



NC: 2026:KHC:45404-DB
MFA No. 1575 of 2026

CNR: KAHC010147792026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

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DATED THIS THE 24TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

MISCELLANEOUS FIRST APPEAL NO.1575/2026 (FC)

BETWEEN:



...APPELLANT

(BY SRI. JOSEPH ANTHONY, ADVOCATE)

AND:

...RESPONDENT

(BY SRI.UDAY HOLLA, LEARNED SENIOR COUNSEL FOR
SRI.K.CHANDRAKANTH ARIGA, ADVOCATE)

THIS MFA FILED U/S.19(1) OF FAMILY COURT ACT,
AGAINST THE JUDGMENT AND DECREE DT.20.06.2026 PASSED
IN MC NO.81/2022 ON THE FILE OF THE PRL JUDGE FAMILY
COURT, D.K. MANGALURU, ALLOWING THE PETITION FILED
U/S.13(1)(IA) OF THE HINDU MARRIAGE ACT, 1955.



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THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

The parties, who were college mates, eventually saw their association blossom into a matrimonial relationship at Mangalore. Thereafter, the parties travelled beyond the shores of the nation to the United Kingdom. Out of the said wedlock, they were blessed with two girl children. Unfortunately, what had blossomed as a relationship between the parties turned sour on foreign soil, giving rise to serious disputes and differences between them. The ensuing discord eventually brought the parties back to India and the matrimonial dispute, accompanied by a volley of allegations and counter-allegations, has now come before us for consideration.



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The present appeal is directed against the judgment and decree dated 20.01.2026 passed by the Principal Judge, Family Court, D.K., Mangaluru, in M.C.No.81/2022 ('the Family Court' for brevity) whereby the petition filed by the petitioner-wife under Section 13(1)(i-a) and Section 25 of the Hindu Marriage Act, 1955 ('the Act' for short), came to be allowed and the marriage solemnized between the petitioner and the respondent was dissolved by a decree of divorce and the counter-claim filed by the respondent-husband seeking restitution of conjugal rights was dismissed with costs.

2. For the sake of convenience, the parties shall be referred to as per their ranking before the Family Court.

3. Briefly stated the facts are that, the marriage between the parties was solemnized on 23.05.2011 at Gopalakrishna Sabha Bhavan at Shakthi Nagar, Mangaluru and the parties have two daughters. The wife sought



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dissolution of marriage on the ground of '*cruelty*' under Section 13(1)(i-a) of the Act and permanent alimony under Section 25 of the Act, while the husband resisted the petition and sought restitution of conjugal rights under Section 9 of the Act.

4. It is the case of the petitioner-wife that though the marriage was initially cordial, the respondent-husband gradually subjected her to both physical and mental cruelty. According to her, the respondent was controlling in his behaviour, objected to her professional career and higher education, frequently quarrelled with her, physically assaulted her on several occasions and behaved in an abusive manner towards her and her parents. She further alleged that the respondent was hostile towards her parents, particularly during her pregnancies so also after the birth of the children and did not permit her to freely visit or maintain contact with her parental family. She relied substantially upon the WhatsApp conversations



exchanged between the parties to demonstrate the nature and extent of the matrimonial discord.

4.1. It was further contended that the respondent repeatedly made allegations that the petitioner was suffering from mental illness and even relied upon such allegations in the proceedings relating to custody of the children. The petitioner maintained that these allegations were false, stigmatic and unsupported by medical evidence and themselves constituted mental cruelty. She also relied upon the incident concerning removal of the photograph of her deceased father from the matrimonial home and contended that the respondent's conduct, taken cumulatively, had made it impossible for her to continue the matrimonial relationship.

4.2. As regards permanent alimony, the petitioner claimed that the respondent was earning substantially and had considerable investments and assets. She contended that, having regard to the long duration of the marriage,



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her age, the two minor children in her custody, the disparity in income and the standard of living enjoyed during the marriage, she was entitled to permanent alimony of Rs.5 crore.

