IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No.85 of 2025

Mayank Kumar, aged about 35 years, son of Late Vijay Kumar, resident of Nilanchal Colony, PO & PS: Seraidhela, District-Dhanbad.

..... … Petitioner/Appellant

Versus

Somya Kumari, aged about 33 years, wife of Sri Mayank Kumar and daughter of Sri Raj Kumar Prasad, resident of Nilanchal Colony, P.O & PS-Seraidhela, District-Dhanbad and present address at Ratu Road, Gobind Nagar, P.O-Hehal,P.S-Sukhdevnagar, District-Ranchi

… … Respondent/Respondent

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

For the Appellant : Mr. Pandey Neeraj Rai, Advocate
Mr. Saurabh Sagar, Advocate
For the Respondent : None

C.A.V on 23.09.2026 **Pronounced on 05/11/2026**

Per Sujit Narayan Prasad, J.

The instant appeal under section 19(1) of the Family Courts Act, 1984 is directed against the judgment dated 16.12.2024 and the decree signed on 21.12.2024 passed in Original Suit No.288 of 2023 by the learned Addl. Principal Judge, Addl. Family Court No.-II, Dhanbad (in short, Family Judge) whereby and whereunder the petition filed under section 13(1) (i-a) & (iii) of the Hindu Marriage Act, 1955 by the appellant-husband against the respondent-wife has been dismissed.

Factual Matrix

2. The brief facts of the case as pleaded in the plaint having been recorded by the learned Family Judge, needs to be referred herein as:

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(i) The marriage between the parties was solemnized on 14.07.2021 according to Hindu Rites and Custom at Vivah Sthal, Saraidhela, Dhanbad.

(ii) After the marriage the parties to the suit had started to lead her conjugal life at USA and out of the said wedlock there is no issue.

(iii) It is pleaded that after marriage respondent declared that her marriage with petitioner was not of her choice, rather she was compelled to give consent for the marriage on undue pressure upon her from her parents and relatives and her behaviour and attitude was found to be very abnormal.

(iv) It is alleged that the respondent was also not accustomed with her residence at her matrimonial home although for a very short spell and remain aloof from others and kept herself confined to a room and reacted violently when attempts were made by the petitioner and his parents and relatives to have even a talk with her.

(v) The abnormal behaviour of the respondent was informed to her parents by the petitioner and it was assured that normalcy shall prevailed very soon and the awkward situation occurred due to non adjustment at a new place in the matrimonial home.

(vi) It is stated that the behaviour of the respondent could not return to normal and subsequently the parents of the respondent disclosed that the respondent is suffering from mental disorder since early child hood.

(vii) It is alleged that the parents of the respondent had also disclosed that Somya (the respondent) was treated of her mental disorder by doctors at Mumbai and also she was placed before reputed *Tantrik*

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as advised by the relatives and well-wishers but no positive results obtained.

(viii) It is stated the respondent resided in her matrimonial home from 15-07-2021 to 15-10-2021 when on the occasion of Vijay-Dhashmi she was taken back by her parents' place. Thereafter, the respondent was even not allowed to attend the engagement ceremony of petitioner's sister in November, 2021.

(ix) It is pleaded that on 18-06-2022 Somya Kumari (the respondent) came to Dhanbad and she came to USA on dt. 22-10-2022 where she had tortured him due to mental disease and no consummation took place between both spouses.

(x) The unnatural behaviour of respondent was informed to her parents on 10-01-2023 but they took it very lightly and stated that the respondent's condition would be normal. Thereafter, the petitioner took the respondent to Hospital for check up on 12.01.2023 for her treatment but a sorrowful event took place with petitioner as his father died on 13.01.2023 and for that he had to rush to India to perform Sradha rituals.

(xi) It is stated that at the time of leaving for Airport to return back India again the mental status of the respondent deteriorated suddenly and on emergency the petitioner had to cancel his programme and got the respondent immediately to Wilmington Hospital, where she was diagnosed as patient of Psychotic disorder and Anemia and admitted for the treatment for which the petitioner could not take part in Shradh ceremony of his father.

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(xii) Again on 06.02.2023, the respondent was placed before the doctor by the petitioner and got admitted in the Hospital for one week and the respondent was declared as a patient of Paranoid Schizophrenia.

(xiii) On the aforesaid ground suit for dissolution of marriage, was filed on the ground of cruelty and unsoundness of mind wherein the appellant-husband has prayed for a decree of dissolution of the marriage between him and the respondent-wife.

3. It needs to mention herein that in said suit after receipt of notice, the respondent appeared and filed her written statement denying all the allegations levelled against her in the plaint stating that the present suit is not maintainable either in law or facts.

4. She has admitted the factum of marriage with the petitioner on 14.07.2021 as per Hindu rituals and custom at Dhanbad. It is stated that the suit was filed by the petitioner only to harass the respondent and the entire allegation made by the petitioner was totally denied by the respondent and stated that she is not suffering from any mental disorder rather the petitioner's family is itself liable for giving mental pressure to her.

5. It is further stated that she is always ready to live and lead the conjugal life with the petitioner as a wife and husband, but the petitioner does not want to live with her. It is stated that all type of mental pressure, cruelty and torture were given by the petitioner and his family members by alleging her suffering from mental disorder which gave her mental trauma and, as such, the suit filed by the petitioner for divorce is liable to be dismissed.

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6. Learned Family Judge, after institution of the said case, taking in to consideration of the pleading of the parties to the suit has formulated the issues and has decided the *lis* by refusing to grant divorce to the petitioner/appellant.

7. The aforesaid judgment by which divorce has not been granted is under challenge by filing the instant appeal.

Submission of behalf of the appellant-husband:

8. Mr. Pandey Neeraj Rai, the learned counsel appearing for the appellant-husband has taken the following grounds:

(i) There is an error in the impugned judgment, since, each and every aspect of the matter has not been taken into consideration based upon the documentary evidences as well as ocular evidences.

(ii) The element of cruelty has been found to be there if the evidences adduced on behalf of the appellant-husband will be taken in to consideration as it has come in the evidence that due to mental disorder the respondent acted abnormally, but without appreciating the same properly the learned Family Judge has come to the finding by holding that no element of cruelty is there and, as such, the impugned judgment and decree suffers from an error.

(iii) It has been contended that the appellant has been meted out with cruelty as the respondent often attacking the appellant with kitchen knife and attempted to commit suicide which caused acute mental trauma to the appellant as would be evident from the

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evidence adduced on behalf of the appellant-husband, but the same has not been taken into consideration.

