IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 63 of 2025

Ritu Gupta age 26 years old D/O Dipak Kumar Gupta resident of Gulli Bhatta, P.O. & P.S Sahebganj, District-Sahibganj

… … Appellant/Defendant

Versus

Anupam Bipul S/O Bhairo Lal Gupta, resident of Gulab Bagh Purandaha, P.O. & P.S. Deoghar, District Deoghar

… … Respondent/Plaintiff

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

For the Appellant : Mr. Sabyasanchi, Advocate
For the Respondent : Mr. P.S. Dayal, Advocate
Mr. Vikas Kumar, Advocate

CAV on 18th February, 2026 ***Pronounced on 12/03/2026***

Per Sujit Narayan Prasad, J.

Prayer

1. The instant appeal under Section 19(1) of the Family Courts Act, 1984 is directed against the Judgment dated 30.08.2024 passed by the learned Principal Judge, Family Court, Sahibganj in Original Suit No.69 of 2022, whereby and whereunder, the learned Family Judge has allowed the suit filed by the plaintiff-husband (respondent herein), under Section 13 of the Hindu Marriage Act, 1955 dissolving the marriage and further directed the plaintiff-husband to pay Rs.5 lacs as permanent alimony to the defendant-wife (appellant herein).

Factual Matrix

2. The brief facts of the case, as per the pleading made by the plaintiff required to be referred, as under:

3. It is the case that marriage of the plaintiff (respondent herein) was solemnized with the defendant (appellant herein) on 17.02.2021 as per Hindu customs and rites at Deoghar and family members of the defendant has spent Rs. 5,55,000/- only and entire marriage expenditure including hotel charges, reception charges and fair was done by the plaintiff's family. It is further pleaded that in the starting days of marriage of the plaintiff there was happy conjugal life in between them but after some days the family members of the defendant started making excessive interference in the family matter of the plaintiff then bitterness started in their marital relation. During the whole stay of the defendant at her matrimonial home, she was never assaulted and ill-treated by the plaintiff.

4. When the plaintiff is fit in all respects including in the matter of sex then the question of examination by a medical practitioner does not arise. During the pendency of the bail matter of the plaintiff, mediation started and in that mediation the family members of the defendant asserted that both parties will live together as husband and wife and they did not insist the plaintiff for getting the medical examination of the plaintiff done and even during the maintenance proceeding it has been deposed by the defendant's side that without any condition the defendant will live with the plaintiff, from which it appears that false allegations of impotency of the plaintiff has been alleged by the defendant. It is further pleaded that imposing false allegations of demand of dowry or impotency of the plaintiff by the defendant amounts to cruelty because of prestige of the plaintiff and his family members have been damaged and undermined in the society and their family circle and still the defendant and his family members are not ready to accept their fault and to apologize to the family

members of the plaintiff for their mental, physical harassment and agony. This Court has been pleased to impose Rupees Seven Lakhs in the order of Anticipatory Bail petition and it was further ordered that the said amount will be adjusted as one time settlement or in the maintenance amount. The defendant's family took ornaments of Rs. five Lakhs on 08.03.2021, which had been given by the plaintiff's family at the time of marriage of the parties. The conjugal relation lastly resumed at Deoghar on 07.03.2021. The plaintiff was completely hale and hearty youth and he was unnecessarily made a scapegoat by the family members of the defendant to shut their scheme.

5. It has further been stated that relation of both the parties has been damaged that there is no chance or worth for continuing their relations and two cases are pending between both the parties, first under Section 498A of the I.P.C and 2nd under Section 125 of the Cr.P.C.

6. On these grounds a relief had been sought by the plaintiff/husband by filing a suit to grant decree of divorce against the defendant/wife (appellant herein).

7. The said suit was filed by the plaintiff/husband on 25.03.2022 and the same had been admitted on 29.03.2022 and thereafter, the plaintiff was directed to file necessary requisites for issuance of summons against the defendant and in pursuance of notice issued against the defendant/wife, the defendant appeared on 31.05.2022 and thereafter matter was referred to mediation centre but the same could not succeed then the defendant was directed to file her written statement.

8. The defendant has filed her written statement on 19.12.2022 and as per her written statement the defendant's plea, in brief, is that the suit was filed by the plaintiff against the defendant for taking divorce without any cogent reason and excuse. The plaintiff has filed the said suit with false, baseless and mislead facts and with such type of pleading, the plaintiff is trying to take decree of divorce wrongly. The plaintiff having ulterior motive or view to pressurize her for minimize earlier criminal case i.e. Sahebganj (T) P.S. Case No. 103/2021, which has been lodged by the defendant u/s 406/420/498 A/504/506/34 of the I.P.C and 3/4 of the D.P. Act and at present the same is pending before the court of learned Chief Judicial Magistrate, Sahebganj at the stage of framing of charge.

9. It had further been stated that the marriage of the defendant was solemnized with the plaintiff on 17.02.2021 as per Hindu customs and rites and several household articles, ornaments and cash were taken by the plaintiff and his family members and the defendant was brought by the plaintiff to his house and on the very next day family members of the plaintiff started quarreling and abusing the defendant and as per order of her Bhaisur four syringe blood was taken by the plaintiff and his parents and on being protest raised by the defendant, the plaintiff and his parents told her that her blood test will be done by the doctor. The ornaments of the defendant were forcibly taken by the plaintiff and his mother and they also tried to snatch her mobile and on being protest raised by the defendant her hand was cut by her mother-in-law by knife and her mother-in-law made pressure upon the defendant to cut her hair also. The plaintiff did not establish any marital relation with her and, she was abused and assaulted by the plaintiff and thereafter the defendant informed her mother

about this fact and on 06.03.2022 her parents tried to convince the plaintiff's parents for testing this fact through mobile but plaintiff and his family members tortured and ill-treated her and her parents and they demanded one golden Nath and Rs. five Lakhs cash as dowry and they further told that the defendant is ill.

10. On 07.03.2021 at about 11.00 A.M. the defendant was assaulted and threatened to kill by her in-laws and they also tried to snatch her Mobile, in which she sustained head injury. On 08.03.2021, she informed her mother through mobile and thereafter her parents along with her elder sister and brother-in-law went there but the plaintiff did not allow them to meet with the defendant. It is further pleaded that the defendant's mother told the parents of the plaintiff regarding the plaintiff's illness because their relation is not good and she told them that there is need of testing of the plaintiff then the plaintiff's mother abused and refused to give her bedai. The defendant lodged a complaint against her in-laws which was later on registered in Sahebganj (Town) P.S. and in that case the plaintiff has been allowed bail by the Hon'ble High Court subject to condition of depositing demand draft of Rs. 7 Lakhs in favour of the defendant as the plaintiff was not ready to take bidai of his wife before the Hon'ble Court also. The plaintiff is totally dancing on wrong direction of his parents and on their instruction and instigation he has filed the wrong and false divorce case on mislead facts without having reasonable cause and excuse despite of fact that the defendant made several approach for joint marital life with the plaintiff but the plaintiff and his parents were adamant for divorce.