5. The respondent contested the claim denying the allegations of 'cruelty' made against him and maintained that he had been a supportive husband throughout the marriage. He contended that the parties had travelled extensively together, had gone on honeymoon to Munnar and Alleppey, attended family functions and continued to live together happily for several years. He specifically denied having physically assaulted the petitioner or having prevented her from pursuing her medical profession or higher education. According to him, he had financially supported her education, including payments towards her medical courses and had encouraged her professional development.



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5.1 The respondent further contended that the petitioner's difficulties were substantially attributable to her own emotional and psychological issues and to the interference of her parents and uncles in the matrimonial relationship. He relied upon her alleged history of counselling and treatment and contended that she had herself displayed anger and aggressive behaviour. He alleged that she had threatened him, sent angry messages, blocked him from communication and ultimately left the matrimonial home on her own volition along with the children. He therefore maintained that there was no justification for her living separately.

5.2 The respondent also disputed the claim for Rs.5 Crore towards permanent alimony. He contended that the petitioner was highly qualified, professionally employed and capable of maintaining herself. He relied upon her employment records, income-tax returns, bank accounts, investments and properties to contend that she possessed substantial independent means. He further pointed out



that he had incurred substantial expenditure towards litigation in the United Kingdom and sought consideration/set-off of those expenses while determining permanent alimony.

5.3 He also filed a counter-claim under Section 9 of the Act, asserting that he was willing to resume matrimonial life and was prepared to take the petitioner back to the matrimonial home and continue to discharge his responsibilities as a father.

6. In support of her case, the petitioner got herself examined as PW-1 and examined her uncle Sri A. Keshava Bhat, as PW-2 and marked documents as per Ex.P1 to Ex.P40.

7. The documentary evidence included the marriage certificate, educational qualifications, bank statements, extensive WhatsApp conversations, salary certificates, Section 65-B certificate, proceedings in the child-custody case, proceedings before the High Court,



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police complaint and acknowledgment, emails, WhatsApp chats, a pen drive and other supporting documents.

8. The most significant evidence relied upon by the petitioner was the series of WhatsApp conversations. The Court found that the conversations disclosed repeated marital discord, hostility towards the petitioner's parents, admissions relating to physical assault and statements demonstrating the respondent's conduct towards the petitioner. In particular, the Family Court relied upon Ex.P11 to Ex.P14 and Ex.P38. The Family Court found that the respondent had, in the course of the conversations, admitted having physically hit the petitioner and expressed remorse for doing so. However, the Family Court did not accept every allegation of the petitioner. For instance, her allegation that she had been kept captive in the matrimonial home was not proved through PW-2 and the Family Court also found that the allegation that she had been prevented from contacting her parents was not



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believable in view of the photographs and other material produced by the respondent.

9. The respondent examined himself as RW-1. He relied upon a large body of documentary evidence, marked Ex.R1 onwards, consisting of bank records, payment receipts, photographs, travel tickets, emails, WhatsApp conversations, medical records, educational-expense records, employment records, income-tax returns, mutual-fund statements, property documents, United Kingdom proceedings and other documents.

10. The respondent relied particularly upon documents showing that he had made payments towards the petitioner's education and professional courses. The Family Court accepted that he had made several such payments and therefore rejected the petitioner's allegation that he had completely obstructed her education or professional career.



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10.1 He also produced medical records and other material to support his contention regarding the petitioner's alleged mental-health difficulties. However, the Family Court found that these documents, including the pharmacy receipt and medical records, were insufficient to establish the alleged mental illness in the absence of appropriate expert evidence.

10.2 The respondent also relied upon Ex.R120, the counselling WhatsApp group and Ex.R1, a letter written by the petitioner before marriage, besides other material concerning the parties' relationship and the petitioner's financial position.

11. On the basis of the above pleadings, the Family Court framed the following six points:

"1. Whether the petitioner proved that after solemnization of the marriage the respondent treated her with cruelty?

