on 10-05-2020 where her signature and the signature of her father were taken forcibly. Her husband wants to keep her but she does not want to live with him as because she is regularly threatened by the respondent. In this regard she did not give any information to Thana [police station]. Prior to marriage she was doing job in private company. It is not true that she was not tortured by her husband and he still wants to keep her.

31. PW-2-Bhuwan Chandra Dutta, is father of the petitioner who has supported the evidence of PW-1 in examination-in-chief.

32. In cross-examination, he has stated that this case was filed by her daughter for decree of divorce. After 10-15 days of marriage his daughter made telephone to her that she is being harassed in her sasural. The mobile of the daughter was snatched by the respondent and transferred some photographs from her mobile to his mobile. No money was

demanding by the respondent by saying that the objectionable photograph will be made in public. The respondent abused him, in this regard she has not made any complaint. He knows writing and reading. Bangla Declaration was script dated 10-05-2020 bearing his signature as well as signature of his daughter. He does not have knowledge about Satyam. He does not have knowledge that his daughter has filed a case for decree of divorce.

33. DW-1-Suman Kumar Ruj, is the respondent-husband, who has stated in his examination-in-chief that he was married with petitioner with Hindu Rites and customs. After marriage both husband and wife started to lead conjugal life in District Raniganj West Burdwan. Petitioner had not disclosed her previous relationship with one Satayin Bhadani prior to marriage with him. It is false to say that in night when petitioner was sleeping her husband transferred the objectionable photographs from her mobile to his Mobile. It is false to say that petitioner was abused and by showing the objectionable photographs he demanded Rs. Five lakh from her. It is false to say that he threatened the petitioner to show the objectionable photographs to his parents, relatives and other members and will defame her.

34. It is also false to say that he had committed sexual intercourse with petitioner forcibly without her consent. He has further deposed that after sometime of marriage he

came to know that petitioner kept on talking late night with another person and she kept mobile hidden. When he came to know about the old relationship of petitioner with another person namely, Satyam Bhadani of Jharia then she accepted the same and asked him to continue in maintaining her relationship with Satyam Bhadani. He asked the petitioner to forget Satyam Bhadani and to lead conjugal life with him but she did not agree and she sent objectionable photographs with Satyam Bhadani on his whatsapp. He never misbehaved with the father of the petitioner. It is false to say that by snatching her photographs he drove out the petitioner and her father from his house on 10-05-2020. On 10-05-2020 a declaration was prepared with the free will of petitioner. In spite of knowledge of having love affair of petitioner with another person he is ready to keeps his wife with full dignity and honour and he is ready to lead conjugal life with her.

- 35.** In cross he has stated that his marriage was performed on dt. 13-03-2020 at Maliya road, Raniganj. The marriage was solemnized with consent of both the parties. He used to talk with his wife on telephone prior marriage. His wife never disclosed her illicit relation prior to marriage. He has no knowledge that prior objectionable photographs were saved in the mobile set of his wife. After 10-12 days of marriage his wife went away to her maika as because she did not

want to live with him. On 21-03-2020 he came to know that his wife was talking in mid night with another person and on being asked she admitted her pre relationship.

36. DW-2-Ashwini Kumar Ruj, is father of the respondent who has supported the evidence of DW-1 in examination-in-Chief.

37. In cross he has stated that at the time of marriage nothing was given to respondent on petitioner's side. He has no any knowledge about the love affair of petitioner prior to marriage. After marriage petitioner resided only two months in her sasural. His son never tortured to his daughter-in-law. His son is working in a shop and his monthly income is Rs. 6-7 thousands. The father of petitioner had come on 10-05-2020 alone. It is not true that they have kicked the father of petitioner by humiliating him from his house. His son had gone for *bidai* of his daughter-in-law, he cannot say the date and while leaving the house by the petitioner she herself has written the declaration in which Debleena Dutta has put her signature and as a witness her father also put signature.

38. On the basis of the pleading of the parties, the learned Additional Principal Family Judge had framed issues for proper determination of the *lis*, and after due appreciation of the ocular as well as documentary evidence, the suit filed by the petitioner-appellant [wife] for dissolution of marriage

by decree of divorce u/s 13(1)(i-a) of Hindu Marriage Act, 1955 against respondent/husband, has been dismissed, against which the present appeal has been preferred.

39. It requires 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.

40. It needs to refer herein that under section 7 of the Family Courts Act, the Family Court shall have and 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).

41. 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.

42. 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. In "**Jagdish Singh v.**

Madhuri Devi" (2008) 10 SCC 497 the Hon'ble Supreme 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."

- 43.** Herein, the learned counsel for the appellant has argued that the evidence of cruelty has not properly been considered and as such, the judgment suffers from perversity, hence, not sustainable in the eyes of law.
- 44.** While on the other hand, argument has been advanced on behalf of the respondent that the judgment is well considered and the learned family court has rightly come to the conclusion by denying the decree of suit of divorce accordingly, dismissed the suit which requires no interference by this Court.

45. From the pleadings available on record and the arguments advanced on behalf of parties, the issue which requires consideration is as to:

“Whether the judgment and decree passed by the learned family court denying the decree of divorce on the ground of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act requires interference?”

46. This Court, while appreciating the argument advanced on behalf of the parties 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. 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.”

47. Herein, cruelty has been taken by the appellant as the main ground for dissolution of marriage.

48. So far the allegation of cruelty is concerned, it requires 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.

49. 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.

50. 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.”

51. 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.”

52. 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.

53. 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”.

54. 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.

55. 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.

56. 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.**

57. 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.

58. 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.**

59. 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.***

60. Further the word 'cruelty' is used 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.***

61. 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 other 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.