11. In original maintenance case, the plaintiff has vehemently refused to take *bedai* of the defendant and it has been falsely alleged by him that his social image got tarnished, rather, the defendant's life and future became very dark due to ill-treatment by the plaintiff and she herself felt humiliation in society. It has further been stated that the plaintiff and his family members tortured the defendant and her parents in various ways during her stay at her matrimonial home and there was no reason to damage the image of the plaintiff in society rather social image of the defendant has been damaged in her society. The entire grievance of the plaintiff is not genuine so the same was not tenable in the eyes of law and the plaintiff has no valid cause of action for the suit.

12. On the basis of the pleadings of the parties, the following issues were framed by the learned Family Judge, which are as follows: -

(i) Is the suit as framed maintainable?

(ii) Has the plaintiff cause of action for the suit?

(iii) Has after the solemnization of the marriage, the defendant treated the plaintiff with cruelty?

(iv) Whether the plaintiff is entitled to a decree of divorce?

13. In order to substantiate the fact referred in the plaint, the plaintiff has altogether produced and examined five witnesses as follows:-

List of Plaintiff's witnesses

Rank	Name of witnesses	Nature of witnesses

PW.1	Ajit Kumar	Cousin of plaintiff
PW-2	Udai Kumar	Cousin (Fufera brother) of the plaintiff.
PW.3	Bhairo Lal Gupta	Father of the plaintiff
PW.4	Anupam Bipul	Plaintiff of this suit.
PW.5	Padma Gupta	Mother of the plaintiff.

14. Besides oral evidence, following documents have been exhibited in favour of the plaintiff:-

List of Plaintiff's Exhibits

Sr. No	Exhibits	Description
1	Ext.1	Certified copy of order sheet dated 20.01.2022, passed by Ld. CJM Sahebganj in Sahebganj (T) P.S. Case No.103/2021 (State Vs. Anupam Bipul & others)
2	Ext.2	Certified copy of F.I.R. of Sahebganj (T) P.S. Case No.103/2021

15. In order to substantiate the facts mentioned in her written statement, the defendant has although not produced any documentary evidence but she has produced and examined altogether three witnesses, as follows:-

List of Defendant's witnesses

Rank	**Name of witnesses**	**Nature of witnesses**
D.W.1	Deepak Kumar Gupta	Father of the defendant
D.W.2	Manita Devi	Mother of the defendant
D.W.3	Ritu Gupta	Defendant of this suit.

16. The evidences have been made on behalf of both the parties. Thereafter, the judgment has been passed allowing the suit filed under Sections 13 of the Hindu Marriage Act dissolving the marriage, which is the subject matter of the present appeal.

Submission of the learned counsel for the appellant-wife:

17. It has been contended on behalf of the appellant that the factual aspect which was available before the learned Family Judge supported by the evidences adduced on behalf of the appellant-wife has not properly been considered and as such, the judgment impugned is perverse, hence, not sustainable in the eyes of law.

18. It has further been submitted that the appellant-wife was solemnized marriage with the plaintiff as per Hindu customs and rites and several household articles, ornaments and cash were taken by the plaintiff and his family members. The ornaments of the defendant were forcibly taken by the plaintiff and his mother they also tried to snatch her mobile phone and on being protest raised by the defendant, her hand was cut by her mother-in-law by knife and her mother-in-law made pressure upon the defendant to cut her hair also.

19. It has been contended that the appellant-wife is still ready to lead her conjugal life with her husband. The appellant-wife has been subjected to cruelty by her husband.

20. It has further been contended that the respondent-husband has totally failed to establish the fact by producing the evidence before the Family Court that the appellant-wife has treated him with cruelty.

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

Submission of the learned counsel for the respondent-husband

22. *Per contra*, learned counsel for the respondent-husband, while defending the impugned judgment, has submitted that there is no error in the impugned judgement. The learned Family Judge has considered all the aspects of the matter and came to the conclusion that the appellant-wife has caused mental cruelty to her husband/respondent by way of making such false allegations and hence, allowed the suit filed by the plaintiff-husband, respondent herein.

23. It has been contended that after some days of marriage, the family members of the appellant-wife started making excessive interference in the family matter of the respondent-husband. The appellant-wife was never assaulted and ill-treated by the respondent-husband.

24. It has also been submitted that during the pendency of the bail matter of the respondent-husband (plaintiff), mediation started and in that mediation, the family members of the appellant-wife (defendant) asserted that both the parties will live together as husband and wife and they did not insist the respondent for getting medical examination of the respondent-husband done and even during the maintenance proceeding, it has been deposed by the appellant's side that without any condition, the appellant-wife will live with the respondent-husband, from which, it appears that false allegations of impotency of the respondent-husband has been alleged by the appellant-wife.

25. It has been contended that imposing false allegations of demand of dowry or impotency of the respondent-husband by the appellant-wife amounts to cruelty.

26. It has been further contended that the appellant's family took ornaments of Rs. Five lacs on 08.03.2021, which had been given by the respondent's (plaintiff) family at the time of marriage of the parties.

27. Learned counsel, based upon the aforesaid grounds, has submitted that the learned Family Court while taking into consideration the aforesaid factual aspect has rightly allowed the suit filed under Section 13 of the Hindu Marriage Act, therefore, the impugned judgment cannot be said to suffer from an error.

Analysis:

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

29. The case has been heard at length. The admitted fact herein is that the suit for decree of divorce against the appellant-wife has been filed under Section 13 of the Hindu Marriage Act and accordingly, issues have been framed.

30. The evidence has been led on behalf of both the parties. For ready reference, the evidences led on behalf of the parties are being referred as under:

31. The plaintiff, the respondent herein has examined the five witnesses in support of his claim, which are as follows: -

P.W.1-Ajit Kumar (Cousin of plaintiff), P.W.2-Udai Kumar (Cousin of the plaintiff), P.W.3-Bhairo Lal Gupta (Father of the plaintiff), P.W.4-Anupam Bipul (plaintiff himself) and P.W.5-Padma Gupta (Mother of the plaintiff), for ready reference, the deposition of these witnesses are being referred hereinbelow:-

PW.1. Ajit Kumar is the cousin of the plaintiff and he has deposed in his examination-in-chief that he is acquainted with both sides. He has further deposed in para-2 that ornaments had been given by the family members of Ritu Gupta at the time of her marriage but all the ornaments were returned to her at the time of her bedai from Deoghar. He has further deposed in para-3 that both couples lived happily at the time of their initial stage of marriage but later on the family members of the defendant Ritu Guta started intervening in their conjugal life due to which some bitterness developed in between both the couples. He has further deposed in para-4 that the defendant Ritu Gupta was not being subjected to cruelty or she was not being ill-treated while she was living in her matrimonial home by anyone. He has further deposed in para-5 that Anupam Bipul is fully healthy in sex matter as such question of his medical examination does not arise. He has further deposed in para-6 that due to serious allegation imposed by the parents of the defendant against the plaintiff, the reputation of plaintiff and his entire family has been tarnished in the eyes of his relatives as well as in the eyes of society, which cannot be compensated. He has further deposed in para-7 that during the mediation of 498A case or in maintenance case the defendant told the plaintiff to lead conjugal life together but since the reputation of plaintiff Anupam Bipul has been deteriorated in the society and he has

suffered from physical and mental agony, he is not ready to keep the defendant with him as his wife. He has further deposed in para 8 that imposing false allegation against the brother and Bhabhi of the plaintiff also comes under the category of cruelty which is also ground of divorce. He has further deposed in para-9 that Rs. 7 Lakhs has already been paid to the defendant in the light of order of the Hon'ble Court during the hearing of bail petition. During cross examination, he has further deposed in para-10 that Anupam Bipul is his own cousin brother. He has further deposed in para-11 that at present the plaintiff resides at Purandaha Deoghar with his parents.

