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IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 246 of 2019

[redacted]

... **Petitioner/Appellant**

Versus

[redacted]

… **Respondent/Respondent**

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANOJ PRASAD

For the Appellant: Mr Anurag Kashyap, Advocate
For the Respondent: Mr Birendra Kumar, Advocate

Reserved on 13.10.2026 **Pronounced on 05 /11/2026**

***Per*: Manoj Prasad, J.**

1. Heard Mr Anurag Kashyap, learned counsel for the petitioner and Mr Birendra Kumar, learned counsel for the respondent.

2. The present First Appeal challenges the judgment and decree dated 16.03.2019 and 02.04.2019, passed by the learned Principal Judge, Family Court, Jamshedpur, East Singhbhum, in Original Suit No. 322 of 2015, whereby the suit instituted by the present appellant, [redacted], for dissolution of marriage on the ground of cruelty as contemplated under Section 13(1)(i-a) of the Hindu Marriage Act, by decree of divorce, was dismissed.

3. The present appellant, [redacted], was the petitioner before the Family Court, Jamshedpur, while the present respondent, Dileep

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Kumar, was the opposite party and is the husband of the present appellant.

4. Briefly stated, the facts of the case are that the appellant wife filed an application for dissolution of marriage under Section 13(1)(i-a) of the Hindu Marriage Act on the ground of cruelty and prayed for a decree of divorce on that ground. It is admitted that the parties are legally wedded husband and wife, their marriage was solemnised in 2004 at Jamshedpur as per Hindu customs and rituals, and that a daughter was born out of wedlock on 25.09.2007.

5. Thereafter, there are allegations that at the time of marriage, as per the demand made by the family members of the present respondent, Rs. 1,00,000/- and Rs. 75,000/- in cash were given to the respondent for the purchase of a two-wheeler. Further, Rs. 1,50,000/- for the purchase of furniture, utensils, and gold jewellery was given. However, after marriage, when the appellant came to her matrimonial home, in good faith she handed over the entire streedhan to her husband and her mother-in-law. The appellant found that one of her sisters-in-law was suffering from mental ailments and used to create disturbances in the matrimonial life and in the house. Subsequently, both the husband and wife decided to live separately, and the petitioner was allowed to pursue her studies by staying in a hostel, and thereafter the petitioner was shifted to a private house. Subsequently, the petitioner was forced to come down to Ranchi along with her parents, as the respondent

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stated that he was unemployed and unable to look after the appellant as well as the minor child born out of their wedlock. Resultantly, the appellant was compelled to stay back with her parents at Ranchi, and from there the petitioner-appellant pursued her MBA and occasionally visited her matrimonial home at Allahabad. In course of time, the appellant was ill-treated by her husband as well as her in-laws and found it difficult to continue her matrimonial life, as the present respondent kept on persuading the appellant to fulfil his illegal demands. The respondent, who was unemployed, had become lazy and dependent on the present appellant, who, out of her own efforts, was pursuing her career as a teacher.

6. Subsequently, the appellant, under the instructions and assurances of the respondent, left her job and accompanied the respondent to Delhi, as the respondent stated he had opted for a job in Delhi. But within a couple of days, the respondent resigned from his job, left Delhi, and shifted to Raigarh. This compelled the present appellant and her minor daughter to reside in the house of the elder sister of the petitioner/appellant in Delhi.

7. The appellant, who had resigned from her job and was penniless with no support from her husband, was compelled to become a private tutor to earn her livelihood. In course of time, the respondent started demanding Rs.5,00,000/- from the appellant and her parents, and on account of non-fulfilment of the said demand, she was subjected to both physical and mental cruelty. This

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demand of Rs.5,00,000/- was made so that the respondent could shift to some Middle East country for securing his future. As the appellant could not survive in Delhi, she was compelled to shift to Jamshedpur, where she applied to a school as a teacher and was appointed as a teacher. The respondent came to Jamshedpur along with his mother and abused the appellant for his persistent demand for dowry of Rs.5,00,000/-, and even that amounted to inducing the present appellant to commit suicide. However, she was prevented from committing suicide. Subsequently, the respondent and his mother left Jamshedpur, and the appellant gave a written complaint to the police in this regard. It is stated that the family has a chequered history, where the sister-in-law is a divorcee, the brother-in-law next to the present respondent had multiple divorces, as he was married three times, and the other brother-in-law was also not maintaining a happy conjugal life. With these allegations, on account of the cruelty meted out by the respondent to the appellant, the suit for dissolution of marriage was instituted with a prayer for a decree of divorce on the ground contained under Section 13(1)(i-a) of the Hindu Marriage Act.