(iv) It has been contended that the learned Family Judge has failed to appreciate the evidences adduced on behalf of the appellant as in the trial, the evidence has come that it was the respondent-wife who is suffering from mental disorder since her childhood and at the time of negotiation of marriage the same was concealed by the parents of the petitioner and thus, the appellant has been cheated by the respondent and her parents.

(v) It has been contended that the learned Family Judge has not taken into consideration the fact that the respondent at her matrimonial home remained aloof from her in-laws and kept herself confined in a room and reacted violently when attempts were made by the appellant and his parents/relatives to even have a talk with her.

9. The learned counsel, based upon the aforesaid ground, has submitted that the impugned judgment and decree, therefore, needs interference said to be perverse.

10. As would be evident from the order dated 23.09.2026 that on that day no one appeared on behalf of the respondent to argue the matter and, as such, in absence of the argument advanced on behalf of the respondent, the judgment was reserved after hearing the learned counsel appearing for the appellant.

Analysis:

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11. We have heard the learned counsel appearing for the appellant, gone through the Trial Court Records, the impugned judgment, as also the testimonies of the witnesses and the documents exhibited therein.

12. The learned Family Judge has formulated altogether five issues, for ready reference the same are being quoted hereinbelow:

i) Whether the suit is maintainable in its present form?

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

iii) Whether the marriage of the petitioner and respondent is fit to be dissolved on the ground of cruelty u/s 13(1) (i-a) of H.M. Act?

iv) Whether the marriage of the petitioner and respondent is fit to be dissolved on the ground of incurably of unsound mind u/s 13(1) (iii) of H.M. Act?

v) Whether petitioner is entitled for any relief as claimed for?

13. The issue pertaining to ground for divorce is by formulating the specific issues whether the marriage of the petitioner and respondent is fit to be dissolved on the ground of cruelty u/s 13(1) (i-a) of H.M. Act as issue no.(iii) and whether the marriage of the petitioner and respondent is fit to be dissolved on the ground of incurably of unsound mind u/s 13(1) (iii) of H.M. Act as issue no.(iv).

14. The learned Family Judge has taken into consideration the issue no.(iii) and (iv) together i.e., the ground of cruelty and ground of unsoundness of mind of the respondent for deciding the *lis*. The learned Family Judge has considered the evidence adduced on behalf of the parties to the suit for deciding the issues involved in the suit.

15. This Court in order to appreciate the aforesaid rival submission before entering into the legality and propriety of the impugned judgment

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needs to discuss herein the relevant part of the evidences adduced on behalf of the parties wherein the element of cruelty and unsoundness of mind of the respondent has been shown by the plaintiff-husband.

16. During the trial, two witnesses have been examined on behalf of the appellant-husband who himself has been examined as PW1. PW2 is Chandra Bhusan Prasad Srivastawa who is an independent witness who knows the parties to the suit.

17. In support of his contention, the petitioner/appellant-husband has produced following documents:

(i) Mark X – Copy of whatsapp chat.

(ii) Mark X/1 – Copy of Air Ticket.

(iii) Mark X/2 – Copy of discharge slip of respondent.

18. On the other hand, the respondent has also examined two witnesses in support of her contention who herself examined as DW1 and DW2-Raj Kumar Prasad is her father. She has also produced some documents which are as under:

(i) Ext-A to A/1 – Marriage Cared

(ii) Mark Y to Y/20 -Marriage photographs.

(iii) Mark Y/21 to Y/25- Photographs of Grih Pravesh of New Flat of petitioner in Bangalore.

(iv) Mark-Y/26 to Y/31– copy of educational certificate of respondent.

(v) Mark Y/32- Copy of passport of respondent.

(vi) Mark Y/33 – Copy of VISA appointment confirmation letter.

(vii) Mark Y/34- Copy of VISA of respondent.

(viii) Mark Y/35 t0 Y/36- Copy of Air Ticket of respondent.

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(ix) Mark Y/37 to Y/39- Photographs of both parties in USA.

(x) Mark Y/40 - Copy of Bank Statement.

(xi) Mark Y/41 to Y/44 – Copy of bills.

(xii) Mark Y/45 to Y/47 – Copy of bank receipt and bank statement.

(xiii) Mark Y/48 to Y/49 – Copy of bank statements.

19. In his examination on oath, the appellant-husband has narrated entire things as pleaded in the plaint about his marriage with the respondent. He has stated on oath that he has no issue out of the wedlock with the respondent. He has stated about change in behaviour of the respondent just after the marriage. He has stated at para-6 that just after the marriage the respondent told him that this marriage was performed against her will on the pressure of her parents and relatives. He found her abnormal behaviour and when he informed his in-laws about the rude behaviour of the respondent his in-laws assured that her daughter had gone at new place and so over the period of time situation will be normal.

20. He has stated that he tried continuously to resume normal married life but all in vain and later on the respondent disclosed that she was suffering from mental disorder since her child hood and by concealing the aforesaid fact the family members of respondent got the marriage solemnized with him in district Dhanbad and not from Ranchi which is *maika* of respondent.

21. He has stated that the parents of Somya Kumari (the respondent) told him that she got treated for her mental illness from the doctors of Bombay and also she was taken to Tantrik. He was being continuously tortured by his wife mentally and several times she tried to kill him and herself by means of knife. At para-13, the appellant has stated that on 18.06.2022

Somya Kumari came to his house at Dhanbad with her aunt (badi mummy) and on 20.10.2022 she went to USA but due to cruel and abnormal behaviour of the respondent the marriage could not be consummated. At para-14 he has stated that on 10.01.2023 he informed to the parents of the respondent about her abnormal behaviour but they took it very lightly and stated that everything will be normal if she takes sound sleep.

22. He has stated that the respondent was taken to hospital in USA for treatment on 12-01-2023 but his father expired on 13-01-2023 and since the mental status of his wife got critical and she had got admitted in hospital where she was found suffering from psychiatric disorder and Anemia, so he could not attend the Shradh ceremony of his father.

23. PW1 has further deposed that the respondent was again admitted on 06-02-2023 where doctor diagnosed that she was suffering from paranoids schizophrenic. Now due to continuous torturing by the respondent the married life has now breakdown and so he has filed this divorce case.