He has further deposed in para-12 to 14 that there was no mediator in their marriage and both had seen each other before their marriage. He has come to know about their marriage at the time of engagement. He has further deposed in para-15 that he is only acquainted with mother of Ritu Gupta but he does not recognize her father. He did not talk with the defendant and their parents about their marriage. He has further deposed in para-16 that whenever, the family members of the plaintiff come to Sahebganj they usually stay at his home. He has further deposed in para-17 that his uncle i.e. father of plaintiff Anupam Bipul has retired from bank and he gets pension also and the plaintiff is a You-tuber.

He has further deposed in para-19 that Ritu Gupta lived in her matrimonial home till 10-12 days. He has further deposed in para-20 that after marriage, the plaintiff has never visited his sasural.

He has further deposed in para-21 that he did not try to pacify the matter when dispute arose in between them. He has further deposed in

para-23 that it is not true that Ritu Gupta was tortured for dowry, while she was residing at her sasural. He has further deposed in para-24 that troubles started in their married life from the very first day and the said fact came to his knowledge from the family members of the plaintiff and defendant was convinced by the family members of the plaintiff but she did not ready for the same. He has further deposed in para-25 that earlier he has come to depose his evidence in court in another case pending in between both of them.

He has further deposed in para-26 that Anupam Bipul will solemnize another marriage after getting free from defendant as now he is fully frustrated with his marriage.

He has further deposed in para-28 and 29 that Ritu had not been subjected to cruelty by her in-laws and Ritu has lodged dowry case and maintenance case against her husband and her in-laws. He has further deposed in para-31 and 33 that now the plaintiff does not want to keep his wife with him due to unnecessarily interference of the parents of the defendant. He has further deposed in para-36 that he wants to get his cousin rid of the defendant.

PW-2 Udai Kumar Sah is Fufera brother (Cousin) of the plaintiff and he has deposed at para-1 of his examination-in-chief that he is acquainted with both sides of this suit. He has further deposed in para-2 that that all the costs of marriage of the plaintiff were paid by the family members of the plaintiff. He has further deposed in para 3 that ornaments had been given by the family members of Ritu Gupta at the time of her marriage but all the ornaments were returned to her at the time of her

bedai from Deoghar. He has further deposed in para-4 that both couples lived happy at the time of their initial stage of marriage but later on the family members of the defendant Ritu Guta started intervening in their conjugal life due to which some bitterness developed in between both the couples.

He has further deposed in para-5 that the defendant Ritu Gupta was not being subjected to cruelty or she was not being ill-treated while she was living in her matrimonial home by anyone.

He has further deposed in para-6 that Anupam Bipul is fully healthy in sex matter as such question of his medical examination does not arise. He has further deposed in para-6 that due to serious allegation imposed by the parents of the defendant against the plaintiff, the reputation of plaintiff and his entire family has been tarnished in the eyes of his relatives as well as in the eyes of society, which cannot be compensated. He has further deposed in para-8 that during the mediation of 498A case or in maintenance case the defendant told the plaintiff to lead conjugal life together but since the reputation of plaintiff Anupam Bipul has been deteriorated in the society and he has suffered from physical and mental agony, he is not ready to keep the defendant with him as his wife. He has further deposed in para 9 that imposing false allegation against the brother and Bhabhi of the plaintiff also comes under the category of cruelty which is also ground of divorce. He has further deposed in para-9 that Rs. 7 Lakhs has already been paid to the defendant in the light of order of the Hon'ble Court during the hearing of bail petition. He has further deposed in para-10 that while he was called by the

mother of the defendant at Sahebganj then he asked the defendant that it has been alleged by her that her hand has been cut by in-laws then it was told by the defendant that she does not have cut injury rather she had pasted Mehandi on her hands.

He has further deposed in para-11 that Rs. 7 Lakhs has already been paid to the defendant in the light of order of the Hon'ble Court during the hearing of bail matters. During cross-examination, he has further deposed that in para-12 that plaintiff is his own maternal brother and he has no relation with the defendant. He has further deposed in para-13 that he had given contact number of the family members of the plaintiff to defendant for negotiation of marriage in between them.

He has further deposed in para-14 that he had gone to the house of the plaintiff once after his marriage. He was informed by mother of Ritu Gupta that the defendant has come to Sahebganj.

He has further deposed in para-15 to 17 that he has not visited Deoghar while the plaintiff and defendant resided there but his maternal brother frequently comes to his house at Sahebganj. He has further deposed that he has no conversation with the plaintiff and defendant while they were living together. He has further deposed in para-18 that he cannot say that the plaintiff and his family members used to assault Ritu Gupta after marriage for dowry.

He has further deposed in para-19 that there is a pucca house of his maternal uncle at Deoghar where the plaintiff lives with his parents and another brother lives separately from them. He has further deposed in para-20 that the plaintiff Anupam Bipul is a You-tuber. He has further

deposed in para-21 that he has no relation with the mother of the defendant. He has further deposed in para-22 that once mother of the defendant had told him for Bedai of her daughter then he advised her to talk with father of the plaintiff. He has further deposed in para-23 that he has no knowledge that his maternal uncle and his family members used to visit in Sahebganj or not. He has further deposed in para-24 that the defendant wants to go to her matrimonial home but the plaintiff and his family members do not want to keep her with them. He has further deposed in para-26 to 28 that he is deposing evidence on the direction of his maternal uncle and his advocate. He has further deposed in para-29 that as per his knowledge a case is pending in between both the parties for altercation took place in between them. He has further deposed in para-30 & 31 that he has no knowledge that the plaintiff wants to solemnize another marriage after giving divorce to his wife and it is not true that he is giving false evidence in favour of his maternal brother.

PW-3 Bhairo Lal Gupta is father of the plaintiff and he has deposed in para-3 of his examination-in-chief that in the beginning of married life the defendant Ritu Gupta lived happily at her matrimonial house with his son Anupam Bipul but later on due to excessive interference of the family members of the defendant in their married life, tense relation started in their marital life and the family members of the defendant Ritu Gupta started making baseless demands for unnecessarily medical examination of his son Anupam Bipul. He has further deposed in para-4 that in the initial days when both the husband and wife used to spend nights together, the defendant Ritu Gupta never made any complaint to them against her husband.

He has further deposed in para-5 that the family members of the defendant got the Bedai of the defendant Ritu Gupta taken with their ornaments and thereafter the defendant lodged a false case u/s 498A of the I.P.C against his both sons, his wife and wife of his elder son in Saheganj but during investigation, the police did not find any evidence against his elder son and his wife and the police submitted final form. He has further deposed in para-6 that the entire acts have been done by Ritu Gupta under the influence of her family members and now when she has realized her mistake after spreading so much bitterness and rumours in the society and proving his son to be an eunuch in the entire society, she wants to spend her married life with his son again, which is not acceptable to his son under any circumstances.