2. Whether the respondent proved that the petitioner without reasonable excuse had withdrawn from his society and residing separately?



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3. *Whether the petitioner is entitle for permanent alimony?*

4. *Whether the petitioner is entitle for decree of dissolution of marriage?*

5. *Whether the respondent is entitle for a decree of restitution of conjugal rights?*

6. *What order?"*

The Family Court answered point Nos.1, 3 and 4 in the affirmative and point Nos.2 and 5 in the negative.

12. It is relevant to refer to the findings recorded by the Family Court as under:

Reg. Point No.(1):

13. The Family Court ultimately found that the petitioner had established a sustained course of physical and mental cruelty. While some of the allegations were not proved, the Family Court considered the proved incidents cumulatively. The WhatsApp conversations were found to disclose physical assaults, abusive conduct, hostility towards the petitioner's parents and repeated attempts to



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control her conduct. The Court specifically noted that the respondent had admitted having hit the petitioner.

The Family Court also placed considerable reliance on the respondent's repeated allegations that the petitioner suffered from mental illness. Since those allegations were not supported by cogent medical or expert evidence, it held that making such allegations, including in the custody proceedings, amounted to mental cruelty. The Family Court further observed that the respondent himself had admitted that, despite allegedly knowing of the petitioner's supposed mental-health problems, he had not consulted a Psychiatrist regarding her condition for several years after the marriage.

The incident relating to removal of the photograph of the petitioner's deceased father was also considered significant. The Family Court found support for the petitioner's version in the respondent's own WhatsApp correspondence, in which he expressed regret after the



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petitioner complained that her father's memory had been desecrated. The Family Court considered this incident, occurring shortly before the parties' final separation, to be sufficient to constitute mental cruelty.

The Family Court rejected the argument that the earlier acts of cruelty stood condoned merely because the parties resumed cohabitation after counselling in the year 2018. It held that even if earlier conduct had been condoned, subsequent acts of cruelty could revive the cause of action. The Court found sufficient post-2018 conduct establishing continuing physical and mental cruelty. Accordingly, the Family Court concluded that the respondent had subjected the petitioner to physical and mental cruelty and that it had become highly difficult, if not impossible, for her to continue the matrimonial relationship.

Reg. Point No.(2):

14. The Family Court held that the respondent failed to establish that the petitioner had withdrawn from



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his society without reasonable cause. Her departure from the matrimonial home in October 2021 was found to have reasonable justification in view of the proved conduct of the respondent. The Family Court also observed that, even after separation, the respondent had not demonstrated genuine and sincere efforts for reconciliation sufficient to support his counterclaim.

Reg. Point No.(3):

15. While the petitioner claimed Rs.5 crore, the Family Court considered the financial circumstances of both parties rather than treating alimony as an automatic right or as equalisation of wealth. It considered the duration of the marriage, the age and qualifications of the petitioner, the fact that she had custody of the two children, the parties' respective income and assets and the standard of living enjoyed during the marriage.

The Family Court found that the respondent's income was approximately Rs.70 lakh per annum and that he had



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substantial investments. It also noted that the petitioner was earning approximately Rs.1.22 lakh net per month and had substantial investments of her own. Nevertheless, considering the overall circumstances, including the long duration of the marriage and custody of the children, the Court held that the petitioner was entitled to permanent alimony.

The Family Court also took into account the respondent's expenditure of approximately Rs.84 lakh towards litigation in United Kingdom and protective measures and treated the same as an amount to be considered while fixing the final quantum. Ultimately, instead of the claim amount of Rs.5 crore, the Court awarded Rs.2 crore as permanent alimony.

Reg. Point Nos.(4) & (5):

16. In view of the finding on cruelty, the Family Court held that the petitioner had established the ground under Section 13(1)(ia) of the Act and was therefore



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entitled to dissolution of marriage. Since the respondent failed to establish that the petitioner had withdrawn from his society without reasonable excuse, his counterclaim for restitution of conjugal rights was rejected.