24. During cross examination, PW 1, at para-20, 21 and 22, has admitted that aforesaid marriage was performed with the consent of family members of both parties and he has given his consent for marriage. The marriage took place at Vivah Sthal, Saraidhela, Dhanbad on 14.07.2021 in which family members of both the parties were present along with the relatives and well-wishers. At para-24 he has admitted that before the marriage there was an engagement ceremony (Ring Ceremony) performed on 27.11.2020 at Sonotel Hotel, Dhanbad. At para-27 he has admitted that after engagement ceremony, he was on talking terms with the respondent over mobile phone and through Video Call. He has admitted that Since 18-10-2021 the respondent resided in her *maika* at Ranchi for about one year.

His wife had gone to her maika with his consent and also with consent of his family members. While leaving of his wife in Ranchi he talked with his wife on mobile till 28-11-2021. During this period, he visited twice from USA to India and also met with his wife on 24-11-2021 and 16-06-2022. At para-35 he has admitted that from 18-06-2022 till 16-07-2022 he and the respondent were living together thereafter the respondent went to Ranchi at her *maike* and he returned to USA via Kolkata by Airplane. At para-36 PW1 has admitted that his wife with his consent as also with the consent of family of both the parties came to USA on 20.10.2022 and till 19.03.2023 they lived together at USA. At para-37, he has stated that while living at USA he came to know about the mental disorder of his wife. At para-38 he has stated that after attack of mental disorder the behaviour of the respondent got changed and on 12-01-2023 she underwent treatment at Newar Urgency Care Delaware, USA but he cannot say the name of doctor. He again consulted with doctor in Christian Hospital in USA on 13-01-2023 for treatment of his wife where he was told that his wife is suffering from mental disease which may be Schizophrenia. At para-39 and 40, he has stated that his wife (the respondent) was admitted for her treatment at hospital where it was advised by a Psychiatrist Doctor that the respondent was suffering from either mental depression or Schizophrenia and when she was cured and became normal, she was discharged from the hospital. At para-42 he has admitted that in the Discharge Instruct Paper there was no mention of any disease, rather Altered Mental Status Unspecified was mentioned and nowhere it was mentioned the disease of Schizophrenia. At para-52 he has admitted that he had not filed any certificate regarding illness of his wife but he has filed discharge

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instruction in which the illness of his wife was shown as Insomnia, Mental status, Confusion, abdominal pain etc. At para-55 he has admitted that he is having no knowledge that since the year 2021 paranoid schizophrenia has been removed from the medical list used by the USA. At para-61 he has admitted that he had not produced the medical paper of the concerned doctor who treated his wife (the respondent) for adducing evidence in the Court. He has denied the suggestion that he does not want to lead conjugal life with his wife and as such he has filed this divorce case.

25. PW2 Chandra Bhushan Prasad Srivastava is an independent witness who is acquainted with both the parties and their family affairs. He has corroborated the deposition of the appellant on the point of marriage and the disease of the respondent of being mental disorder. He has also deposed on the point of the attack of mental disorder upon the respondent, her treatment at USA and cruelty meted out to the appellant at the hands of the respondent due to her mental disorder.

During his cross examination, PW2 at para-17 has stated that he was present at the house of the appellant where the disease of the mental disorder of the respondent was described and it was discussed that Somya was suffering from Schizophrenia, but at para-19 he has admitted that he could not remember the date and day when it was discussed. At para-20, he has admitted that he had not seen the cruelty meted out at the hands of the respondent upon the appellant rather he had heard the same. At paragraph 23, he admitted that he has no knowledge as to in which hospital and on which date Somya (the respondent) was declared to be suffering from Paranoid Schizophrenia, nor by which doctor, as mentioned at paragraph 12 of his examination-in-chief. At para-24, PW2 has admitted

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that he heard on the social level that Somya was suffering from mental disorder which is incurable.

26. On the other hand, the respondent as RW1 has stated at para-1 of her examination-in-chief that her husband Mayank Kumar had filed this suit for divorce on his own will whereas she does not want divorce and she still wants to live with her husband. She has further stated that her marriage was solemnized on 14.07.2021 as per Hindu rites and custom at Vivah Sthal "Krishna Marriage Hall", Saraidhela, Dhanbad. She has stated that prior to that, on 27.11.2020 on the instruction of Mayank Kumar (the appellant) and his parents engagement ceremony was performed at Sonotel Hotel, Sariadhela, Dhanbad.

27. At para-6 she has deposed that after ten days of marriage, her husband went to USA to join his duty and she remained at her in- laws' house with her father-in-law, mother-in-law and sister-in-law at the house situated at Nilanchal Colony. She has stated that on 15.10.2021 her father took her to her *maike* at Ranchi and on instruction of Mayank Kumar (the appellant) her father brought her to her in- laws' house at Dhanbad to take part in marriage ceremony of her sister-in-law and after marriage she again returned to her *maike* at Ranchi and her husband went to USA.

28. She has stated that her husband had arranged her visa for the trip to USA, and she reached the destination from Ranchi via Kolkata and Doha, and after reaching at USA her husband received her. At para-10 she has stated that due to cold, cough and weakness she had been taken away by her husband to a doctor on 12.01.2023 and on 13.01.2023 her father-in-law had died. She has further stated that on 19.01.2023 she left for India and on 20.03.2023 she reached at Ranchi Airport along with her husband

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where her husband left her sitting at the airport under the pretext of going to get some water. When a long time had passed, she tried calling him, but he didn't answer. Three hours later, she called her parents, and they came and took me to her *maike.*

29. She has further stated that after reaching home, she tried several times to contact with her husband but he did not reply. At paragraph 12 of her examination-in-chief, she categorically stated that she had no knowledge of the disease alleged by her husband. She further deposed that she was entirely unaware of when, how, or where the alleged illness supposedly occurred, and emphasized that no medical examination or testing had ever been conducted to substantiate the claim as alleged with regard to her disease. At para-13 she has stated that her husband, namely, Mayank Kumar has filed this divorce suit on the instigation of others and she still wants to live with her husband for her entire life time.

30. During cross-examination, RW1 has stated at para-16 that she completed her Graduation with English (Hons.) from St. Xavier College in the year 2012. She has stated at para-17 that her father is a retired person from railway and her mother is a practicing lawyer at High Court, Ranchi. At para-23 she has admitted that the matter was sent for mediation but her husband did not talk with her. At para-27 she has admitted that from the year 2013 to 2019 she was doing the job in Jet Airbess at Mumbai. At para-36 and 37, RW1 has stated that her marriage was solemnized at Dhanbad as per instruction of the family member of the appellant so that his all relatives and well-wishers could take part in the said marriage and it is not true that her marriage took place in Dhanbad because her neighbors were

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aware of her situation. At para-38 and 39 she has denied that she ever meet with any *tnatrik* named Satyam Kumar.