He has further deposed in para-7 that the reputation of his entire family has been tarnished in the eyes of entire society which cannot be compensated. He has further deposed in para-8 & 9 that false & concocted story has been created by the defendant against him and his family members in the case of 498A of the I.P.C and maintenance case which comes under the category of cruelty as his son is suffering from mental and physical agony due to that allegation and now he is not ready to lead his conjugal life with the defendant in any situation which is ground for divorce.

During cross-examination, he has further deposed in para-10 that he lives in Deoghar since 1992 and his elder brother lives in Sahebganj and he occasionally used to visit Sahebganj at the house of his elder brother. He has further deposed in para-12 to 14 that he has two sons

out of whom his elder son is a medical officer. He has further deposed that the plaintiff is a You-tuber since the time of his marriage. He has two storied building in Deoghar, in which his both sons also live. He has further deposed in para-15 that the marriage of Anupam Bipul was solemnized with Ritu Gupta on 17.02.2021 and there was no mediator in their marriage but marriage was solemnized after understanding everything. He has further deposed in para-16 that Rs five Lakhs fifty-five thousand was given by the family members of Ritu Gupta in his account at the time of marriage of his son and they had given Rs 5,000/- cash for purchasing of clothes etc. He has further deposed in para-17 that Ritu Gupta has not been residing with his son at his house since 07.03.2021. He had further deposed in para-18 &19 that there is no conversation with Ritu Gupta or her parents since 07.03.2021 when Ritu went to her maike rather he had told her mother on phone for her bedai but he had not sent legal notice or any case was lodged by him against her.

He has further deposed in para-20 that family members of Ritu Gupta did not come to his house for making any request for getting bedai of Ritu Gupta done.

He has further deposed in para-21 that after marriage Ritu lived with his son Anupam Bipul for some days only but there is no offspring out of their conjugal relation. He has further deposed in para-22 & 23 that it is not true that when he refused to take bedai of Ritu Gupta then the family members of the defendant lodged a dowry case, rather, he was ready to take bedai of defendant before lodging the said case. He has further deposed in para-24 that a case u/s 498A of the I.P.C. is still

pending against them. He has further deposed in para-25 that his son Anupam Bipul does not take self-decisions against his will which is generally happens in every family but some decisions is taken by his son himself also.

He has further deposed in para 27 that he has knowledge that an order of maintenance allowance has been passed against his son which had been filed by Ritu Gupta. He has further deposed in para-29 that his son is not impotent and they do not ready to take the defendant Ritu Gupta with them due to their bad reputation in entire society. He has further deposed in para-30 that since they have visiting term at Sahebganj so this case has been filed by them here.

He has further deposed in para-31 & 32 that it is also not true to say that Ritu Gupta was assaulted by them when she was residing there. It is also not true to say that just after 2 to 3 days of their marriage they did not want to keep the defendant with them as they did not like her. He has further deposed in para-33 that it is also not true to say that marriage of his son has been fixed at another place. He has further deposed in para-34 that it is also not true to say that they subjected the defendant to cruelty and when they did not ready to bring her back then the defendant lodged a dowry case and maintenance case against them. He has further deposed in para-37 that it is also not true to say that their family has not been exposed in the society by the family of Ritu Gupta and their reputation has not been tarnished in their society.

He has further deposed in para-38 that he is deposing his evidence in divorce case and his son has got all the facts of this case

written and at that time he was also present there. He has further deposed in para-39 that it is not true to say that he got the instant false case lodged through his son and he wants to get another marriage of his son done after realizing huge amount and today he has given false evidence in support of his son.

PW-5 Padma Gupta is mother of the plaintiff and she has almost reiterated the same version in her examination-in-chief as deposed by her husband Bhairo Lal Gupta (PW-3) in his examination-in-chief and as such, to avoid repetition only relevant portion of her cross-examination is being discussed here.

During cross-examination, she has further deposed in para-10 that Anupam Bipul is her younger son and Abhinav Atul is her elder son, who lives outside. She has further deposed that the date of marriage of her son Anupam Bipul is not in her memory. She has further deposed that the marriage of Anupam Bipul was solemnized with Ritu Gupta with the consent of her entire family members. She has further deposed that Anupam Bipul lives with her in her house. She has further deposed that after marriage Ritu Gupta lived at her house only 15 to 17 days and no altercation took place between her son and daughter-in-law in her presence but she has no knowledge as to what has happened between them. She has further deposed that her son works in You-tube and earlier he was doing job in Bengaluru but after Corona he is doing his job from home. She has further deposed that defendant Ritu Gupta came back two and half years ago and thereafter they tried to get her back but she did not come. She has further deposed that her son had not gone to take bedai of

his wife. She has further deposed that there is no issue from wedlock of her son and her daughter in law.

She has further deposed in para-11 that it is not true to say that they used to demand of Rs. 5 Lakhs as dowry from her daughter-in-law due to which her daughter-in-law has lodged a case against them. She has further deposed in para-12 that she cannot say as to whether marital relation was established in between her son and her daughter in law or not. She has further deposed in para-13 that it is not true to say that she wants to get another marriage of her son solemnized. She has further deposed in para-14 that now they do not want to keep Ritu Gupta with them. She has filed a medical report of her son after getting medical examination of her son done on demand of her family members. She has further deposed that her son pay respect to her but he is free to take independent decisions and she has no objection if her son is ready to keep his wife with him. She has further deposed in para-15 that it is not true to say that they did not like Ritu Gupta since after her marriage.

32. The defendant, appellant herein has also examined the following witnesses in support of her claim, which are as follows:-

D.W.1-Deepak Kumar Gupta (father of the defendant), D.W.2-Manita Devi (mother of the defendant) and D.W.3-Ritu Gupta (defendant of the suit).

DW-3 Ritu Gupta has deposed in para-1 of her examination-in-chief that the plaintiff is her husband and her marriage was solemnized with him on 17.02.2021 as per Hindu customs and rites and Rs. seven Lakhs and Fifty-five thousand cash, ornaments and domestic articles were

given by her family members to them at the time of her marriage and after marriage she went to her matrimonial home where the plaintiff and his family members started subjecting her physical and mental cruelty for golden ornaments (Nath) and even proper meal was not being provided to her. She has further deposed in para-2 that 4 Syringe blood was taken by the plaintiff and his family members forcibly from her body on the pretext of getting her blood test done and they used to keep the plaintiff away with her and her mother-in-law inflected cut injury in her hand by knife during snatching her mobile and the plaintiff and his parents used to put pressure upon her to keep Hippi chul and even her mother-in-law tried to cut her hair also and when she raised protest then her husband broke all his relation with her and even after living with her he did not make marital relationship with her.

She has further deposed in para-3 that she became suspicious and started telling everything to her maternal family, then her parents used to talk to her husband and his parents regarding the same then her husband's parents used to make excuse by saying that they will get their son medically examined. She has further deposed that after some days her family members came to her matrimonial home for taking her bedai but they were ill-treated by her in-laws and they demanded Rs five lakhs from her parents and they did not give her bedai and assaulted her brutally. She has further deposed in para-4 that after getting information again her parents came there but they were not permitted to meet her and they again gave false assurance of getting the medical examination of her husband done and thereafter her parents brought her to Sahebganj. She has further deposed that her parents requested her husband and his parents for taking

her bedai but they avoided on one pretext or other by getting the medical examination of her husband done. She has further deposed that mediator of her marriage namely Uday Kumar several times came to her house and whenever she and her family members requested them for getting her bedai done, it was being told by them that they will take her bedai only on payment of Rs 5 lacs more and when despite of several requests the plaintiff did not take her bedai then she lodged a case against her husband and her in laws. She has further deposed that even in that case the plaintiff did not file his medical report.