Ultimately, the Family Court allowed the wife's petition for divorce under Section 13(1)(i-a) of the Act and dissolved the marriage solemnized on 23.05.2011. The husband's counter-claim for restitution of conjugal rights was dismissed with costs. The husband was directed to pay Rs.2 crore as permanent alimony within three months, failing which the amount would carry simple interest at 6% per annum from the date of decree.

The Family Court further directed the respondent to pay Rs.25,000/- per month towards the maintenance of two minor children with an enhancement of Rs.5,000/- every two years and awarded Rs.50,000/- as costs to the petitioner.



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In substance, the Court's conclusion was that although certain allegations of the petitioner were not established, the proved instances of physical assault, abusive conduct, hostility towards her parents, repeated unsubstantiated allegations of mental illness and the subsequent conduct of the respondent, when viewed cumulatively, constituted matrimonial cruelty of sufficient gravity to make continuation of the marriage unreasonable.

17. Aggrieved by the said judgment and decree passed by the Family Court, Mangalore, allowing the petition filed by the petitioner seeking decree for divorce under Section 13(1)(i-a) and dismissing the counter claim seeking restitution of conjugal rights under Section 9 of the Act, the respondent has preferred the present appeal before this Court, seeking to set aside the impugned judgment and decree and consequently to allow the appeal by setting aside the decree of divorce on the ground of cruelty.



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18. We have heard the arguments of Sri.Udaya Holla, learned Senior Counsel appearing on behalf of the petitioner/wife and Sri.Joseph Anthony, learned counsel for the respondent/husband and carefully perused the material available on record.

19. The learned Counsel for the respondent/husband submitted that the evidence on record clearly demonstrated that the petitioner had herself been subjected to physical aggression and repeated threats of self-harm and suicidal ideation on the part of the respondent. It was contended that the police complaint lodged immediately after the separation did not contain any allegation of physical assault and that even the material relating to the proceedings before the Court in the United Kingdom referred only to a solitary and context-specific incident and did not establish any pattern of domestic violence by the respondent.



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19.1. It was further argued that the finding of the Family Court that the respondent had imputed hereditary mental illness to the petitioner and her family, thereby causing serious mental cruelty, was unsupported by the pleadings and evidence and was arrived at without properly appreciating the surrounding circumstances.

19.2. The learned Counsel further submitted that the Family Court failed to give due consideration to the communications exchanged between the parties which demonstrated restoration of the matrimonial relationship and consequently, condonation of the alleged acts of cruelty. It was argued that the parties had resumed cohabitation after counselling, continued their matrimonial life and thereafter had their second child and therefore the earlier allegations could not have been revived without establishing any specific act of cruelty subsequent to such reconciliation. According to the petitioner, the Family Court ought to have properly segregated the allegations relating to the period before and after reconciliation and examined



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whether any specific incident of cruelty after the alleged condonation had been proved.

19.3. The learned counsel also contended that the approach of the Family Court was internally inconsistent, inasmuch as, while recognising the parties' long-standing engagement with counselling and psychiatric intervention, it selectively treated references to mental health as acts of cruelty.

19.4 It was also contended that the Family Court had adopted a selective and one-sided approach in appreciating the electronic evidence. The learned counsel submitted that the Family Court relied upon isolated WhatsApp messages produced by the respondent to draw adverse conclusions against the petitioner, while failing to consider the fuller and contemporaneous WhatsApp communications produced by the petitioner. The evidence regarding the respondent's repeated emotional outbursts, threats of self-harm and the circumstances in which the



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minor children were removed from the petitioner's care was, according to the petitioner, not properly considered. Such conduct, it was argued, had caused considerable emotional distress and insecurity to the petitioner and had materially contributed to the breakdown of the matrimonial relationship. The learned counsel, therefore, submitted that the finding of cruelty was the result of an incomplete appreciation of the evidence and was consequently unsustainable.

