IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A.No.24 of 2024

Md. Akil Alam, aged about 31 years, son of Md. Salim, resident of Makhdum Colony, Amarpur, PO & PS: Govindpur, District Dhanbad.

…. … Petitioner/Appellant

Versus

Tumpa Chakravarty, aged about 30 years, wife of Md. Akil Alam, daughter of Shambhu Nath Chakravarty, resident of Akshay Smriti, Raj Narayan Bose Road, Ward No.9, Near Circuit House, Deoghar, PO and PS: Deoghar, District: Deoghar …. …Respondent/Respondent

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CORAM: HON'BLEMR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant :Mr. Manoj Kumar Sinha, Advocate
For the Respondent : Mr. Arvind Kumar Choudhary, Advocate

Order No. 05/Dated: 6th October, 2025

1. The instant appeal has been filed on behalf of the appellant under Section 19(i) of the Family Courts Act, 1984 against the judgmentdated 28.11.2023 [decree signed on 11.12.2023] passed by the learned Principal Judge, Family Court, Deogharin Original Suit No.137 of 2021, whereby and whereunder, the Suit for restitution of conjugal right filed by the petitioner husband (appellant herein) under section 22 of the Special Marriage Act 1954 has been dismissed.

2. The brief facts of the case are referred herein as under:

The case of petitioner/appellant is that the respondent is the legally wedded wife of the petitioner and their marriage was solemnized on 04.08.2015. After marriage, both the petitioner and respondent had been living together as husband and wife at Amarpur. After some days of marriage, the respondent came to her parental house on 10.10.2015, without any reasonable excuse and she has left society of the petitioner.

The petitioner requested the respondent to lead conjugal rights on several occasions but the respondent always refused to accompany with the petitioner and she had stated to the petitioner to leave his profession and settle at the Deoghar, as Gharjamai. The petitioner is a Pathologist and he works at Govindpur. The petitioner is ready and willing to maintain the respondent with full dignity and honour and he has no alternative but to take recourse of this no Court for restitution of his conjugal rights. The cause of action for the suit arose on 27.12.2019, when the respondent refused to live with the petitioner.

3. Notice was issued to the respondent who appeared and filed her written statement stating therein that the instant suit is misconceived, unwarranted and not maintainable either on facts or material available on record.

4. It has further been stated that the petitioner had suppressed the fact that he was married since earlier and he had a child also from his first wife. The petitioner had taken away the original sale deed of the land belonging to the respondent's father and he was pressurizing the respondent and he father to execute a Gift Deed of said land in his favour and when the said demand of petitioner was refused by the respondent, he started to treat the respondent with cruelty due to which the respondent had to file a petition under section 125 Cr.P.C. being Original Maintenance Case No. 220 of 2018 which was allowed vide order dated 5.12.2019 directing the petitioner to pay Rs. 8,000/- per month as maintenance to his wife.

5. It is further stated that there is threat of life of the respondent by the hands of the petitioner and his first wife. The instant case has been filed by the

petitioner only to put undue pressure upon the respondent so that the petitioner may escape from the liability of paying maintenance.

6. On the basis of the aforesaid pleadings of the parties, altogether four issues have been framed by the learned Family Judge which are as follows:

(i) Whether the suit as framed is maintainable for the relief claimed?

(ii) Whether the petitioner has valid cause of action for the suit?

(iii) Whether the opposite party/respondenthas deserted the petitioner without any just cause?

(iv) Whether the petitioner is entitled to get the relief as claimed or any other relief?

7. The evidences have been laid on behalf of both the parties. The petitioner husband had examined three witnesses in support of his claim namely P.W.1 Md. Akil Alam (petitioner/appellant), P.W.2 Sandeep Kumar and P.W.3 Md. Iqbal Alam.

8. On behalf of the respondent wife two witnesses had been examined namely RW.1 Manju Chakravarty and R.W.2 Tumpa Chakravarty (respondent wife).