She has further deposed that several times matter were referred to mediation, in which initially her husband became ready for taking her bedai but later on in collusion with his parents he refused to take her bedai due to not providing him more money. She has further deposed in para-6 that the plaintiff works as You-tubers and during that business he came in contact with several girls to whom he wants to solemnize his marriage.

She has further deposed in para-7 that her parental family have never interfered in her conjugal life rather the plaintiff's mother used to interfere in their marriage life and parents of her husband, due to greed of dowry, have wrong intention of not keeping her and getting a divorce from her husband.

She has further deposed in para-8 that the plaintiff and his parents are responsible for not making physical relation with her. She has further deposed that the plaintiff’s parent themselves wanted to get the medical checkup of her husband done. She has further deposed that she does not want to give divorce to her husband. She has further deposed in

para-9 that the plaintiff and his family members left her in her parental home since the year 2022 due to not providing more dowry to them and because she is not a model girl, whereas she and her parents have always paid respect to her husband and her parents and she has never hurt their feeling.

She has further deposed that her action and behaviour did not cause any social or mental harm to her husband rather she has herself made victim for leaving her in parental home and not taking her bedai. She has further deposed in para-10 that the plaintiff's parents have wrongly spread rumor of impotency of her husband and on this pretext, they have filed false divorce case against her and the entire claims of her husband is false and baseless.

During cross-examination, in para-12, she has deposed that it is true that Rs five Lakhs fifty-five thousand had been transferred to the plaintiff through bank and rest amount was given in cash and some articles were also given to them. She has further deposed in para-14 that it is not true that before this suit she had lodged a case against her husband, father-in-law, mother-in-law and Jethani accusing them of getting her marriage solemnized with an impotent boy but in para-15 it has been accepted by her that the said case is pending before the court of Chief Judicial Magistrate, Sahebganj. She has further deposed in para-16 & 17 that it is true that it has been alleged by her in that case that she has been subjected to cruelty by not getting proper food and suffering from illness and it is also true that her bedai was given from her sasural with her ornaments. She has further deposed in para-18 that it has been alleged that

by her in that case that her husband Anupam Bipul got acquainted with many model girls while working in You-tube due to which he wanted to solemnize his marriage with a model girl. She has further deposed in para-19 that she has also got it written in that case that her hand was cut by her mother-in-law with a knife while snatching her mobile but she did not get her treatment done.

She has further deposed in para-20 that she has also got it written in her 498A case that parents of her husband have deliberately lodged a false case after believing the rumor of impotency of her husband. She has further deposed in para -21 that it is not true that she has made allegation in her 498A case that her husband is incapable in establishing marital relations.

She has further deposed in para-22 that her husband himself told her that he is an impotent then she told her mother-in-law about this then the question of medical examination of her husband was raised but the family members of her husband did not get the medical examination of her husband done. She has further deposed that she has not stated in 498A case that Udai Kumar, who was mediator of her marriage, deliberately got her marriage done with an impotent boy.

She has further deposed in para-24 that it is not true that due to imposing false allegation of impotency of her husband by her, the reputation of her husband and his family members have been tarnished in the society. She has further deposed in para-26 that it is true that she is still ready to go to her matrimonial home despite of being harassed by her

in-laws for demand of dowry and subjecting her to physical and mental cruelty by them.

She has further deposed in para-27 that it is true to say that the police have submitted final form against her jeth, jethani and Udai Kumar after completion of investigation as no evidence was found against them. She has further deposed in para-29 that it is not true that under the influence of her family members she imposed false allegation of impotency of her husband and now she is ready to go to her matrimonial home on the insistence of her family members. It is not true that there is no possibility of their marital relation ahead. She has further deposed in para-30 that it is not true that it is no longer possible to continue the marital relationship between her and her husband.

DW-1 Deepak Kumar Gupta is father of the defendant and he has almost reiterated the same facts in his examination-in-chief as deposed by his daughter (DW-3) in her examination-in-chief and thus to avoid repetition only relevant portion of his cross examination is being discussed here. During cross examination, he has deposed in para-12 that his daughter is still ready to live with her husband despite of taking four syringe blood from her body, not keeping physical relation with her and demanding of Rs 5 Lakhs as dowry.

He has further deposed in para-13 that his daughter has filed a case against the plaintiff, his brother, bhabhi and her father-in-law and mother-in-law but it is not true that in that dowry case her daughter has imposed allegation against her husband that he is an impotent and despite of her repeated request her husband did not get his medical test done. He

has further deposed in para-14 that he has not knowledge as to what has been mentioned by his daughter in dowry case. He has further deposed in para-15 that Rs 8,000/-per month maintenance allowance is being paid to her daughter.

He has further deposed in para-16 that he took bedai of his daughter from her matrimonial home with the consent of her in laws with some ornaments and prior to filing of this case, a panchayati was convened in presence of five people of the plaintiff's sides, in which it was decided that he should take Bedai of his daughter done and as such he brought his daughter on 08.03.2021 and in the month of June, 2021 case was lodged in the court and thereafter no panchayati was convened in village society.

He has further deposed in para-17 that it is not true to say that during mediation it was told by the plaintiff that his reputation has been tarnished in the society and as such he will not take bedai of his wife.

He has further deposed that now this thought has gone from the mind of his daughter that her husband is impotent. He has further deposed in para-18 that he is not true that he wants to realize more money from the family members of the plaintiff due to which he resists this divorce suit and now he has no love and affection with the plaintiff's side.

DW-2 Manita Devi is mother of the defendant and she has also almost reiterated the same facts in her examination-in-chief as deposed by DW-1 & D.W.3 in their examination-in-chief and thus to avoid repetition only relevant portion of her cross examination is being discussed here. During cross examination, she has deposed in para-12 that earlier to this

case her daughter has filed a dowry case against Anupam Bipul and his family members and she has read the contents of that application. She has further deposed that it has falsely been typed in her affidavit that mother-in-law of her daughter inflected cut injury in the hand of her daughter with knife during snatching ornaments rather cut injury was done during snatching of mobile. She has further deposed that she had also written in dowry case that her son in law (Anupam Bipul) was ready to take bedai of Ritu Gupta but later on he refused to take bedai of his wife due to non-fulfillment of demand of dowry under the influence of his parents. She has further deposed in para-13 that it is not true that she has also stated in dowry case that her son in law was reluctant to get medical examination of his manliness done which was the main cause of dispute. She has further deposed in para-14 that she has no doubt in manliness of her son-in-law rather he and his parents have deliberately made the excuse of impotence and filed a false case against her daughter for taking divorce. She has further deposed in para-15 that it is true that she has stated in dowry case that her son in law wants to marry another modern girl. She has further deposed that she cannot say as to whether it is disrespectful to any husband or her family if his wife put question mark on the potency of her husband. She has further deposed in para-16 that no any panchayati has been convened as yet for bedai of her daughter. She has further deposed that her daughter has filed a maintenance case, in which she gets maintenance of Rs.8,000/- per month and her daughter has received Rs. seven Lakhs from her husband in the light of direction of the Hon'ble High Court at the time of hearing of anticipatory bail of her son-in-law. She has further deposed in para-17 that her daughter has filed a dowry

case against her Bhaisur, Jeth and his family members and one Udai Kumar but police did not find any evidence against them. She has further deposed that family members of the plaintiff had come to her house after taking bedai of her daughter and negotiation was done in between them in mediation centre. She has further deposed in para-18 that it is not true that they have themselves ruined the life of her daughter in the hurry of filing case. She has further deposed in para-20 that it is the influence of his parents. She has further deposed in para-13 that it is not true that she has also stated in dowry case that her son in law was reluctant to get medical examination of his manliness done which was the main cause of dispute.