19.5. Lastly, the learned counsel challenged the award of Rs.2 crore towards permanent alimony as excessive and disproportionate. It was submitted that the Family Court had fixed the lump-sum amount without disclosing any intelligible methodology or structured basis for arriving at the said figure. The petitioner was a highly qualified medical professional with an independent earning capacity and substantial assets and there was no adequate finding of financial need warranting such a substantial lump-sum award. The learned counsel contended that the



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Court ought to have undertaken a proper assessment of the petitioner's actual needs, lifestyle, income, savings, assets and monthly expenditure, as also the respondent's existing liabilities and financial obligations. The award, therefore, according to the petitioner, amounted in substance to an impermissible equalisation of wealth rather than a fair and needs-based determination of permanent alimony.

20. Learned Counsel for the petitioner refuted the submission made on behalf of the respondent and justified the order of the Family Court.

21. Now, the point that arises for consideration in the present appeal is:

"Whether the judgment and decree dated 20/01/2026 passed by the learned Principal Judge, Family Court, Mangalore, allowing the petition filed by the petitioner seeking decree for divorce under Section 13(1)(i-a) and dismissing the counter claim seeking restitution of conjugal rights under Section 9 of the Hindu Marriage Act suffers from any illegality or infirmity warranting interference by this Court?"



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22. Having regard to the rival submissions and upon consideration of the material on record, we proceed to pass the following order:

Having given our anxious consideration to the rival submissions and having carefully examined the evidence of both the petitioner and the respondent, we are of the considered view that the matrimonial relationship between the parties has reached a stage from which there is no possibility of its being restored. The petitioner, in her evidence, has spoken in detail about the conduct of the respondent, the repeated instances of physical and mental cruelty and the manner in which the matrimonial relationship progressively deteriorated. Her version receives substantial support from the contemporaneous WhatsApp communications placed on record. Significantly, some of the communications relied upon by the petitioner contain admissions and expressions of regret on the part of the respondent with regard to his conduct. Though the respondent, in his evidence, has sought to explain the said



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communications and has placed reliance upon the conduct of the petitioner, including her emotional outbursts and alleged threats of self-harm, the same, in our view, do not satisfactorily displace the material evidence adduced by the petitioner. The evidence has to be considered not by isolating individual incidents, but by looking at the matrimonial relationship as a whole and the cumulative effect of the conduct of the parties.

23. It is true that the parties had undergone counselling and for some period, resumed their matrimonial relationship. The birth of their second child and the subsequent periods of cohabitation and joint travel are circumstances, which cannot be ignored. However, the fact that the parties made an attempt to save the marriage cannot, by itself, obliterate the subsequent conduct of the parties or compel them to continue a relationship which has become embittered beyond repair. The material on record discloses that the disputes did not end with the earlier reconciliation. The allegations relating



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to the respondent's conduct, the acrimony between the parties, the disputes concerning the children and the subsequent proceedings demonstrate that the discord continued and became progressively more serious. The respondent's allegations regarding the petitioner's mental health and the circumstances surrounding the parties' separation have also to be viewed in the backdrop of the entire matrimonial relationship. On an overall assessment of the evidence, we are satisfied that the cruelty pleaded by the petitioner is proved and that it is not merely a case of ordinary wear and tear of married life.

24. What is particularly significant is the extent to which the matrimonial dispute between the parties has travelled. A dispute which commenced within the matrimonial home at Mangaluru has travelled from Mangaluru to the United Kingdom, crossed the shores of this country and has finally reached before us. The parties have litigated not only before the Family Court but have also been before the Courts in the United Kingdom in



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relation to their matrimonial and parental disputes. The very course which the litigation has taken coupled with the prolonged separation and the bitterness that has developed between the parties, is a telling indication of the extent to which the matrimonial relationship has deteriorated. A marriage is expected to provide companionship, trust and emotional security; it cannot be reduced to a continuing source of litigation, allegations and counter-allegations. Having regard to the evidence on record, we are unable to accept the submission of the respondent that the relationship continues to have the substance of a viable matrimonial bond.