9. After appreciating the evidences, the Principal Judge, Family Court, Deoghar vide judgment dated 28.11.2023 has dismissed the Suit with cost.

10. The appellant husband being aggrieved and dissatisfied with the impugned judgment dated 28.11.2023 [decree signed on 11.12.2023] passed in

Original Suit No. 137 of 2021 has filed the present First Appeal under Section 19(i) of the Family Courts Act, 1984.

Arguments advanced on behalf of the appellant:

11. It has been contended on behalf of the appellant that the issues have not been decided in proper manner. The learned Family court has also not considered the depositions and the documents advanced on behalf of the appellant and, as such, the judgment impugned is liable to be set aside.

12. It has been submitted that the court is failed to appreciate oral and documentary evidence adduced on behalf of the appellant and thus came to a wrong conclusion. The court has also not considered that the appellant has successfully substantiated the allegation that respondent has withdrawn herself from his society without any reasonable excuse.

13. It has been submitted that the learned Family Judge ought to have consider that the appellant is Muslim by faith and under the Mohammadan Law at least four marriages are permissible and the respondent knowing fully well about the previous marriage of the appellant, solemnized her marriage with the appellant under the provisions of Special Marriage Act.

14. It is further stated that the learned Principal Judge has failed to consider that respondent had pressurized the appellant to live as *Gharjamai* after leaving his first wife. The learned court below has also not considered that the respondent had knowledge about previous marriage of the appellant and only on the basis of the fact that appellant has not stated in marriage certificate that he was already married, the decree has been prepared.

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

Arguments advanced on behalf of the respondent:

16. *Per contra*, Mr. Arvind Kumar Choudhary, the learned counsel appearing on behalf of the respondent-wife, while defending the impugned judgment, has submitted that there is no error in the impugned judgment.

17. The learned Family Judge has rightly come to the conclusion that the respondent wife has not deserted the petitioner without any just cause rather she has a valid cause for living separate from the petitioner and therefore the suit filed by the petitioner has no valid cause of action and thus it is not maintainable.

18. The learned court below has also rightly concluded that the respondent has a valid cause to live separate from the petitioner as the petitioner was already married with another girl and he had solemnized his marriage with the respondent by concealing his previous marriage. There is threat to the life of the respondent accompanying with the petitioner and, therefore, the petitioner is not entitled to get a decree for restitution of conjugal rights.

19. Learned counsel, based upon the aforesaid grounds, has submitted that since the factum of living separately from the petitioner has been sufficiently established, based upon which the decree has been granted, as such, no interference is required in the order impugned.

Analysis:

20. 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.

21. The case has been heard at length. The admitted fact herein is that the suit for a decree of restitution of conjugal rights has been filed on the ground of desertion, i.e., by filing an application under Section 22 of the Special Marriage Act and, accordingly, issues have been framed by the learned Family Court wherein primarily issue no.III pertains to desertion.

22. The evidence has been laid on behalf of both the parties.

23. For ready reference, the evidences laid on behalf of the husband are being referred as under:

    (i) PW-1 Md. Akil Alam is the appellant himself has stated that the respondent is living in her parental house and she is declining to lead her conjugal life with the appellant-husband without any valid reason. The respondent-wife and her family members were pressurizing the appellant to settle in Deoghar as Gharjamai. After leaving her matrimonial house the respondent started to pressurize the appellant for constructing a house and on his refusal the respondent filed a maintenance case. Both the parties went for mediation which was also successful but after some days the respondent refused to live with the appellant in a rented house and deserted him. In his cross-examination he has admitted that prior to

solemnization of marriage with the respondent, he was already married having two daughters.

(ii) PW-2 Sandeep Kumar has deposed that he has a Lab in Jharia and the petitioner has a Lab in Dhanbad and hence they are familiar to each other. He has further deposed that the respondent left her matrimonial house without any reason and she refused to lead her conjugal life with the petitioner, however, the petitioner is ready to keep his wife in Deoghar. In his cross-examination he has stated that the petitioner had solemnized his marriage with another girl, namely, Tabassum and has two daughters before marrying with the respondent.

