

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.113 of 2023

CNR No. BRHC010192722023

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Neha Govind Rao @ Neha Singh, D/o Late Vishnu Govind Rao, R/o Ishwar Colony, Bagmali, Sita Chowk, P.S.-Town Hazipur, Distirct-Vaishali, Bihar.

... .. Appellant/s

Versus

Shivendra Pratap Rao, S/o Sri Mahendra Pratap Rao, R/o Village-Mundera, P.S.-Tarkuilwa, P.O.-Garh Rampur, District-Deoria, Uttar Pradesh, present Address-Flat No. 603 at Maharaza Kameshwar Complex, Frazer Road, P.S.-Kotwali, District-Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Patanjali Rishi, Advocate
Ms. Prerna Rishi, Advocate
For the Respondent/s : Mr. Ashok Kumar Singh, Advocate
Ms. Sweta Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

and

HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE RANA VIKRAM SINGH)

Date : 09-10-2026

This is an appeal filed by the appellant-wife against her respondent-husband, assailing the judgment and decree dated 29.11.2022 passed by the learned Principal Judge, Family Court, Vaishali at Hajipur (*in short the **Family Court***) in



Matrimonial Case No. 275 of 2017, whereby the learned Family Court has dissolved the marriage between the parties by granting a decree of divorce in favour of the respondent-husband on the grounds of cruelty and desertion.

2. The marriage between the parties, viz., the appellant-wife and the respondent-husband, was solemnized on 23.01.2013 according to the Hindu religious rites and customs and, thereafter, a male child was born out of the wedlock on 25.01.2014. The relationship between the parties, however, became strained soon after the marriage and the parties, admittedly, have been living separately for a considerable period of time.

3. The respondent-husband instituted the matrimonial proceeding before the learned Family Court seeking dissolution of marriage, principally alleging cruelty and desertion on the part of the appellant-wife. The case of the respondent-husband, in substance, was that immediately after marriage, the appellant-wife did not properly adjust herself in her matrimonial home and returned to her parental home at Hajipur. According to the respondent-husband, in-spite of his best efforts to resume the matrimonial life, the appellant-wife declined to reside with him and preferred to remain at her parental home. It was further



alleged that the appellant-wife insulted the respondent-husband and his family members and refused to cooperate in the matrimonial relationship and, ultimately, withdrew from the society of the respondent-husband without sufficient cause.

4. The respondent-husband has further alleged that he repeatedly visited the parental house of the appellant-wife with a view to restore the matrimonial relationship. However, despite his best efforts, the appellant-wife refused to return to her matrimonial home and resume cohabitation.

5. The appellant-wife, on the other hand, contested the allegations of cruelty and desertion. Her case was that she had always been willing to lead a normal matrimonial life, but it was the respondent-husband and his family members who failed to provide her a suitable matrimonial home and subjected her to physical and mental harassment. According to her, several articles and gifts were given by her mother at the time of marriage, including a *Maruti* Swift car and the same continued to remain with the respondent-husband and his family members.

6. The appellant-wife further alleged that the respondent-husband and his family members demanded Rs. 20,00,000/- and that on account of non-fulfilment of the said demand, she was subjected to cruelty and was, ultimately,



ousted from the matrimonial home. She contended that she had requested the respondent-husband to arrange separate accommodation at Patna so that the parties could peacefully reside together, but, according to her, the respondent-husband did not accede to her request. The appellant-wife also disputed the allegation that she had voluntarily deserted the respondent-husband. According to her, her stay at Hajipur was occasioned by circumstances created by the respondent-husband himself.

7. The appellant-wife asserted that she along with her husband (respondent) had gone for honeymoon to Delhi on or about 02.02.2013 and, thereafter, she returned to Hajipur. According to her, this was not an act of desertion but was consistent with the circumstances in which the respondent-husband himself wanted her to remain at Hajipur. She further states that the respondent-husband was not taking adequate interest in the matrimonial relationship and that even after the birth of the child, he failed to provide necessary support. She alleged that when the child was born on 25.01.2014, disputes arose regarding her care and the newborn child and that the respondent-husband did not adequately discharge his matrimonial and parental obligations.

8. The appellant-wife also stated that she was



compelled to approach the criminal law machinery only in order to preserve the matrimonial relationship. She disputed the allegation that the criminal proceedings were instituted with an intention to harass the respondent-husband. The appellant-wife also relied upon the maintenance proceedings between her and her husband (respondent) and asserted that the respondent-husband had not regularly complied with the maintenance awarded therein.