25. We are conscious that the Court must exercise great caution before bringing a marriage to an end. At the same time, the Court cannot shut its eyes to the ground realities reflected from the record. In the present case, the evidence establishes cruelty and more importantly, demonstrates that the matrimonial bond has lost its substance and that the parties have travelled far beyond



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the point where a meaningful matrimonial relationship can reasonably be expected to resume. The object of matrimonial jurisdiction is not to perpetuate a relationship which has become a continuing source of anguish and litigation, but to secure justice between the parties in accordance with law.

26. We, therefore, find that the marriage does not survive in any meaningful sense and that no useful purpose would be served by keeping the parties tied to a relationship which has, for all practical purposes, broken down. Since the *lis* between the parties has travelled from Mangaluru to the United Kingdom, crossed the shores of the nation and has ultimately come before us, we consider it just and appropriate to bring the litigation to an end.

27. As regards permanent alimony to the wife, while the petitioner is entitled to reasonable financial security having regard to the duration of the marriage and the standard of living enjoyed by the parties, the award of



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Rs.2 Crore appears to be on the higher side. Permanent alimony is not intended to equalise the assets or wealth of the parties, but to ensure that the wife is able to maintain herself with reasonable dignity and in accordance with the circumstances of the case. The petitioner is a qualified medical professional, is employed and has an independent source of income and her own financial assets. These circumstances are relevant while determining the quantum of permanent alimony and therefore, the amount awarded by the Family Court requires reconsideration and appropriate reduction.

1. While determining the quantum, the Court is also required to take into account the income, assets, liabilities and continuing financial commitments of the husband. The respondent has placed material to show the substantial expenditure incurred by him in the proceedings in the United Kingdom, his outstanding financial commitments and his responsibility towards the children and his aged parents. The fact that the respondent may have a higher



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income cannot, by itself, justify a disproportionate lump-sum award. The amount must bear a reasonable relationship to the actual needs of the wife and the paying capacity of the husband, without placing an unreasonable financial burden upon him. We may also note that the Hon'ble Supreme Court in **Reema Salkan v. Sumer Singh Salkan**,¹ has noted the duty of an able-bodied husband to maintain his wife. In this regard, it may be relevant to note the observations of the Hon'ble Supreme Court in **Anju Garg v. Deepak Kumar Garg**:²

"13. Though it was sought to be submitted by the learned counsel for the respondent, and by the respondent himself that he has no source of income as his party business has now been closed, the Court is neither impressed by nor is ready to accept such submissions. The respondent being an able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child. Having regard to the evidence of the appellant-wife before the Family Court, and having regard to the other evidence on record, the Court has no hesitation in holding that though the respondent had

¹ (2019) 12 SCC 303.

² 2022 SCC OnLine SC 1314.



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sufficient source of income and was able-bodied, had failed and neglected to maintain the appellants. Considering the totality of facts and circumstances, we deem it proper to grant maintenance allowance of Rs. 10,000/- per month to the appellant-wife, over and above the maintenance allowance of Rs. 6,000/- granted by the Family Court to the appellant no. 2-son."

(emphasis supplied)

2. The Court must also take into consideration that the petitioner herself is capable of earning and maintaining herself. Her professional qualification and existing earning capacity substantially distinguish the present case from one where the wife has no independent means of livelihood. The purpose of permanent alimony is to prevent destitution or undue financial hardship and not to provide a windfall or an amount which would place the recipient in a financially superior position. In the circumstances, a moderate and reasonable amount of permanent alimony, rather than Rs.2 Crore, would adequately meet the ends of justice. In this regard, attention may be drawn to the



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observations of the Hon'ble Supreme Court in **Rajnish v.**

Neha:³

"78. The factors which would weigh with the court *inter alia* are the status of the parties; reasonable needs of the wife and dependent children; **whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife.** [Refer to Jasbir Kaur Sehgal v. District Judge, Dehradun, (1997) 7 SCC 7; Refer to Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290].