31. At para-41 she has admitted that she had fallen ill at USA and she was forcefully admitted there for her treatment. At para-45, 46 and 47, she has admitted that her husband could not come to India on the death of his father due to her treatment and at that time she was admitted at Hospital but she is having no knowledge that why she had been admitted in the hospital. At para-55 she has denied the suggestion that when she was at Dhanbad and information with regard to her disease was given to her parents, they told that since it is a new place and it will take time to adjust. She has admitted at para-56 that she is living separately from her husband (Mayank Kumar) since 20.03.2023. At para-62 she has admitted that their marriage was consummated at Dhanbad. At para-65 and 66, RW1 has stated that she had left her job but not for her mental disorder. At para-70, she has denied the suggestion that Mayank (the appellant) has filed the divorce suit after being harassed due to her disease.

32. RW2-Raj Kumar Prasad is the father of the respondent and he has fully corroborated the statement/deposition made by her daughter as RW1. He has supported the version of the respondent on the point of her marriage, her *bidai*, her going to USA and stayed there for about two months. He has stated at para-11 of his examination-in-chief that after reaching at USA due to change of climate, his daughter was fallen ill where she was suffering from cold, cough and weakness and for that reason the appellant took her to Willington Hospital for her treatment which was informed to him by his son-in-law (the appellant). At para-13 he has stated that on 20.03.2023 when her daughter reached at Ranchi Airport along

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with her husband where her husband left her sitting at the airport under the pretext of going to get some water and went to Dhanbad. When a long time had passed, she tried calling him, but he didn't answer thereafter her daughter informed them over phone and they took her to his house from the Airport. After reaching home, they tried several times to contact the appellant over phone but he did not pick their call. At para-15 he has stated that his son-in-law (the appellant), on instigation of others, has filed the suit for divorce by getting forged documents of treatment for their disreputation. At paragraph 16, he has stated that his daughter (the respondent) desires to live with the appellant for her entire lifetime.

33. During cross-examination, at para-27 he has stated that her daughter got admitted at Wellington Hospital at USA but he is having no knowledge that she had been admitted by the police. At para-32 he has admitted that his son-in-law (the appellant) had informed them about the treatment and ten-day's hospitalization of his daughter. At para-36 he has admitted that in India her daughter (the respondent) had been treated for cold and cough. At para-38 and 39, he denied the suggestion that his daughter was for mental disorder treated at Mumbai and Ranchi, and disputed that his daughter had been undergoing continuous treatment since birth. At para-40 he has denied the suggestion that since treatment of her daughter for mental disorder was going on at USA in Chiristiana Care hospital and for that reason his daughter and son-in-law did not attend the shradh ceremony of his *samdhi*. At paragraph 41, he denied the suggestion that his daughter was suffering from mental disorder since birth and for that reason they did not solemnize her marriage at Ranchi but rather at Dhanbad.

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34. The learned Family Judge has appreciated the entire facts and evidence and has come to the conclusion that the appellant-husband has failed to make the ground either cruelty or mental disorder and, as such, has dismissed the suit which is under challenge in the instant appeal.

35. The fact about filing of suit on the ground of cruelty and mental disorder is admitted one as per the evidences adduced on behalf of the appellant.

36. The appellant-husband has tried to establish the element of cruelty and mental disorder upon him at the hands of the respondent-wife.

37. The appellant-husband all along has alleged the issue of cruelty and mental disorder which he was getting subjected by his wife and in order to establish the same the evidences has been laid as has been referred hereinabove.

38. It requires to refer herein that since appellate jurisdiction has been invoked herein, therefore, before entering into merit of the case, at this juncture it would be purposeful to discuss the appellate jurisdiction of the High Court.

39. It needs to refer herein that under section 7 of the Family Courts Act, the Family Court shall have and exercise all the jurisdiction exercisable by any District Court or any Sub- ordinate Civil Court under any law for the time being in force in respect of suits and proceedings of the nature which are described in the explanation to section 7(1).

40. Sub-section (1) to section 19 of the Family Courts Act provides that an appeal shall lie from every judgment or order not being an interlocutory order of a Family Court to the High Court "both on facts and on law". Therefore, section 19 of the Family Courts Act is parallel to section 96 of

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the Code of Civil Procedure, the scope of which has been dealt with by the Hon'ble Apex Court in series of judgments.

41. The law is well settled that the High Court in a First Appeal can examine every question of law and fact which arises in the facts of the case and has powers to affirm, reverse or modify the judgment under question. In ***"Jagdish Singh v. Madhuri Devi" (2008) 10 SCC 497*** the Hon'ble Supreme Court observed that it is lawful for the High Court acting as the First Appellate Court to enter into not only questions of law but questions of fact as well and the appellate Court therefore can reappraise, reappreciate and review the entire evidence and can come to its own conclusion. For ready reference the relevant paragraph of the said judgment is being quoted as under:

> *"It is no doubt true that the High Court was exercising power as the first appellate court and hence it was open to the Court to enter into not only questions of law but questions of fact as well. It is settled law that an appeal is a continuation of suit. An appeal thus is a rehearing of the main matter and the appellate court can reappraise, reappreciate and review the entire evidence--oral as well as documentary--and can come to its own conclusion."*

42. 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.

43. 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,

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true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law. Relevant paragraphs, i.e., paras-24, 25, 26 and 27 of the said judgment reads as under:

> ***"24.*** *The expression "perverse" has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court observed that the expression "perverse" means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.*
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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.*
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> ***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.*
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> *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.*

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> *"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.)*
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> *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."*

44. Thus, from the aforesaid, it is evident that any order said to be perverse 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.

45. Thus, "perversity" refers to a finding or decision so unreasonable or irrational that no reasonable person acting judicially could have reached it. It signifies a gross and unreasonable assessment of evidence or law by a court.

46. Further Perversity is a high threshold for intervention, distinguishing it from a mere error of fact or law. The "safest approach on perversity is the classic approach on the reasonable man's inference on the facts but inadequacy of evidence or a different reading of evidence is not perversity,

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reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Damodar Lal v. Sohan Devi, (2016) 14 SCC*** 197.

47. In the context of the aforesaid factual aspect and settled position of law only seminal issue has to be decided herein that "Whether the petitioner is entitled to get a decree of dissolution of marriage on the basis of Section-13(1) (ia) and (iii) of the Hindu Marriage Act, 1955?