9. The learned Family Court upon consideration of the pleadings and evidence available on record, recorded findings against the appellant-wife on the issues of cruelty and desertion. The learned Family Court placed particular reliance upon the appellant's (wife) limited stay at her matrimonial home, her subsequent residence at Hajipur, the application made by her for compassionate appointment describing herself as unmarried, the various proceedings instituted by her and her mother and the fact that the respondent-husband had repeatedly visited her parental home.

10. The learned Family Court concluded that the respondent-husband had succeeded in proving cruelty and desertion and, accordingly, dissolved the marriage by judgment and decree dated 29.11.2022.



11. Aggrieved by the aforesaid judgment and decree, the present appeal has been preferred by the appellant-wife.

12. The principal contention of the appellant-wife is that the learned Family Court failed to appreciate the evidence in its correct perspective and proceeded upon conjectures and surmises.

13. Without going through the detailed facts and circumstances of the case, evidence available on record and the arguments and counter-arguments, in course of hearing, this Court asked the learned Advocate appearing on behalf of the appellant-wife as to whether any sort of mutual trust, love, affection and the intention to lead conjugal life together, exist in the mind of the appellant-wife, on which, she frankly submits that the marriage between the parties is a failed marriage and there is nothing remaining in the mental setup of both the parties to be united again as wife and husband. The learned counsel appearing for the respondent-husband echoed the same voice. It is not in dispute that both parties are living separately since long and there has been no association between them.

14. For the reasons stated above and considering the submissions made by the learned counsel appearing on behalf of the respective parties, we find that the marriage has irretrievably



broken down. We are conscious about the fact that we could not pass any decree on irretrievable breakdown of marriage, but where there is absolutely no adjustment between the parties and they do not want to sit, to stay as wife and husband, the act of the parties can be considered as reciprocal cruelty by both the parties. On this ground, the marital tie between the parties can be severed on the ground of Section 13(1)(i-a) of the Hindu Marriage Act, 1955. The decision of the Division Bench of Calcutta High Court in the case of *Sri Sanjib Tarafdar Vs. Smt. Mausumi Tarafdar [2026:CHC-AS:1102-DJJ]* may be referred to in support of our decision.

15. Thus at this stage comes the question of permanent alimony.

16. It is submitted by the learned Advocate appearing on behalf of the respondent-husband that he earns around Rs. 85,000/- per month, which fact appears from the affidavit regarding assets and liabilities filed on behalf of respondent-husband. Adopting the method of calculation as mentioned in the case of *Rajnesh Vs. Neha : (2021) 2 SCC 324*, by the Hon'ble Supreme Court, the appellant-wife is entitled to get permanent alimony of one-third of the amount to be earned by the respondent-husband, considering the period of his service,



which comes to the tune of Rs. 36,25200/-.

17. We are of the considered view that the maintenance allowance/amount is granted to relieve a lady from being destitute when the husband fails and neglects to maintain his wife. Section 125 of the Code of Criminal Procedure, 1973 is a summary procedure to grant urgent relief of maintenance. Permanent alimony is adjusted on the basis of her need, maintenance, well-being and other circumstances from the date of passing of this order till a particular age, considering the life expectancy.

18. At the same time, it also appears from the supplementary counter affidavit filed on behalf of the respondent-husband that he has solemnized another marriage and from the said wedlock, he has a child.

19. Considering the entire facts and circumstances, we fix the amount of permanent alimony @ Rs. 36,25,200/- (Rupees Thirty Six Lakhs Twenty Five Thousand and Two Hundred) to be paid by the respondent-husband to the appellant-wife. The respondent-husband is, accordingly, directed to deposit the said amount in two equal installments within a period of three months from the date of passing of this order in the saving account of the appellant-wife, namely, Neha Govind



Rao @ Neha Singh.

20. The first installment of Rs. 18,12,600/- (Rupees Eighteen Lakhs Twelve Thousand Six Hundred) shall be paid within one month from the date of passing of this order and the second installment of remaining Rs. 18,12,600/- (Rupees Eighteen Lakhs Twelve Thousand Six Hundred) shall be paid within three months of the date of passing of this order. If the respondent-husband fails to pay the above-mentioned amounts within the specified period of time, there shall be recovery of interest @ 12% per annum over the outstanding dues.

21. With the above order, the instant appeal is allowed.

22. The interlocutory application(s), if any, also stands disposed off accordingly.

(Rana Vikram Singh, J)

Bibek Chaudhuri, J : I agree

(Bibek Chaudhuri, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	01.10.2026
Uploading Date	09.10.2026
Transmission Date	N/A