(iii) PW-3 Md. Iqbal Alam has deposed that the respondent was fully aware of this fact that the petitioner is married and has children also, even though, she voluntarily married with the petitioner. After marriage they wereliving together as husband-wife but no child was born from their wedlock. On 10.10.2015 she left the house of the petitioner and went to her *maike*. The petitioner tried to bring her back but she did not come with him and she was always trying to extort money. The respondent and her family members were pressurizing the appellant to live in Deoghar as Gharjamai and construct a house in Deoghar. In his cross-examination he has stated that the appellant has two daughters and one son from his previous wife.

24. The respondent-wife has been examined as RW-2. For ready reference, her evidence is being referred as under:

(i) RW-2 has stated in her examination-in-chief filed on affidavit that she has admitted her marriage with the petitioner in the year 2015 at Dhanbad. She has further stated that the petitioner had not disclosed that he is already married with another girl and he has two daughters from his previous wife. She has filed a maintenance case under section 125 Cr.P.C. vide Original Maintenancecase no. 220 of 2018 which was allowed on 5.12.2019, whereby the petitioner was directed to pay Rs. 8,000/- per month to the respondent but he is not paying regularly. She has further deposed that there is danger of her life from the petitioner and his first wife due to which it is impossible for her to live with the petitioner in Dhanbad.

(ii) The Examination- in- chief of another witness i.e. RW.1 who is the mother of the respondent has been filed wherein similar statement has been given.

25. The learned Family Judge has gone into the evidences laid on behalf of the parties as also the submissions made in the pleadings, i.e., plaint and written statement, has found that the defendant (respondent wife herein) has able to establish that she has sufficient reason to live separately from husband (appellant herein) and at present there is no chance of their reunion. Accordingly, the learned Family Judge has dismissed the suit filed by the appellant husband under Section 22 of the Act 1954 for restitution of conjugal right.

26. On the basis of the aforesaid factual aspect, it would be apt to refer herein Section 22 of Special Marriage Act 1954 (herein referred as Act 1954) which pertains to restitution of conjugal right:

> *22. Restitution of conjugal rights.—When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply by petition to the district court for restitution of conjugal rights, and the court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.*
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> *[Explanation. —Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of providing reasonable excuse shall be on the person who has withdrawn from the society.]*

27. It needs to refer herein that section 9 of the Hindu Marriage Act 1955 which also pertains to the restitution of the conjugal rights is Pari Materia to Section 22 of the Act 1954. The object of restitution decree was to bring about cohabitation between the estranged parties so that they could live together in the matrimonial home in amity. The leading idea of Section 22 of Act 1954 was to preserve the marriage.

28. From perusal of the aforesaid provision, it is evident that if either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, before the court concerned, for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and further taking into consideration the legal ground that why the application should not be granted, may decree restitution of conjugal rights accordingly.

29. Further, in explanation part of the said provision, it has been prescribed that when a question arises, whether there has been “reasonable excuse” for withdrawal from the society, the burden of proving “reasonable excuse” shall be on the person who has withdrawn from the society.

30. It needs to refer herein that conjugal rights may be viewed in its proper perspective by keeping in mind the dictionary meaning of the expression "Conjugal" wherein the meaning of 'conjugal' as "of or pertaining to marriage or to husband and wife in their relations to each other" is given (Shorter Oxford English Dictionary, 3rd Edn. Vol. I page 371).