81. A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] **The maintenance amount awarded must be reasonable and realistic, and avoid either of**

³ (2021) 2 SCC 324.



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the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort."

(emphasis supplied)

3. At the same time, the fact that the parties have obtained dissolution of marriage does not absolve the respondent of his continuing responsibility towards the two minor children. The welfare and maintenance of the children stand on an entirely different footing from the claim of the wife for permanent alimony. The children are entitled to be maintained by both parents according to their respective means and the standard of living to which they were accustomed. Their education, medical needs, day-to-day expenses and other reasonable requirements necessarily have to be secured.

4. In determining the maintenance payable for the children, the Court may, therefore, take into account the



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income and financial capacity of both parents, the educational and other needs of the children and the fact that the children are presently in the custody of the petitioner. The respondent, having regard to his earning capacity, can reasonably be directed to make a regular monthly contribution towards the maintenance, education and welfare of both children, so that the financial burden of raising them does not fall disproportionately upon either parent. We may note the judgement of the Hon'ble Supreme Court in **Amutha v. A.R. Subramanian**,⁴ wherein it was observed:

"38. Further, this Court recognizes the responsibility of both parents toward the well-being, education, and future prospects of their child. Although the daughter may be of an age where she is approaching independence, the financial support provided through this judgment will be instrumental in meeting her educational needs as well as expenses related to her future marriage. A sum of Rs. 50,00,000/- (Rupees Fifty lakhs only) is, therefore, awarded to the daughter for these purposes. This is in line with the principles of safeguarding the interests of children suffering under distress of such prolonged matrimonial disputes between the parents. Both parents share the duty of ensuring the daughter's

⁴ 2024 SCC OnLine SC 3822.



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well-being and future security, and this financial provision will contribute to fulfilling that duty."

5. In connection with the interests of the children, we may also refer to the observation of the Hon'ble Supreme Court in ***Rajnesh (supra)***, wherein it was held as follows:

"91. *The living expenses of the child would include expenses for food, clothing, residence, medical expenses, education of children. Extra coaching classes or any other vocational training courses to complement the basic education must be factored in, while awarding child support. Albeit, it should be a reasonable amount to be awarded for extracurricular/coaching classes, and not an overly extravagant amount which may be claimed.*

92. *Education expenses of the children must be normally borne by the father. If the wife is working and earning sufficiently, the expenses may be shared proportionately between the parties."*

6. In our considered view, therefore, the claim of the wife for permanent alimony and the maintenance of the children have to be considered separately. While the permanent alimony awarded to the wife can suitably be reduced having regard to her independent income and financial position, a reasonable and meaningful amount towards the maintenance and education of the children ought to be secured from the respondent. Such an



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approach would strike a proper balance between the financial rights of the wife, the capacity and obligations of the husband and above all, the welfare of the children.

28. Having regard to the welfare and educational needs of the two minor children, as well as the respective financial capacity of the parties, we are of the view that the respondent ought to contribute towards their maintenance on a regular basis. Accordingly, the respondent shall pay a sum of Rs.25,000/- per month to each child, making a total sum of Rs.50,000/- per month, towards their maintenance, education, medical and other reasonable needs, from the date of this order until each children attains the age of majority. The said amount shall stand enhanced by Rs.5,000/- per month for each child on completion of every year, so as to reasonably account for the increase in the cost of education and living expenses. This maintenance shall be payable independently of and in addition to the permanent alimony payable to the petitioner-wife.