8. The written statement was filed on behalf of the present respondent; he admitted that the parties are husband and wife, and that their marriage was solemnised in accordance with Hindu rituals. It is stated that the streedhan of the present appellant was not taken away by the present respondent. The birth of a daughter out of their wedlock is not disputed. The respondent claims that he

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has incurred the entire educational expenses of the present appellant and also incurred expenses for the maintenance of his daughter. It is further alleged that the appellant has been behaving in a cruel manner towards him. She has been ignoring the present respondent. Further allegations of physical or mental cruelty are denied, and the allegation of having made any complaint before the police is also denied. It is stated that only after the appellant was appointed as a Teacher at Jamshedpur Public School did her behaviour change, and that she does not intend to restore conjugal life. It is further stated that the respondent has been subjected to physical and mental cruelty.

9. Based on the pleadings, the following issues were framed:-

i. ***Whether the Suit is maintainable?***

ii. ***Whether the appellant has valid cause of action?***

iii. ***Whether the respondent has meted out cruelty on the appellant?***

iv. ***Whether the applicant is entitled to a decree for dissolution of marriage under Section 13 (1) (i-a) of the Hindu Marriage Act and what other relief the applicant is entitled?***

10. Three witnesses were examined on behalf of the present appellant. The 1st witness is the appellant herself; the 2nd witness is the appellant's father, namely [redacted]; and the last witness is [redacted], the appellant's neighbour.

11. No witness was examined on behalf of the present respondent.

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12. The learned Principal Judge, Family Court, after considering the oral and documentary evidence, took up issue no. 3 for priority consideration. It was held that the evidence on record showed that the appellant was shifted to a hostel to pursue her studies, that she was allowed to join at Ranchi, and that she was permitted to pursue higher studies. All this shows the husband's flexible and accommodating nature, as he fully supported the present appellant in pursuing her career and higher education. The liberty to reside in a hostel at Allahabad, despite the matrimonial house also being situated there, demonstrates the liberty given to the present appellant by the present respondent. The learned trial court also observed that the appellant was highly ambitious.

13. Further, the evidence shows that the respondent, along with his mother, came to Jamshedpur and resided with the appellant for a couple of days. The respondent and his mother have stated that they abused the appellant, but P.W. 2, the father of the appellant, says that her daughter was physically assaulted by the respondent and his mother. The learned trial Court considered this a contradiction and, accordingly, disbelieved the testimony of the witness. Finally, the trial Court held that the appellant, being highly ambitious about her career, sought a divorce from her husband by concocting a false story alleging cruelty by the respondent and his family members. Accordingly, the learned Family Judge decided the said issue against the appellant and in favour of the respondent. Consequently, the other issues were also

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decided against the present appellant, and the suit of the appellant was dismissed.

ARGUMENTS

14. The learned Advocate appearing on behalf of the appellant has submitted that the learned trial court misdirected itself in passing the impugned order and was guided by traditional rhetoric that treats a wife's pursuit of education as a privilege granted by the husband rather than a right. Individual dignity and honour have not been considered by the learned trial Judge. It is true that initially the husband cooperated, but no sooner had she secured a job than, on the assurance that he had obtained a job in Delhi, he got her to resign from her job, took her to Delhi, and then he himself moved to Raigarh, leaving the present appellant at the whims of her sister and also leaving her jobless and penniless. These are elements of both physical and mental cruelty, more so when the appellant had an infant or minor child with her.

15. Learned counsel further submits that the observation made by the trial court that the present appellant was over-ambitious about her career, which perhaps was the reason for dismissing the suit, is not tenable in the eyes of the law. Pursuing her career for livelihood for herself and for her minor child cannot be considered a case of being highly ambitious. Further, being highly ambitious is not in itself adverse or contrary to human behaviour. Two different standards cannot be applied. A husband pursuing higher education and being highly ambitious for his career is considered good

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enough, but if the same is done by the wife, it is considered a stigma in not maintaining the marital relationship.

16. Learned counsel also submits that there is nothing on record to show that, to date, the respondent has taken any step to pay even a single farthing towards maintenance for his wife or, at least, for his minor daughter. The respondent has also not bothered to look into the aspects of education or other requirements of his minor child, all of which are elements of cruelty by the husband towards the wife. It is true that the application for dissolution of marriage was filed after a long time from marriage, as the marriage was solemnised in the year 2004, while the application for dissolution of marriage was filed in the year 2015. But mere delay cannot be considered to condone the cruelty meted out by the respondent to the appellant. There is testimony on behalf of the appellant with regard to the demand for dowry, and there is nothing in the cross-examination to demolish the credentials of the witness. These aspects of the case were not considered by the learned trial judge. Hence, prayer is made to set aside the impugned judgment and decree by allowing the present appeal and passing a decree for dissolution of marriage under Section 13(1)(i-a) of the Hindu Marriage Act by a decree of divorce on the grounds of cruelty.