31. In the Dictionary of English Law, 1959 Edn. at page 453, Earl Jowitt defines 'conjugal rights' thus:

> *"The right which husband and wife have to each other's society and marital intercourse. The suit for restitution of conjugal rights is a matrimonial suit, cognizable in the Divorce Court, which is brought whenever either the husband or the wife lives separate from the otherwithout any sufficient reason, in which case the court will decree restitution of conjugal rights (Matrimonial Causes Act, 1950, s. 15), but will not enforce it by attachment, substituting however for attachment, if the wife be the petitioner, an order for periodicalpayments by the husband to the wife (s.22). Conjugal rights cannot be enforced by the act of either party, and a husband cannot seize and detain his wife by force (R.V. Jackson [1891] 1 Q.B. 671)".*

32. In India, it may be borne in mind that conjugal rights, i.e., right of the husband or the wife to the society of the other spouse is not merely creature of the statute, such a right is inherent in the very institution of marriage itself. Thus, the restitution of conjugal rights is often regarded as a matrimonial remedy. The remedy of restitution of conjugal rights is a positive remedy that requires both parties to live together and cohabit.

33. Thus, the requirement of the provisions of restitution of conjugal rights are as follows:

> *(i) The withdrawal by the respondent from the society of the petitioner.*
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> *(ii) The withdrawal is without any reasonable cause or excuse or lawful ground.*
>
> *(iii) There should be no other legal ground for refusal of the relief.*
>
> *(iv) The court should be satisfied about the truth of the statement made in the petition.*

34. The Hon'ble Apex Court in the catena of judgments had discussed the scope of restitution of the conjugal right, for sake of reference some of the authoritative pronouncements of the Hon'ble Apex Court are being referred herein under:

35. The Hon'ble Apex Court in the case of ***Suman Singh v. Sanjay Singh, (2017) 4 SCC 85*** has categorically observed that when there is evidence establishing that it was respondent husband who withdrew from appellant's company without any reasonable cause, appellant is entitled to get decree for restitution of conjugal rights. For ready reference the relevant paragraphs are being quoted as under:

> *"24. In our considered view, as it appears to us from perusal of the evidence that it is the respondent who withdrew from the appellant's company without there being any reasonable cause to do so. Now that we have held on facts that the respondent failed to make out any case of cruelty against the appellant, it is clear to us that it was the respondent who withdrew from the company of the appellant without reasonable cause and not the vice versa.*
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> *25. In view of the foregoing discussion, the appeals succeed and are allowed. The impugned judgment [Suman Singh v. Sanjay Singh, 2013 SCC OnLine Del 2138 : (2013) 136 DRJ 107] is set aside. As a result, the petition filed by the respondent (husband) under Section 13(1) of the Act seeking dissolution of marriage is*

> *dismissed. As a consequence thereof, the marriage between the parties is held to subsist whereas the petition filed by the appellant against the respondent under Section 9 of the Act seeking restitution of conjugal rights is allowed. A decree for restitution of conjugal rights is, accordingly, passed against the respondent.*
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> *26. We hope and trust that the parties would now realise their duties and obligations against each other as also would realise their joint obligations as mother and father towards their grown up daughters. Both should, therefore, give a quiet burial to their past deeds/acts and bitter experiences and start living together and see that their daughters are well settled in their respective lives. Such reunion, we feel, would be in the interest of all family members in the long run and will bring peace, harmony and happiness. We find that the respondent is working as a "Caretaker" in the Government Department (see Para 4 of his petition). He must, therefore, be the "Caretaker" of his own family that being his first obligation and at the same time attend to his government duties to maintain his family."*

36. Thus, on the basis of aforesaid settled position of law, it is evident that the court will grant a decree for restitution of conjugal rights when one spouse has withdrawn from the other's society without reasonable excuse. This means if a husband or wife leaves the marital home or refuses to live with their spouse without a justifiable reason, the other spouse can file petition before the court for its remedy. The court, if satisfied with the truth of the petition and finding no legal barrier, may order the withdrawing spouse to return and resume cohabitation.

37. In the backdrop of the aforesaid settled position of law, this Court is now adverting to the material available on record and has revisited the order impugned.

38. The learned counsel for the appellant has contended that the appellant is Muslim by faith and under the Mohammadan Law at least four marriages are permissible and the respondent knowing fully well about the previous marriage of the appellant, solemnized her marriage with the appellant under the provisions of Special Marriage Act.