Issue of Cruelty:

48. The "cruelty" has been interpreted by the Hon'ble Apex Court in the case of ***Dr. N.G. Dastane vs. Mrs. S. Dastana, (1975) 2 SCC 326*** wherein it has been laid down that the Court has to enquire, as to whether, the conduct charge as cruelty, is of such a character, as to cause in the mind of the petitioner, a reasonable apprehension that, it will be harmful or injurious for him to live with the respondent.

49. This Court deems it fit and proper to take into consideration the meaning of 'cruelty' as has been held by the Hon'ble Apex Court in ***Shobha Rani v. Madhukar Reddi, (1988)1 SCC 105*** wherein the wife alleged that the appellant-husband and his parents demanded dowry. The Hon'ble Apex Court emphasized that "cruelty" can have no fixed definition.

50. According to the Hon'ble Apex Court, "cruelty" is the "conduct in relation to or in respect of matrimonial conduct in respect of matrimonial obligations". It is the conduct which adversely affects the spouse. Such cruelty can be either "mental" or "physical", intentional or unintentional. For example, unintentionally waking your spouse up in the middle of the night may be mental cruelty; intention is not an essential element of cruelty

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but it may be present. Physical cruelty is less ambiguous and more "a question of fact and degree."

51. The Hon'ble Apex Court has further observed therein that while dealing with such complaints of cruelty it is important for the Court to not search for a standard in life, since cruelty in one case may not be cruelty in another case. What must be considered include the kind of life the parties are used to, "their economic and social conditions", and the "culture and human values to which they attach importance."

52. The nature of allegations need not only be illegal conduct such as asking for dowry. Making allegations against the spouse in the written statement filed before the court in judicial proceedings may also be held to constitute cruelty.

53. In ***"V. Bhagat vs. D. Bhagat (Mrs.), (1994)1 SCC 337,*** the wife alleged in her written statement that her husband was suffering from "mental problems and paranoid disorder". The wife's lawyer also levelled allegations of "lunacy" and "insanity" against the husband and his family while he was conducting a cross-examination. The Hon'ble Apex Court held these allegations against the husband to constitute "cruelty".

54. In ***Vijaykumar Ramchandra Bhate v. Neela Vijay Kumar Bhate, (2003)6 SCC 334*** the Hon'ble Apex Court has observed by taking into consideration the allegations levelled by the husband in his written statement that his wife was "unchaste" and had indecent familiarity with a person outside wedlock and that his wife was having an extramarital affair. These allegations, given the context of an educated Indian woman, were held to constitute "cruelty" itself.

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55. The Hon'ble Apex Court in ***Joydeep Majumdar v. Bharti Jaiswal Majumdar, (2021) 3 SCC 742***, has been pleased to observe that while judging whether the conduct is cruel or not, what has to be seen is whether that conduct, which is sustained over a period of time, renders the life of the spouse so miserable as to make it unreasonable to make one live with the other. The conduct may take the form of abusive or humiliating treatment, causing mental pain and anguish, torturing the spouse, etc. The conduct complained of must be "grave" and "weighty" and trivial irritations and normal wear and tear of marriage would not constitute mental cruelty as a ground for divorce.

56. The Hon'ble Apex Court in the case of ***Vidhya Viswanathan v. Kartik Balakrishnan, (2014) 15 SCC 21*** has specifically held that cruelty is to be determined on whole facts of the case and the matrimonial relations between the spouses and the word 'cruelty' has not been defined and it has been used in relation to human conduct or human behaviour. It is the conduct in relation to or in respect of matrimonial duties and obligations. It is a course of conduct and one which is adversely affecting the other.

57. The Hon'ble Apex Court in ***Joydeep Majumdar v. Bharti Jaiswal Majumdar, (2021) 3 SCC 742***, has been pleased to observe that while judging whether the conduct is cruel or not, what has to be seen is whether that conduct, which is sustained over a period of time, renders the life of the spouse so miserable as to make it unreasonable to make one live with the other. The conduct may take the form of abusive or humiliating treatment, causing mental pain and anguish, torturing the spouse, etc. The conduct complained of must be "grave" and "weighty" and trivial

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irritations and normal wear and tear of marriage would not constitute mental cruelty as a ground for divorce.

58. Cruelty" has an inseparable nexus with human conduct and is always dependent on social strata or milieu to which parties belong, their ways of life, relationship, temperaments and emotions that are conditioned by their social status, reference be made to the judgment rendered by the Hon'ble Apex Court in the case ***Vishwanath Agrawal* v. *Sarla Vishwanath Agrawal*, (2012) 7 SCC 288**.

59. The Hon'ble Apex Court in the case of ***K. Srinivas Rao* v. *D.A. Deepa*, (2013) 5 SCC 226** has observed that cruelty is evident where one spouse so treats other and manifests such feelings in other, as to cause reasonable apprehension in mind of other that it would be harmful or injurious to reside with other spouse and cruelty may be physical or mental. It has further been observed that staying together under the same roof is not a precondition for mental cruelty. Spouse can cause mental cruelty by his or her conduct even while he or she is not staying under the same roof.

60. In matrimonial relationship cruelty mean absence of mutual respect and understanding between spouses which embitters relationship. Sometimes it may take form of violence, or at times may just be an attitude or approach. Silence in some situations may also amount to cruelty reference be made to the case of ***Ravi Kumar v. Julmidevi, (2010) 4 SCC 476.***

61. For considering dissolution of marriage at instance of a spouse who alleges mental cruelty, result of such mental cruelty must be such that it is not possible to continue with matrimonial relationship reference may be

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taken from the judgment rendered by the Hon'ble Apex Court in the case of ***Joydeep Majumdar v. Bharti Jaiswal Majumdar (supra).***

62. Further the word 'cruelty' is used relation to human conduct or human behaviour. It is the conduct in relation to or in respect of matrimonial duties and obligations. It is a course of conduct and one which is adversely affecting the other. The cruelty may be mental or physical, intentional or unintentional. There may be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect on the other spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted, reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Vinita Saxena* v. *Pankaj Pandit*, (2006) 3 SCC 778.**

63. Further, in the case of ***Manish Tyagi* v. *Deepak Kumar*, (2010) 4 SCC 339 the** Hon'ble Apex Court has categorically observed that to constitute 'cruelty', it is enough that conduct of one of parties is so abnormal and below accepted norm that other spouse could not reasonable be expected to put up with it. Conduct is no longer required to be so atrociously abominable which would cause reasonable apprehension that it would be harmful of injurious to continue cohabitation with another spouse. Hence, it is not necessary to establish physical violence. Continued ill-treatment, cessation of marital intercourse, studied neglect, indifference may lead to inference of cruelty.