She has further deposed in para-14 that she has no doubt in manliness of her son-in-law rather he and his parents have deliberately made the excuse of impotence and filed a false case against her daughter for taking divorce. She has further deposed in para-15 that it is true that she has stated in dowry case that her son in law wants to marry with another marriage modern girl. She has further deposed that she cannot say as to whether it is disrespectful to any husband or her family if his wife put question mark on the potency of her husband.

She has further deposed in para-16 that no any panchayati has been convened as yet for bedai of her daughter. She has further deposed that her daughter has filed a maintenance case, in which she gets maintenance of Rs.8,000/- per month and her daughter has received Rs. seven Lakhs from her husband in the light of direction of the Hon'ble High Court at the time of hearing of anticipatory bail of her son-in-law. She has further deposed in para-17 that her daughter has filed a dowry

case against her Bhaisur, Jeth and his family members and one Udai Kumar but police did not find any evidence against them. She has further deposed that family members of the plaintiff had come to her house after taking bedai of her daughter and negotiation was done between them in mediation centre. She has further deposed in para-18 that it is not true that they have themselves ruined the life of her daughter in the hurry of filing case. She has further deposed in para-20 that it is not true that they have spread a false rumour in the society of her son-in-law that he is impotent.

33. Now coming to the contention of the learned counsel for the parties wherein the learned counsel for the appellant has argued that the evidences have not properly been appreciated and considered by the learned family Court and as such, the impugned judgment suffers from perversity, hence, not sustainable in the eyes of law.

34. While on the other hand, argument has been advanced on behalf of the respondent that the judgment has well been considered as such, order/judgment impugned requires no interference.

35. 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 finding of a fact is arrived at by ignoring or excluding relevant material or by taking into consideration the 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.*
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> ***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."

36. Thus, a perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. Further "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.

37. Herein it has been contended by the learned counsel for the appellant/wife that it has falsely been stated by the respondent/husband either in his pleading or in his testimony that the reputation of his family members has been tarnished in entire societies from the version of appellant/wife about the non-fulfillment of marital obligation by the respondent/plaintiff/husband. Moreover, the said statement does not come under the category of cruelty in the light of provision contained u/s 13 (1) (ia) of the Hindu Marriage Act 1955.

38. *Per contra,* learned counsel for the respondent/plaintiff/husband has contended that the false allegation of impotency of respondent/husband

by his own wife (appellant herein) before his family members and relatives as well as alleging the said fact by the defendant/appellant in recital of FIR of Sahebganj (T) P.S. Case No.103/2021 also comes under the category of mental cruelty as reputation of respondent/husband/plaintiff and his family members have been tarnished in the entire society which cannot be compensated and thereby the appellant/wife has spread false rumour in society about the impotency of her husband (respondent herein) and later on when she realized that her remaining marital life is going to be ruined then she herself reverted from her own statement about the impotency of her husband and now she is ready to lead her conjugal life with her husband but in this situation, the respondent/plaintiff/ husband does not want to lead his conjugal life with his wife .

39. It is evident from the factual aspect that before the learned Family Court the plaintiff/husband (respondent herein) has brought the suit with a relief to grant a decree of divorce against his legally wedded wife namely Ritu Gupta (appellant herein) on the ground of cruelty as his wife has alleged against him that he is not able to fulfill the marital obligation due to his impotency and accordingly issues have been framed and the learned Family Court has gone into the interpretation of the word "cruelty" and assessing the same from the material available on record as also the submission made in the pleading, i.e., plaint, has found that the element of cruelty has been established and accordingly the learned family judge has passed the order of dissolution of marriage. The said finding of the learned Family Court has been assailed herein by the defendant/wife (appellant herein) by way of filing the instant appeal.

40. It needs to refer herein the settled position of law 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.*

41. Further, it requires to refer herein that under section 3 of the Indian Evidence Act a fact is said to be proved when the Court either believes it to exist or considers its existence so probable that a prudent man under the circumstances would proceed on the supposition that such fact really exists. Therefore, the normal rule of preponderance of probability is the rule which governs the civil proceedings but herein since grave allegation of extra-marital affair has been alleged therefore cogent evidence is required to be laid by the plaintiff/appellant.

42. The expression "preponderance of probability" is not capable of exact definition nor can there be any strait-jacket formula or a weighing machine to find out which side the balance is tilted. The preponderance of

probability would imply a positive element about possibility of existence of a fact. This means a higher degree of probability of happening of something and existence of a fact.

43. In "***A. Jayachandra v. Aneel Kaur" (2005) 2 SCC 22*** the Hon'ble Apex Court has observed that the concept, a proof beyond the shadow of doubt, is to be applied to criminal trials and not to civil matters and certainly not to matters of such delicate personal relationship as those of husband and wife. Therefore, the Court has to see what are the probabilities in the case and legal cruelty has to be found out, not merely as a matter of fact, but as the effect on the mind of the complainant spouse caused by the acts or omissions of the other.

44. Since this Court are exercising the power of appeal as referred hereinabove and as per the settled position of law which require the consideration of the appellate Court is that the order/judgment passed by the appropriate Forum, if suffers from perversity, the same is to be taken as a ground for its reversal.

45. Further it is evident from order dated 05.12.2025, this Court in the ends of justice and also taking into consideration the fact that as has been admitted on behalf of the respondent-husband that some medical certificate disproving the allegation of impotency had been produced before the Mediator has observed that if such medical certificate is available, the same is to be perused by this Court, for ready reference the relevant paragraph of the aforesaid order is being quoted as under:

Order No.09/dated 05.12.2025

We have heard the learned Counsel for the parties at length. But in course of argument, this Court has thought it proper to consider the main issue of allegation as has been alleged to be levelled by the wife-appellant against the husband i.e. her husband is impotent. What we have gathered from the impugned Judgment that only on the basis of oral evidence the fact about impotency has been accepted to be denied.

2. Mr. Bajaj, learned Counsel appearing for the respondenthusband has relied upon the evidence of D.W.1 where reference of the mediation report wherein some medical certificate has been said to be submitted before the Mediator. The said medical certificate is not brought on record in course of the trial.

3. This Court in the ends of justice and also taking into consideration the fact that as has been admitted on behalf of the respondent-husband that some medical certificate disproving the allegation of impotency had been produced before the Mediator is of the view that if such medical certificate is available, the same is to be perused by this Court.

4. Learned Counsel for the respondent has sought for two weeks' time to bring the aforesaid medical certificate, if any, within two weeks.

5. It is made clear that there may not be any manipulation in obtaining the medical certificate. If that endeavour will be taken, the Court will take strict view of the matter.