39. In the aforesaid context it needs to refer herein that Section 4 of the Special Marriage Act prescribes the conditions for solemnizing a special marriage. Section 4 starts with a *nonobstante* clause that "*Notwithstanding anything contained in any other law for the time being in force relating to solemnization of marriages*", a marriage between any two persons may be solemnized under this Act, if at the time of the marriage, the conditions contained in the said Section are fulfilled. For ready reference the Section 4 is being quoted as under:

> ***Section 4 - Conditions relating to solemnization of special marriages.-***
>
> ***Notwithstanding anything contained in any other law for the time being in force relating to the solemnization of marriages, a marriage between any two persons may be solemnized under this Act, if at the time of the marriage the following conditions are fulfilled****, namely:—*
>
> *(a) neither party has a spouse living;*
>
> *(b) neither party-*
>
> *(i) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or*
>
> *(ii) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or*
>
> *(iii) has been subject to recurrent attacks of insanity;*
>
> *(c) the male has completed the age of twenty-one years and the female the age of eighteen years;*
>
> *(d) the parties are not within the degrees of prohibited relationship:—*
>
> *Provided that where a custom governing at least one of the parties permits of a marriage between them, such marriage may be*

solemnized, notwithstanding that they are within the degrees of prohibited relationship; and

(e) where the marriage is solemnized in the State of Jammu and Kashmir, both parties are citizens of India domiciled In the territories to which this Act extends.

Explanation.-In this section, "custom", in relation to a person belonging to any tribe, community, group or family, means any rule which the State Government may, by notification in the Official Gazette, specify in this behalf as applicable to members of that tribe, community, group or family:

Provided that no such notification shall be issued in relation to the members of any tribe, community, group or family, unless the State Government is satisfied-

(i) that such rule has been continuously and uniformly observed for a long time among those members;

(ii) that such rule is certain and not unreasonable or opposed to public policy; and

(iii) that such rule, if applicable only to a family, has not been discontinued by the family."

40. From the aforesaid conditions it is evident that Section 4 enables two persons belonging to different or same religions to enter into a valid marriage as long as they fulfill conditions contained in the said Section such as neither party is having a spouse living, the parties are not within the degrees of prohibited relationship unless the customs governing at-least one of them permit such marriage, etc. Personal religious laws of different religions would obviously not recognize inter-religion marriages unless of course one party to such marriage is prepared to renounce his/her religion and accept conversion to the religion of the spouse and such conversion is recognized by such religion.

41. Further, it would be apt to refer herein the authoritative pronouncement in this regard that when a person solemnizes marriage under Special Marriage Act 1954, then the marriage is not governed by personal laws but by the Special Marriage Act itself.

42. In the case of ***Anwar Ahmed v. State of Uttar Pradesh, 1989 All LJ 303***, the applicant solemnized his first marriage under Mohammadan law and he contracted his second marriage under Special Marriage Act. The Allahabad High Court held that the second marriage under the Special Marriage Act is an offence punishable under Section 494 IPC notwithstanding that the Personal Law permits Muslim male to contract four marriages. Relevant portion of the said judgment is as under:

> *"...Notwithstanding the fact that personal law permits a Muslim male to contract four marriages, if a second marriage is contracted under the Special Marriage Act 1954 vis-à-vis the fact that a muslim male has a legally wedded wife who has been married to him under the Mohammedan Law, Section 494, I.P.C. has to claw at the erring male. The applicant cannot take refuge behind the fallacious contention that he had contracted the second marriage with a Muslim woman by virtue of the exceptions enshrined in Mohammedan Law. Mohammedan Law does not claim precedence over Special Marriage Act, 1954 keeping in view that the applicant solemenised his first marriage under Mohammedan law and he contracted his second marriage under Special Marriage Act. There being no saving clause for the applicant to purge him of the charges u/s 494, L.P.C. I feel that the applicant is liable to be punished u/s 494, I.P.C."*