64. The word "cruelty" under Section 13(1)(i-a) of the Act has got no static connotation, and therefore, gives a very wide discretion to the Court to apply it liberally and contextually. What is cruelty in one case may not

be the same for another and has to be applied from person to person while taking note of the attending circumstances. Harm or injury to health, reputation, the working-career or the like, would be important considerations in determining whether the conduct of the defending spouse amounts to cruelty. It has to be shown that the defending spouse has treated him with cruelty to cause reasonable apprehension in his/her mind that it will be harmful or injurious to live with the contesting spouse.

65. Further in the backdrop of the aforesaid settled position of law and before entering in to the issue of cruelty, it needs to refer herein that it is settled position that a proceeding under Hindu Marriage act is not criminal proceeding where proof beyond reasonable doubt is required rather “preponderance of probability" is enough.

66. Herein so far as the allegation of cruelty is concerned, the same remains unproved. The serious allegations regarding attack by knife, attempts to commit suicide and violent conduct have not been corroborated by any independent witness, medical record, police report or contemporaneous document. PW-2 admittedly had not witnessed any such incident and his testimony is substantially based upon what he had heard from others. Such hearsay evidence cannot form the basis of a finding of matrimonial cruelty.

67. Further, the admissions made by PW-1 during cross-examination show that after the engagement ceremony the parties remained in regular contact; the respondent visited and resided in her matrimonial home with the consent of the appellant and his family members; she was subsequently taken by the appellant to the United States; and the parties continued to reside together there till March, 2023. These admitted facts are wholly

inconsistent with the allegation that the appellant was subjected to such grave cruelty as would render continuation of the marital relationship impossible.

68. This Court, based upon the aforesaid discussions on the issue of cruelty, is of considered view that the issue of cruelty as has been alleged by the appellant-husband against his wife could not be proved because no concrete evidence to that effect has been produced by the appellant.

69. Thus, as per the discussions made hereinabove and law laid down by Hon'ble Apex Court which has also been referred herein above this Court has no reason to take different view that has been taken by the learned Family Court proving the ground of cruelty.

Issue of mental illness

70. So far as the issue of mental illness is concerned it is evident from the impugned order that the learned Family Court has categorically held that no cogent evidence has been adduced by the plaintiff/husband in order to prove the mental illness of OP-wife and therefore the Family Court has also decided this issue against the appellant/husband.

71. In the aforesaid context, it needs to refer herein Section 13(1) (iii) of the Act 1955 which reads as under:

> *"**13. Divorce**.—(1) ...*
>
> *Explanation.—In this sub-section, the expression "desertion" means the desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party, and includes the wilful neglect of the petitioner by the other party to the marriage, and its grammatical variations and cognate expressions shall be construed accordingly."*

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> (*iii) has been incurably of unsound mind, or has suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.*
>
> *Explanation- In this clause—*
>
> *(a) the expression "mental disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and include schizophrenia;*
>
> *(b) the expression "psychopathic disorder" means a persistent disorder or disability of mind (whether or not including subnormality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the other party and whether or not it requires or is susceptible to medical treatment; or……"*

72. The aforesaid provision shows that there are two separate grounds in the provision viz. (a) incurable unsound mind; and, (b) respondent spouse has been suffering continuously or intermittently from mental disorder and the disorder is of such kind and of such extent that the petitioner cannot reasonably be expected to live with the respondent.

73. From the wording of the aforesaid provision, it can be said that the mental condition like incurable unsound mind mentioned in the first part or the mental disorder mentioned in the second part needs to be proved by expert evidence and that evidence needs to satisfy the Court that such mental condition exists.

74. From the wording of the provision, it can be said that the second part of the provision has wide scope. For this part, it is not necessary that mental disorder is incurable. However, the mental disorder must be of such kind and extent that the Court needs to be satisfied that it is not advisable to ask the petitioner to live with the respondent. The scope shows that there

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is no limit to the kind of mental disorder as no specific kind is mentioned. However, the term “has been suffering” shows that the period of illness must not be too short or the petition should not be based on one or two instances showing such mental disorder.

75. The term “intermittently” cannot be misread in this provision to infer that the mental illness returns after the treatment within few days. The term “extent” is also important and on that also the Court needs to be satisfied to come to the conclusion that the petitioner cannot be reasonably expected to live with the husband.

76. Thus, it is evident that the relief is discretionary and while using discretion, the Court is expected to keep in mind the aforesaid things as mentioned above. Further, the burden to prove mental disorder mentioned as second part of the aforesaid provision or the burden to prove incurable unsound mind lies on the party who seeks to use the ground.

77. It needs to refer herein that psychiatrist is an expert but in view of provision of section 45 of the Evidence Act, it is up to the Court to either rely on the opinion or to refuse to do so. Further, he being a witness, his credibility can be impeached like the credibility of any other witnesses and his veracity can be tested as provided in section 146 and other provisions of Evidence Act. As psychiatrist is expected to give evidence on the basis of the examination of the patient done by him, the symptoms noted by him, the treatment and the follow up treatment given by him and the record created by him needs to be considered both for corroboration and contradiction purpose. In such a case the evidence of other witnesses or the circumstances which relates to the behaviour of the respondent can be

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considered by the Court as that can help strengthening the opinion or create probability that the opinion has no justification and it is weak.

78. The Hon'ble Apex Court in the case of ***Kollam Chandra Sekhar v. Kollam Padma Latha, (2014) 1 SCC 225*** has categorically observed that the ideas of unsoundness of 'mind' and 'mental disorder' occur in the section as grounds for dissolution of a marriage, require the assessment of the degree of the 'mental disorder'. Its degree must be such that the spouse seeking relief cannot reasonably be expected to live with the other. All mental abnormalities are not recognised as grounds for grant of decree. If the mere existence of any degree of mental abnormality could justify dissolution of a marriage few marriages would, indeed, survive in law. For ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