62. 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.

63. This Court, based upon the aforesaid discussions on the issue of cruelty, has gone through the testimony of witnesses and found from the testimony of appellant-wife

[PW 1] that she has deposed that she was being black-mailed on the ground of her past history. Even the objectionable photographs of her with another person, which was procured by the respondent-husband without her consent, was made available to her in-laws, the father-in-laws; mother-in-laws and brother-in-law. It has been submitted that on that pretext the husband and in-laws started to torture her. She was locked in the room and threatened to bring money from her father otherwise the said objectionable photographs shall be up-loaded. They called her father and also insulted him on that pretext.

64. Submission has been made that such intimidation and infliction of emotional and psychological distress using her past history to blackmail itself constitute cruelty in particular mental cruelty, which is self-sufficient ground for divorce, but that aspect of the matter has not been taken into consideration by learned family court.

65. Further submission has been made that as per Hindu Marriage Act, 1955, regularly subjecting a spouse to threats, including emotional blackmail is well recognized as ground of divorce. Herein, the conduct of the respondent-husband assassinated the dignity and reputation of the appellant-wife by divulging her past conduct to her in-laws and on the ground, she is being tortured.

66. While on the other hand, the respondent-husband has stated that prior to the marriage, the respondent-husband had talk with appellant but she never disclosed about her previous relationship with another person namely, Satayin Bhadani. Even after marriage, she did not tell about the same. He came to know about her relationship when the appellant kept on talking late night with a person and she kept her mobile hidden. Submission has been made that the allegations leveled made by the appellant-wife is totally false. It has been submitted that even after knowing the character, it is the respondent-husband who always showed his desire to reside with her respecting the relationship of husband and wife.

67. This Court, on appreciation of the testimonies of the witnesses as also the argument advanced on behalf of the parties and case laws on the principle of cruelty, has found that it is in admission that the appellant-wife, before her marriage was in touch of another person. The respondent-husband has alleged that she used to talk with another person in night, which the appellant-wife denies. Contrary, it is the case of the appellant that her husband, the respondent herein, transferred some objectionable photos from the Google Drive, which she forget to delete after her marriage and on the basis of that photographs, he used to humiliate her and also blackmailed her. Not only that the

respondent-husband, in order to humiliate his own wife, transferred those photographs in his Whatsapp and showed to his father and other family members. In turn, the family members of the respondent-husband used to humiliate and torture her. Though allegation of physical assault has also been made but no concrete piece of evidence has been adduced in that regard. It further appears that even the father of the appellant-wife was called for and the respondent-husband and his family members also humiliated him.

68. It is well settled principle of cruelty as discussed hereinabove that harm or injury to reputation would be important considerations in determining whether the conduct of the defending spouse amounts to cruelty or not and it has to be shown that the defending spouse has treated them with cruelty to cause reasonable apprehension in mind that it will be harmful or injurious to live with the contesting spouse.

69. As discussed hereinabove the cruelty can be physical or mental, intentional or unintentional, and is a subjective concept that varies in each case depending on the facts and circumstances.

70. On the basis of the aforesaid settled position of law, it is considered view of this Court that in the case at hand, it is mental cruelty that has been meted out to the appellant-

wife so that it is next to impossible to live together with her respondent/ husband.

71. It needs to reiterate herein that so far mental cruelty is concerned, it refers to infliction of emotional or psychological distress on one spouse by the other spouse. It includes behavior or conduct that is of such a nature that it makes it impossible for the victim spouse to live with the other spouse. Mental cruelty can take various forms, such as constant humiliation, verbal abuse, harassment, neglect, threats, or persistent indifference towards the well- being of the other spouse.

72. From the discussions made hereinabove, it is evident that by showing those objectionable photographs to his family members by the respondent-husband and on the basis of that she was being humiliated by the family members of the respondent-husband, which is nothing but the character assassination of the wife by her own husband.

73. It is well settled that spouse's chastity and extra-marital relationships are a grave assault on the spouse's honour and dignity.

74. On the basis of the discussion made hereinabove, this Court is of the considered view that the conduct of the respondent-husband has showed that it is the humiliation caused by him and his family members that has caused mental agony to the appellant to such an extent that it is

almost impossible for the appellant-wife to live with the respondent-husband where the thread of trust has already been broken. Relationship of wife and husband is based on the trust and respect to have upon each other and if it is broken it is non-repairable as the trust is the foundation of marriage. Marriage is a relationship built on mutual trust, companionship and shared experiences.

75. This Court, after discussing the aforesaid factual aspect along with the settled legal position as discussed and referred hereinabove in the preceding paragraphs and adverting to the consideration made by the learned Family Judge in the impugned judgment and decree has found therefrom that the issue of element of cruelty by the appellant-wife has not been properly considered by the learned Family Judge.

76. Accordingly, issue as framed by this Court is decided in favour of the appellant-wife.

77. This Court, on consideration of the aforesaid discussion, is of the view that the impugned judgment and decree passed by the learned Additional Family Judge is coming under the fold of perversity, since, the conscious consideration has not been made to the evidences available on record, as would be evident from the impugned judgment.

78. Consequent to the aforesaid, the judgment dated 19th September, 2023 and decree signed on 3rd October, 2023

passed by the learned Additional Principal Judge, Additional Family Court No. II, Dhanbad in Original Suit No. 914 of 2021 denying the decree of divorce in favour of appellant-wife on the ground of cruelty under Section 13(1) (i-a) of the Hindu Marriage Act, is hereby quashed and set aside.

79. Accordingly, the instant appeal stands allowed.

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

I Agree

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

07th January, 2026

A.F.R.

Alankar/

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