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In terms of the observations made above, to put an end to the litigation between the parties, we pass the following;

ORDER

(i) The appeal stands disposed of;

(ii) With respect to permanent alimony to the wife and maintenance of the children, we proceed to pass the following:

1. Permanent alimony to the wife: The Family Court has awarded a sum of Rs.2 Crore as permanent alimony to the petitioner. However, considering the financial status, independent source of income and her own financial assets, as discussed above, we deem it just and proper to grant permanent alimony of **Rs.50,00,000/-** to the petitioner.

2. Maintenance of the Children: The petitioner-mother shall open and maintain a joint bank account in her name jointly with the respective names of the minor children, and the respondent shall deposit, on or before



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the 10th day of every calendar month, a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) per month in respect of each child, towards their maintenance, education, medical and other reasonable needs. The said amount shall be utilised by the petitioner-mother solely for the welfare and benefit of the children. The maintenance amount shall be enhanced by Rs.5,000/- per month for each child upon completion of every year, until the respective child attains the age of majority.

3. Arrears of Maintenance: Any arrears of maintenance payable to the petitioner and/or the minor children, as determined in accordance with the orders passed by the Family Court, shall be paid by the respondent within one month from the date of receipt of a copy of this order, without insisting upon any further proceedings.

4. Marriage Expenses of the Children: The respondent, notwithstanding the dissolution of the



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marriage between the parties, shall continue to discharge his parental obligations towards the children. At the appropriate time, and particularly at the time of their marriage, the respondent shall, with love and affection and to the extent of his financial capacity, contribute reasonably towards the marriage expenses of each of the children.

5. **Relocation of the Children:** In view of the welfare and continuing relationship of the children with both parents, the petitioner shall not temporarily/permanently relocate the children outside India without prior intimation to the respondent and without obtaining appropriate orders of the competent Court, wherever such permission is legally required. The petitioner shall keep the respondent informed of the children's place of residence and educational institution in the event of any change.

6. **Custody:** Having regard to the overall circumstances and the welfare of the minor children, the petitioner-



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mother shall have exclusive physical custody of the children, subject to the visitation and access rights granted to the respondent herein. The petitioner shall ensure that the children are not prevented from maintaining a healthy and affectionate relationship with the respondent.

7. **Visitation Rights:** The respondent-father shall have the right to visit and spend time with the children every Saturday and Sunday for a period of three hours on each day, in the presence of the petitioner-mother. Such visitation shall take place at a mutually convenient place and in an atmosphere conducive to the welfare and comfort of the children. The petitioner shall extend reasonable cooperation to ensure that the respondent is able to exercise the aforesaid visitation rights meaningfully and without unnecessary obstruction.

8. **Telephonic/Video Access:** In addition to the aforesaid physical visitation, the respondent shall have the right to communicate with the children telephonically or



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through WhatsApp/video call on an emergency for reasonable duration having regard to the children's age, school schedule and other activities. Both parties shall ensure that such communication takes place peacefully and without exposing the children to the disputes or differences between the parents.

9. **Best Interests of the children:** Both parties shall bear in mind that, notwithstanding the dissolution of their matrimonial relationship, they continue to be the parents of the children. They shall, therefore, refrain from making disparaging remarks against each other in the presence or hearing of the children and shall make every endeavour to ensure that the children are able to maintain a loving, healthy and unhindered relationship with both parents.

(iii) The respondent-husband is directed to pay a sum of **Rs.50,00,000/- (Rupees Fifty Lakhs only)** as permanent alimony to the petitioner-wife within three months from the date of receipt of copy of this order, failing which he is required to make payment of the said



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amount with interest @ 6% pre annum from the date of decree till payment;

(iv) The respondent shall pay a sum of Rs.25,000/- per month to each child, making a total sum of Rs.50,000/- per month, towards their maintenance, education, medical and other reasonable needs, from the date of this order until each children attains the age of majority. The said amount shall stand enhanced by Rs.5,000/- per month for each child on completion of every year, so as to reasonably account for the increase in the cost of education and living expenses. This maintenance shall be payable independently of and in addition to the permanent alimony payable to the petitioner-wife.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM
List No.: 1 Sl No.: 17