6. List after two weeks i.e. on 22.12.2025.

46. In compliance of the aforesaid order the respondent/husband by way of filing affidavit has placed the relevant medical record (Annexure-2 series). It has been stated in the said affidavit that the finding of the Medical Report goes on to demonstrate and clarify that any allegation of sexual impotency of respondent/husband are baseless, false and without any merit. For ready reference the relevant paragraph is being quoted as under:

5. That from a bare perusal of the medical records (Annexure-2 series) it would be evident that during the pendency of the criminal case i.e. on 11.08.2021, the respondent-husband approached one Dr. Gauri Shankar, M.B.B.S at Deoghar who gave a preliminary impression of the respondent being "Healthy adult male."
However, on account of continued harassment by the appellant and

her family, the respondent eventually decided to bring a quietus to the issue of false allegations of sexual impotency and hence, the said Dr. Gauri Sharma referred to respondent-Husband to Dr. Reddy's Medicare where a comprehensive test was conducted on 12.08.2021.
That, as is clear from the results of report dated 12.08.2021, especially at internal page 4 and 5 of the test report that the respondent-husband's sperm count is within normal range.

That, further, it is pertinent to indicate that complete semen analysis and motility of the respondent-husband was assessed and no issues whatsoever on point of low sperm count or lesser than normal value on various aspects analyzed were flagged in the report dated 12.08.2021.

47. It is evident from record that although before the learned Family Court, it has not been mentioned by the plaintiff/respondent/husband in his plaint specifically that in which sub-section of Section 13 of the Hindu Marriage Act he has filed the suit. However, on perusal of record, it appears that in the plaint it has been averred that the allegation of impotency was alleged by the defendant/wife (appellant herein) against the plaintiff/husband (respondent herein). From aforesaid it is apparent that the plaintiff/husband (respondent herein) has brought the divorce suit against his wife on the ground that he has been falsely alleged by his wife as impotent, thus this Court has to decide as to whether imposing false allegation of impotency by the wife against her husband can be treated as cruelty as one of the ground of divorce as provided in section 13 (1) (i-a) of the Hindu Marriage Act or not.

48. Since, the main issue is the cruelty herein therefore, before adverting to the merit of the case this Court would like to discuss the core of cruelty as stipulated in the Act 1955, for proper adjudication of the lis.

49. It needs to refer herein that the "cruelty" has been interpreted by the Hon'ble Apex Court in the case of ***Dr. N.G. Dastane vs. Mrs. S. Dastana, (1975) 2 SCC 326*** wherein it has been laid down that the Court has to enquire, as to whether, the conduct 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.

50. This Court deems it fit and proper to take into consideration the meaning of 'cruelty' as has been held by the Hon'ble Apex Court in ***Shobha Rani v. 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.

51. According to the Hon'ble Apex Court, "cruelty" is the "conduct in relation to or in respect of matrimonial conduct in respect of matrimonial 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."

52. The Hon'ble Apex Court has further observed therein that while dealing with such complaints of cruelty 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.”

53. 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.

54. 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 a cross-examination. The Hon’ble Apex Court held these allegations against the husband to constitute “cruelty”.

55. In ***Vijaykumar 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.

56. 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.

57. Further in the case of ***Vishwanath Agrawal*** **v.** ***Sarla Vishwanath Agrawal*****, (2012) 7 SCC 288,** the Hon'ble Apex Court has held as follows:—

> *22. The expression "cruelty" has an inseparable nexus with human conduct or human behaviour. It is always dependent upon the social strata or the milieu to which the parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status.*
>
> *25. After so stating, this Court observed in* Shobha Rani case *about the marked change in life in modern times and the sea change in matrimonial duties and responsibilities. It has been observed that : (SCC p. 108, para 5)*
> *"5. ... when a spouse makes a complaint about the treatment of cruelty by the partner in life or relations, the court should not search for standard in life. A set of facts stigmatised as cruelty in one case may not be so in another case. The cruelty alleged may largely depend upon the type of life the parties are accustomed to or their economic and social conditions. It may also depend upon their culture and human values to which they attach importance."*
>
> *26. Their Lordships in* Shobha Rani case *referred to the observations made in* Sheldon *v.* Sheldon wherein Lord Denning *stated, "the categories of cruelty are not closed". Thereafter, the Bench proceeded to state thus:* (Shobha Rani case, *SCC p. 109, paras 5-6)*
> *"5. ... Each case may be different. We deal with the conduct of human beings who are not generally similar. Among the human beings there is no limit to the kind of conduct which may constitute cruelty. New type of cruelty may crop up in any case depending upon the human behaviour, capacity or incapability to tolerate the conduct complained of. Such is the wonderful (sic) realm of cruelty.*
>
> *1. These preliminary observations are intended to emphasise that the court in matrimonial cases is not concerned with ideals in family life.*

> *The court has only to understand the spouses concerned as nature made them, and consider their particular grievance. As Lord Reid observed in* Gollins *v.* Gollins : *(All ER p. 972 G-H)*
>
> *'... In matrimonial affairs we are not dealing with objective standards, it is not a matrimonial offence to fall below the standard of the reasonable man (or the reasonable woman). We are dealing with this man or this woman.'"*

58. In the case of ***Samar Ghosh v. Jaya Ghosh, (2007) 4 SCC 511*** it has been held by the Hon'ble Apex Court as follows:—

> *99. Human mind is extremely complex and human behaviour is equally complicated. Similarly human ingenuity has no bound, therefore, to assimilate the entire human behaviour in one definition is almost impossible. What is cruelty in one case may not amount to cruelty in other case. The concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, traditions, religious beliefs, human values and their value system.*
>
> *100. Apart from this, the concept of mental cruelty cannot remain static; it is bound to change with the passage of time, impact of modern culture through print and electronic media and value system, etc. What may be mental cruelty now may not remain a mental cruelty after a passage of time or vice versa. There can never be any straitjacket formula or fixed parameters for determining mental cruelty in matrimonial matters. The prudent and appropriate way to adjudicate the case would be to evaluate it on its peculiar facts and circumstances while taking aforementioned factors in consideration.*

59. Thus, from the aforesaid settled position of law it is evident that "Cruelty" under matrimonial law consists of conduct so grave and weighty as to lead one to the conclusion that one of the spouses cannot reasonably be expected to live with the other spouse. It must be more serious than the ordinary wear and tear of married life.

60. Thus, Cruelty must be of such a type which will satisfy the conscience of

the Court that the relationship between the parties has deteriorated to such an extent that it has become impossible for them to live together without mental agony. The cruelty practiced may be in many forms and it must be productive of an apprehension in the mind of the other spouse that it is dangerous to live with the erring party.

61. In the instant case, it is evident that in the starting day of marriage there was happy conjugal life in between the parties but after some days bitterness started.

62. It has been pleaded by the plaintiff/respondent/husband that the family members of the appellant/wife went to the house of the plaintiff/respondent/husband and they brought the appellant/wife to their home with her entire ornaments and after, the plaintiff/husband and his family members tried to take bedai of the defendant/wife but the defendant/wife (appellant herein) lodged a false case U/s 498A of the IPC against the entire family members of the plaintiff/husband, in which it was alleged by the appellant/wife that her husband is an impotent person and later on she turned back from that allegation and thus due to said act of the defendant/wife reputation of plaintiff/husband and his family was damaged in the eyes of the society.