43. In the case of ***Suman Kundra v. Sanjeev Kundra, AIR 2015 Del 124***, the parties were married as per Hindu rites and ceremonies on 29th October, 1986. However, their love marriage did not continue very long and the marriage dissolved by a decree of divorce on 02nd June, 1988. The parties re-married for the second time before the Marriage Officer under Special Marriage Act on 03rd May, 1990. However, the parties could not reconcile their inherent differences and the husband filed a petition for dissolution of marriage under Section 13(1)(a) and (b) of Hindu Marriage Act on 21st July, 2005. The wife challenged the maintainability of the petition. **The Delhi High Court held that since the parties were married under the Special Marriage Act, their conduct**

with regard to grant of divorce or relationship would be covered under the Special Marriage Act only.

44. Further from perusal of the object of the Act 1954 it is evident that the Special Marriage Act, 1954 provides a special form of marriage, its registration and divorce. A marriage between any two persons belonging to any religion or creed may be solemnized under this Act. Being a secular Act, it plays a key role in liberating individuals from the traditional requirements of marriage. It provides for a civil law of marriage that would enable individuals to get married outside of their respective community mandates.

45. The Special Marriage Act 1954 is not concerned with the religion of the parties to an intended marriage. Under the Act any person, whichever religion he or she professes, may marry either within his or her community or in a community other than his or her own, provided that the intended marriage in either case is in accord with the conditions for marriage laid down in the Act.

46. No religious rituals or ceremonies are required from the marriage to be completed under the Special Marriage Act. It is up to the parties to decide whether they want to do marriage rituals or not. The Special Marriage Act provides an option of turning an existing religious marriage solemnized in any other form under any other law into a civil marriage by registering it under its provisions, provided that it is in accord with the condition for marriage laid down under the Act. This provision of subsequent registration enables parties to avail secular and uniform remedies despite the solemnization of marriage through

performance of religious ceremonies under one's own personal laws. This aids them in overcoming the constraints or discrimination faced in their own personal laws.

47. Thus, from the aforesaid discussion it is considered view of this Court that when a person solemnizes marriage under this law (Act 1954) then the marriage is not governed by personal laws but by Special Marriage Act. The rights and duties arising out of marriage are governed by the Special Marriage Act and not by the personal laws.

48. Accordingly in the light of aforesaid settled position, this Court is of the view that the contention of the learned counsel that being a Muslim his marriage life will be governed by the personal laws even he had solemnized his marriage under Special Marriage Act 1954, is not tenable herein.

49. Now coming to factual aspect of the instant case that it is evident from the testimonies and evidence available on record that the wife (respondent herein) since beginning always tried her best to lead happy conjugal life but due to compelling circumstances, the respondent wife unwillingly had left matrimonial house.

50. It has come in the testimony of R.W.2 respondent that Petitioner husband has already married with another girl namely Tabassum Alam and he has child from his previous wife. Respondent has further deposed that there is danger of her life from the petitioner and his first wife due to which it is impossible for her to live with the petitioner in Dhanbad.

51. Further, from perusal of the impugned order, it is evident that the learned Family Judge has also taken into consideration the aforesaid factual aspect as well as settled proposition of law related to the restitution of conjugal right, which would be evident from some paragraphs of the impugned judgment, for ready reference, the relevant paragraph is being quoted as under:

> *"Thus, on scrutinizing the aforesaid oral testimony of the witnesses as a whole, this Court finds that it has come on record sufficiently from the evidence of the petitioner's witnesses as well as the witnesses of the opposite party also that the petitioner Akil Alam had a living spouse at the time of his marriage with the re-spondentTumpa Chakravarty and further, he had two children from his said spouse also. The petitioner has claimed that the factum of his previous marriage and birth of children from the said previous marriage was well within the knowledge of respondent and she had entered into marriage with the petitioner inspite of being fully aware about it. But, when the petitioner Akil Alam (P.W.1) has been cross-examined on this point, he has admitted in para-15 of his cross-examination that:-*
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> *"मैने धनबाद के रजिस्ट्री ऑफिस में टुंपा से शादी की थी, लेकिन मैं अपनी पहली शादी के बारे में नहीं लिखा था। लेकिन इस बात की जानकारी टुंपा को बतलाई थी।"*
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> *This statement of petitioner Akil Alam (P.W.1) itself goes to falsify his claim of disclosing about his previous marriage to the respondent while solemnizing marriage with her otherwise there was no reason to conceal the said fact before the Marriage Registrar by the petitioner. Furthermore, the respondent has filed the certified copy of the order passed in Original Maintenance Case No. 220/2018 (Exhibit-A), which goes to show that the petitioner (O.P. of the said Maintenance Case No. 220/2018) Akil Alam had taken a plea in the said case that his marriage with the respondent Tumpa Chakravarty is an irregular marriage and hence, she is not entitled to get maintenance from him. This conduct of petitioner Akil Alam clearly goes to show that he himself is not firm on his relation with the respondent Tumpa Chakravarty and he is changinghis statement from time to time.*

> *Keeping of a mistress or contract-ing a second marriage by a husband is a sufficient ground for a wife to deny from accompanying with her husband and thus, in view of the said matter, this Court finds that in the instant case the respondent has sufficient ground to live separate from the petitioner and the petitioner cannot be allowed to take advantage of his own wrong. The respondent Tumpa Chakravarty (R.W.2) has deposed before the Court that the petitioner has solemnized marriage with her by concealing his previous marriage and there is danger of her life in the hands of petitioner and his previous wife in going to Dhanbad and this apprehension of respondent seems to be quite rea-sonable in the facts and circumstances of this case.*
>
> *Therefore, on the basis of aforesaid discussion, this Court finds that the respondent/opposite party has not deserted the petitioner without any just cause rather she has a valid cause for living separate from the petitioner. Accordingly, this issue is being decided negatively against the petitioner*

52. Thus, from the aforesaid paragraphs of the impugned order it is evident that the learned Family Court while passing the order impugned has taken care of the evidence of both the parties and further the learned court has also taken note of the core of section 22 of the Act 1954.

53. The learned Family Court after considering all these aspects has inferred that the petitioner has solemnized marriage with her by concealing his previous marriage and there is danger of her life in the hands of petitioner and his previous wife in going to Dhanbad and this apprehension of respondent seems to be quite rea-sonable in the facts and circumstances of this case.

54. Herein the learned counsel for the appellant/petitioner has argued that since the learned Family Court has not properly appreciated the evidences available on record as also has not properly considered the testimony of

the witnesses and has passed the order impugned without taking into consideration the mandate of the Section 22 of the Act 1954 and, as such, the impugned judgment suffers from perversity, hence, not sustainable in the eyes of law.

55. This Court, while appreciating the argument advanced on behalf of the appellant 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.

56. 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, read 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.*
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> *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."

57. This Court has already observed in preceding paragraphs that learned Family Court while passing the order impugned has taken care of the evidence of both the parties and further the learned court has also taken note of the fact that the petitioner has solemnized marriage with respondent wife by concealing his previous marriage and there is danger of her life in the hands of petitioner and his previous wife and this apprehension of respondent seems to be quite rea-sonable in the facts and circumstances of this case, as such, the contention of the learned counsel for the appellant that there is element of perversity in the impugned order is totally fallacious.

58. This Court, based upon the aforesaid discussions, is of the view that the appellant has failed to establish the element of perversity in the impugned judgment as per the discussions made hereinabove, as such, the instant appeal deserves to be dismissed.

59. Thus, on the basis of the discussions made hereinabove, this Court, therefore, is of the view that the judgment dated 28.11.2023 [decree signed on 11.12.2023] passed by the learned Principal Judge, Family Court, Deoghar in Original Suit No. 137 of 2021requires no interference.

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

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

(Sujit Narayan Prasad, J.)

(Rajesh Kumar, J.)

Jharkhand High Court
06.10.2025
KNR/A.F.R.

Uploaded on 9th October, 2025.