> ***22.*** *The relevant portions with regard to "unsoundness of mind" and "mental disorder" from the case referred to supra are extracted hereunder: (Ram Narain Gupta case [(1988) 4 SCC 247] , SCC pp. 254-56, paras 20-24)*
>
> *"20. The context in which the ideas of unsoundness of 'mind' and 'mental disorder' occur in the section as grounds for dissolution of a marriage, require the assessment of the degree of the 'mental disorder'. Its degree must be such that the spouse seeking relief cannot reasonably be expected to live with the other. All mental abnormalities are not recognised as grounds for grant of decree. If the mere existence of any degree of mental abnormality could justify dissolution of a marriage few marriages would, indeed, survive in law.*
>
> *21. The answer to the apparently simple—and perhaps misleading—question as to 'who is normal?' runs inevitably into philosophical thickets of the concept of mental normalcy and as involved therein, of the 'mind' itself. These concepts of 'mind', 'mental phenomena', etc. are more known than understood and the theories of 'mind' and 'mentation' do not indicate any internal consistency, let alone validity, of their basic ideas. Theories of 'mind' with cognate ideas of 'perception' and 'consciousness' encompass a wide range of thoughts,*

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more ontological than epistemological. Theories of mental phenomena are diverse and include the dualist concept—shared by Descartes and Sigmund Freud—of the separateness of the existence of the physical or the material world as distinguished from the non-material mental world with its existence only spatially and not temporally. There is, again, the theory which stresses the neurological basis of the 'mental phenomenon' by asserting the functional correlation of the neuronal arrangements of the brain with mental phenomena. The 'behaviourist' tradition, on the other hand, interprets all reference to mind as 'constructs' out of behaviour. 'Functionalism', however, seems to assert that mind is the logical or functional state of physical systems. But all theories seem to recognise, in varying degrees, that the psychometric control over the mind operates at a level not yet fully taught to science. When a person is oppressed by intense and seemingly insoluble moral dilemmas, or when grief of loss of dear ones etch away all the bright colours of life, or where a broken marriage brings with it the loss of emotional security, what standards of normalcy of behaviour could be formulated and applied? The arcane infallibility of science has not fully pervaded the study of the non-material dimensions of 'being'.

22. Speaking of the indisposition of science towards this study, a learned author says:

'... we have inherited cultural resistance to treating the conscious mind as a biological phenomenon like any other. This goes back to Descartes in the seventeenth century. Descartes divided the world into two kinds of substances: mental substances and physical substances. Physical substances were the proper domain of science and mental substances were the property of religion. Something of an acceptance of this division exists even to the present day. So, for example, consciousness and subjectivity are often regarded as unsuitable topics for science. And this reluctance to deal with consciousness and subjectivity is part of a persistent objectifying tendency. People think science must be about objectively observable phenomena. On occasions when I have lectured to audiences of biologists and neurophysiologists, I have found many of them very reluctant to treat the mind in general and consciousness in particular as a proper domain of scientific investigation.

... the use of the noun 'mind' is dangerously inhabited by the ghosts of old philosophical theories. It is very difficult to resist the idea that the mind is a kind of a thing, or at least an arena, or at least some kind of black box in which all of these mental processes occur.' [John R.

Searle, Minds, Brains and Science-Reith Lectures (Harvard University Press, 1984), pp. 10 and 11.]

23. Lord Wilberforce, referring to the psychological basis of physical illness said that the area of ignorance of the body-mind relation seems to expand with that of knowledge. In McLoughlin v. O'Brian [(1983) 1 AC 410 : (1982) 2 WLR 982 : (1982) 2 All ER 298 (HL)] , the learned Lord said, though in a different context: (AC p. 418 B : All ER p. 301)

'... Whatever is unknown about the mind-body relationship (and the area of ignorance seems to expand with that of knowledge), it is now accepted by medical science that recognisable and severe physical damage to the human body and system may be caused by the impact, through the senses, of external events on the mind. There may thus be produced what is as identifiable an illness as any that may be caused by direct physical impact. It is safe to say that this, in general terms, is understood by the ordinary man or woman who is hypothesised by the courts....'

24. But the illnesses that are called 'mental' are kept distinguished from those that ail the 'body' in a fundamental way. In Philosophy and Medicine, Vol. 5 at p. X the learned editor refers to what distinguishes the two qualitatively:

'Undoubtedly, mental illness is so disvalued because it strikes at the very roots of our personhood. It visits us with uncontrollable fears, obsessions, compulsions and anxieties....

... This is captured in part by the language we use in describing the mentally ill. One is an hysteric, is a neurotic, is an obsessive, is a schizophrenic, is a manic-depressive. On the other hand, one has heart disease, has cancer, has the flu, has malaria, has smallpox....'"

(emphasis in original)

The principle laid down by this Court in the aforesaid case with all fours is applicable to the fact situation on hand wherein this Court has rightly referred to Section 13(1)(iii) of the Act and Explanation to the said clause and made certain pertinent observations regarding "unsound mind" or "mental disorder" and the application of the same as grounds for dissolution of marriage. This Court cautioned that Section 13(1)(iii) of the Act does not make a mere existence of a mental disorder of any degree sufficient in law to justify the dissolution of marriage.

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> ***35.*** *In the English case of Whysall v. Whysall [1960 P 52 : (1959) 3 WLR 592 : (1959) 3 All ER 389] , it was held that a spouse is "incurably of unsound mind" if he or she is of such mental incapacity as to make normal married life impossible and there is no prospect of any improvement in mental health, which would make this possible in future. The High Court of Judicature of Calcutta, in Pramatha Kumar Maity v. Ashima Maity [AIR 1991 Cal 123] has held that mental disorder of the wife, even if proved, cannot, by itself, warrant a decree of divorce and it must be further proved that it is of such a nature as the husband could not be expected to live with the wife.*
>
> ***38.*** *We are of the view that the High Court in exercise of its appellate jurisdiction has rightly come to a different conclusion that the respondent is not suffering from the ailment of schizophrenia or incurable unsoundness of mind. Further, the High Court has rightly rejected the finding of the trial court which is based on Ext. B-10 and other documentary and oral evidence by applying the ratio laid down by this Court in Ram Narain Gupta v. Rameshwari Gupta [(1988) 4 SCC 247] referred to supra. A pertinent point to be taken into consideration is that the respondent had not only completed MBBS but also did a postgraduate diploma in Medicine and was continuously working as a Government Medical Officer and had she been suffering from any serious kind of mental disorder, particularly, acute type of schizophrenia, it would have been impossible for her to work in the said post. The appellant husband cannot simply abandon his wife because she is suffering from sickness. Therefore, the High Court allowed both the CMAs and dismissed OP No. 203 of 2000 filed by the appellant for divorce and allowed OP No. 1 of 1999 filed by the respondent for restitution of conjugal rights wherein the High Court granted decree of restitution of conjugal rights in favour of the respondent."*

79. The Hon'ble Apex Court in the aforesaid judgment has categorically held that marriage is highly revered in India and we are a nation that prides itself on the strong foundation of our marriages, come hell or high water, rain or sunshine. Life is made up of good times and bad, and the bad times can bring with it terrible illnesses and extreme hardships. The partners in a marriage must weather these storms and embrace the sunshine with equanimity. Any person may have bad health, this is not

their fault and most times, it is not within their control, as in the present case, the respondent was unwell and was taking treatment for the same. The illness had its fair share of problems. Can this be a reason for the appellant to abandon her and seek dissolution of marriage.