63. It is evident from impugned judgment that with respect to aforesaid argument of the plaintiff husband the learned Family Court has perused the Ext-2, which is certified copy of FIR of Sahibganj (1) P.S. Case No. 103/2021 dated 13.09.2021 and having gone through that document, wherefrom learned Family Court found that the defendant Ritu Gupta (appellant herein) had lodged a case against the plaintiff/husband and his

family members u/s 323, 420, 498A, 504, 506/34 of the I.P.C and section 3/4 of D.P. Act.

64. Since the main crux of the suit is based on the allegation made by the defendant (appellant herein) in her complaint petition, which is basis of FIR of Sahibganj (T) P.S.Case No. 103/2021, the learned Family Court has gone through paragraph nos. 1, 4, 5, 6 & 7 of recital of FIR, wherein it has been alleged by the defendant/wife(appellant herein) in her complaint petition that her husband is an impotent person and as per defendant/wife when her mother (D.W.2) asked one Uday Kumar as to why you made the life of her daughter hell by getting her daughter married to a sick and impotent boy then it was told by him that he wanted to trap their daughter by getting her married with Anupan Bipul(respondent herein), so he did it and thus it appears from the recital of FIR lodged by the defendant that no physical relationship was established in between her and respondent/husband after her marriage.

65. It reveals from the contents of FIR which has also been quoted in the impugned judgment that the plaintiff/respondent/husband used to visit in the room of defendant/wife during her stay at her matrimonial home but he did not have any kind of contact with her nor did he keep marital relationship with her and when the defendant/wife(appellant herein) came to depose her evidence as D.W.3, she has again reiterated same fact in para 2 of her affidavited examination-in-chief by deposing that her husband broke all his relation with her and even after living with her he did not make marital relationship with her but the plaintiff/respondent/husband has totally denied the allegation made by his

wife either in her FIR or in her testimony by pleading in his plaint that false allegation has been imposed by his wife against him about his impotency and on this score alone the plaintiff/husband has filed a suit for passing a decree of divorce against his wife/appellant.

66. The respondent/husband has been examined as PW-4 and he has deposed in his examination-in-chief at para-4 that he is fit in all respects including in the matter of sex and after marriage he has established physical relation with his wife also while she was living with him and thereby the plaintiff has tried to establish the fact before the learned Family Court that he is able to establish marital relationship with his wife and he is not impotent and when the plaintiff/husband was put to cross examination by the defendant/wife, he has again reiterated the same fact in para-16 of his deposition that the defendant/wife lived in his house till 15 days after her marriage and during that period physical relation was established by him with her thrice.

67. As discussed above, it is evident that the appellant wife has stated about the impotency of her husband/plaintiff in her FIR but the plaintiff deposed in his examination in chief that he is capable in sex and even he had established marital relationship with his wife during her stay at his home

68. On scrutinizing the testimony of the defendant(appellant/wife), it is evident that during trial of the suit she has herself turned back from her earlier version, which has been written by her in her FIR, as it reflects from her cross examination, in which it has been stated by her that it is true to say she is still ready to go to her matrimonial home despite of demanding more dowry and subjecting her to mental and physical cruelty

and it has further been deposed by her that it is not true to say that she has imposed false allegation of impotency of her husband under the influence of her parental family members and now she is ready to go to her matrimonial home as per their advice.

69. But from the Ext-2 it is evident that appellant/wife started making allegations against her husband (respondent herein) that he is incompetent to discharge his matrimonial obligations, he is an unfit person to be a husband and the allegation of impotency was disclosed.

70. It is considered view of this Court that the allegation of impotency against the husband would necessarily affect the reputation of the husband and the complaining of incapacity of the husband to bear children, without any proof creates an intense mental agony and anguish of the husband and such conduct amounts to mental cruelty.

71. The Hon'ble Apex Court in the case of ***Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate, [AIR 2003 SC 2462],*** has observed that "a conscious and deliberate statement levelled with pungency and that too placed on record, through the written statement, cannot be so lightly ignored or brushed Side."

72. In the instant case wife (appellant herein) made serious allegation of impotency against her husband, which has not been corroborated from the medical opinion which has been placed before this Court in compliance of the order dated 05.12.2025. Moreover, launching criminal prosecution on false statement by either spouse, amounts to mental cruelty, therefore this Court is of the considered view that the learned Family Court has rightly derived his inferences that the conduct of defendant/appellant amount to

cruelty against her respondent husband as she brought criminal prosecution against him on basis of loose statement.

73. It is evident from the impugned judgment that the learned Family Court while appreciating the issue of cruelty has considered all the evidences available on record at length and thereafter has given its finding that the statement of the defendant/appellant against her husband that he is impotent comes under the purview of cruelty. For ready reference the relevant paragraph of the impugned judgment is being quoted as under:

> *In the present case, the allegations made by the wife to the extent that the husband in not discharging his matrimonial vows and that creates a doubt in the mind of wife that he is impotent, which has affected the reputation of husband. The wife has failed to discharge the burden to prove that the husband is impotent as the husband is willing to undergo medical examination as stated in his affidavit. Having not proved the allegation, the unproved/unsubstantiated false allegations about impotency has led to mental disturbance of the husband causing disharmony between the husband and wife, which makes the husband unable to stay with the wife.*
>
> *Though Section 13 of the Act does not consider the impotency as the ground for divorce, the false allegation of impotency being made by the wife would definitely cause mental disharmony and this would amount to mental cruelty within the meaning of Section 13(1)(ia) of the Act, and enables the husband to seek divorce on the ground of cruelty. As no evidence having been specifically adduced by the wife to prove that the husband is actually impotent, the allegation would remain only an allegation and has the effect of lowering the dignity of the husband, which amounts to cruelty.----*
>
> *22- Considering the facts and circumstances of this suit, discussed herein above and having paid proper attention towards the argument advanced by Ld counsels of both sides and the legal principle laid down by the Hon'ble Courts, I find and hold that the principles laid down in the above judgments are squarely applicable to the facts of this case. In the instant*

case also, the defendant has made allegation assassinating the character of her husband by stating that he had an illegal intimacy with the model girls, which she has failed to establish. Therefore, it is opinion of this court that the defendant has caused mental cruelty to her husband by way of making such false allegations in her testimony. It is further held that the defendant -wife made serious allegation of impotency against the plaintiff- husband that would certainly cause mental pain to him if the allegation is not true and in the instant suit the defendant has not been able to prove the fact that her husband is impotent. It is view of this court that impotency is a physical or mental condition of any person, which can only be proved by medical expert but during the whole trial the defendant did not make any effort to have her husband's impotency examined by a medical expert and thus it is held that false allegation has been imposed by the defendant against her husband that he is incapable to perform sexual intercourse or impotent, which is a valid a ground to grant decree of divorce under Section 13(1)(ia) of the Hindu 1955.---

74. Thus, on the basis of the discussion made hereinabove, this Court is of the view that the appellant has failed to establish the element of perversity in the impugned judgment, as such, the instant appeal deserves to be dismissed.

75. Accordingly, the instant appeal fails and is, dismissed.

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

(Sujit Narayan Prasad, J.)

I Agree.

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

12/03/2026

Rohit/**A.F.R.**

Uploaded on 13.03.2026