80. Thus, the Hon'ble Apex Court cautioned that Section 13(1)(iii) of the Act does not make a mere existence of a mental disorder of any degree sufficient in law to justify the dissolution of marriage.

81. It needs to refer herein that the appellant-husband in his evidence had stated that after the marriage he came to know about unsoundness of mind of his wife. He has further stated that his wife is suffering from a mental disorder since her birth. He has further stated in his evidence that the respondent is suffering from such acute mental disorder and in such a situation that their conjugal life cannot be spent.

82. But the appellant/petitioner-husband has failed to bring any cogent evidence on record in this regard. At para-61 of his cross examination, the appellant has admitted that he had not produced the medical paper of the concerned doctor who treated his wife (the respondent) for adducing evidence in the Court.

83. Further, the appellant has principally relied upon his own testimony and the testimony of PW-2, apart from a discharge instruction slip said to have been issued by a hospital in the United States of America. Significantly, PW-1 himself, in paragraph-42 of his cross-examination, admitted that the discharge papers do not record schizophrenia and merely refer to "Altered Mental Status Unspecified".

84. He further admitted in paragraph-52 that no medical certificate relating to the alleged illness of the respondent had been filed and that the

discharge papers only reflected symptoms such as insomnia, confusion and abdominal pain. Thus, the very foundation of the allegation regarding paranoid schizophrenia remains unsupported by any expert medical evidence.

85. This Court is conscious of the settled proposition of law that every mental disorder or psychiatric ailment does not ipso facto furnish a ground for dissolution of marriage under Section 13(1)(iii) of the Act. The burden lies upon the spouse seeking divorce to establish not only the existence of such mental disorder but also that the disorder is of such a kind and degree that the other spouse cannot reasonably be expected to live with him or her. In the present case, apart from vague assertions of abnormal behaviour, no evidence whatsoever has been placed on record to show that the respondent was suffering from an incurable mental disorder or from any psychiatric condition of such severity as would make marital cohabitation impossible. On the contrary, the materials available on record indicate that the respondent is an educated lady, having completed her graduation from St. Xavier's College and having worked for several years in a reputed airline organisation. No evidence has been adduced to demonstrate that she had been undergoing psychiatric treatment since childhood as alleged by the appellant or that any such fact had been concealed by her parents before the marriage.

86. Thus, on the basis of discussion made hereinabove, it appears that the aforesaid ground of mental illness has been raised by the appellant/ husband on the flimsy ground and taking in to consideration the aforesaid factual aspect the learned Family Court has rightly decided the said issue

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against the petitioner-husband, as such, the same requires no interference by this Court.

87. Therefore, upon an independent reappraisal of the evidence on record, this Court is of the considered view that the appellant has failed to establish either the ground of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 or the ground of incurable unsoundness of mind/mental disorder under Section 13(1)(iii) thereof.

88. Now coming to the impugned judgment wherefrom it is evident that learned Family Judge while taking into consideration the material evidence available on record and has observed that the appellant-husband has miserably failed to establish the fact that the respondent-wife has been incurably of unsound mind and has been suffering continuously and intermittently, from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with her. This finding has been recorded by the learned Family Judge in the impugned judgment at paragraph Nos- 24, 25, 26, 27 and 28, for ready reference the same are being quoted hereunder as:

> *24. The case in hand some documents have been on behalf of respondent also which is Photographs of marriage and another functions. On atching of the same it appears that respondent along with her husband is looking in conscious and happy mood. On watching the aforesaid photographs it does not appear at any angle that she is suffering from mental disorder. Further on perusal of mark Y/26 and onward documents appears that she is having good academic record and while studying from class matric up to graduation she has secured good marks which shows that respondent is mentally sound lady and she is not suffering from any type of mental disorder.*
>
> *25. Though she was treated in USA and doctor has opined that she is having some symptoms schizophrenia and she was given some medicine but only on this basis that for a short period she was depressed due to some reason and she was treated it cannot be said that she is suffering from mental*

disorder. She is regularly attending the court on each and every dated and she has been examined herself also and she has intelligently got her recorded and nothing in cross has come that she is suffering from any kind of mental disorder.

26. As per aforesaid provision the test of unsoundness of mind is such mental incapacity which waves on in capable of managing himself/herself and her affairs including the problem of the society and of married life and it will be incurable if there is no reasonable hope of on being restored to abnormal health. The conduct of the person who suffers from psychopathic disorder is determined by such conscious or instinctive level as distinguished from reason or intention.

27. As discussed above it transpires that petitioner was never subjected to cruelty by his wife as because regarding cruelty no any complaint was made by him either in Thana or in court. He has not adduced concrete evidence that his wife was tortured her while living in sasural.

28. As such in view of the above discussion issue no-III & IV is hereby decided against the petitioner and in favour the respondent."

89. Thus, on the basis of discussion made hereinabove it is considered view of this Court that the findings recorded by the learned Family Court are based upon proper appreciation of the evidence and do not suffer from any perversity, illegality or jurisdictional error warranting interference by this Court in exercise of its appellate jurisdiction.

90. This Court, on consideration of the finding arrived at by the learned Family Judge and based upon the aforesaid discussion, is of the view that the judgment and decree passed by the learned Family Judge is not coming under the fold of the perversity, since, the conscious consideration has been made of the evidences, as would be evident from the various paragraphs of impugned judgment which are quoted and referred hereinabove in the preceding paragraph.

91. This Court, therefore, is of the view that the judgment dated 16.12.2024 and the decree signed on 21.12.2024 passed in Original Suit No.288 of 2023 by the learned Addl. Principal Judge, Addl. Family Court

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No.-II, Dhanbad need no interference and, accordingly, the instant appeal stands dismissed.

92. Pending I.As, if any, stands disposed of.

(Sujit Narayan Prasad, J.)

I Agree.

(Akhil Kumar, J.)

(Akhil Kumar, J.)

Sudhir
Dated:05/11/2026
Jharkhand High Court, Ranchi
AFR

Uploaded on 05/11/2026.

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