17. **Per contra,** the learned Advocate appearing for the respondent has contested the appellant's claim. He submitted that though no witness was examined on behalf of the respondent, a written statement has been filed in which the case of physical or mental

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cruelty was denied. A counter affidavit has also been filed in this appeal, and it must be considered.

18. The learned counsel for the respondent contended that filing an application for dissolution of marriage after 12 years of cohabitation demonstrates the falsity of the present appellant's claim. He further submitted that this application for dissolution of marriage was filed only after the appellant was appointed as a teacher at a reputed school in Jamshedpur. He also submitted that the respondent has been bearing all the present appellant's expenses, including those incurred in the course of her education and other allied expenses. However, the appellant is not interested in leading family life.

19. The learned counsel for the respondent contended that the daughter of the parties is now about 18 years old and that her future is also adversely affected. It was also stated that the present respondent had filed an application for restitution of conjugal rights before the Family Court, Allahabad, and that the present appellant had filed a transfer petition before the Hon'ble Supreme Court of India. The present respondent has not disclosed the fate of the case.

20. The learned counsel for the respondent contended that the appellant came to Allahabad for an interview scheduled by UPPCS, Allahabad, and that a domicile certificate was also submitted, showing a residential house in Allahabad. He further submitted that the present respondent never came to Chhota Govindpur, Jamshedpur, and that the present respondent's mother,

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an elderly lady about 74 years old, never accompanied the present respondent to Chhota Govindpur, Jamshedpur.

FINDINGS

21. Based on the rival contentions raised by the parties, and after perusing the impugned judgment and decree and the record. the following point arises for our determination:

Whether the appellant was entitled to a decree of divorce under Section 13 (1) (i-a) of the Hindu Marriage Act on account of acts of cruelty by the respondent.

22. Before coming to the facts of the present case, it is significant to note that the case has been pending since 2019. On various occasions, efforts at reconciliation were made. After considerable difficulty, the respondent's appearance was secured. For a considerable time, the matter continued in mediation. However, mediation failed, and thereafter the case was heard on its merits.

23. In this case, while the appellant wife led evidence in support of her plea, the respondent husband led no evidence or did not even seriously cross-examine the appellant or her witness. Still, the learned trial judge dismissed the suit, relying on the denials in the written statement. This was even though even such denials were vague and evasive.

24. The trial Court record shows that the vague and cryptic written statement was filed not in consonance with the mandate of law under Order 8 of the CPC, or Order 8 Rules 3 and 4 of the CPC, which mandate that every statement of fact made in the plaint

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should be denied specifically. Rule 4 says that vague denial is no denial at all, and Rule 5 stipulates that facts not denied shall be deemed to have been admitted. The written statement filed on behalf of the present respondent failed to rebut the present appellant's case, an aspect the learned trial Court did not consider.

25. Further, the appellant examined herself as P.W.-1. The learned trial Court gave the Respondent a full opportunity to cross-examine her. However, she was not cross-examined; the same is the position with the other witness. Relying only on the vague denials in the written statement and ignoring the virtually unchallenged evidence on behalf of the Appellant, the suit should not have been dismissed. The law is settled that pleadings are not a substitute for proof. Facts pleaded are required to be proved, and if no evidence is adduced in support of the pleadings, the pleadings also become insignificant.

26. In the present appeal, a detailed counter affidavit has been filed by the present appellant with various Annexures. Ordinarily, there is no question of filing any counter affidavit in an appeal. The appeal must be decided based on the evidence led by the parties before the trial Court. Filing a photocopy of documents and making it part of the counter affidavit is not a substitute for either filing an application under Order XLI Rule 27 of the CPC or making out a case for adducing evidence at the appellate stage. Such documents cannot be taken on record and cannot be relied upon. However,

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even if we were to consider the same, the suit should not have been dismissed.

27. We therefore are of the considered view that in the present case there is unrebutted pleading and evidence of the appellant alleging both physical and mental cruelty. Oral evidence of dowry demand and instances of physical and mental cruelty is deposed to by the appellant, and her father, and an independent witness, i.e., the neighbour, have corroborated such evidence. Such oral evidence extends to both physical and mental cruelty meted out at different points in time by the present respondent upon the appellant. By ignoring such unrebutted pleadings or in any event, unrebutted evidence, the appellant's suit should not have been dismissed.

28. The learned trial judge has rejected the evidence of the appellant and her witnesses by citing some minor contradiction. Upon perusal and evaluation of the evidence, we find nothing contradictory in the evidence of P.W.1 and P.W.2.

29. In her cross-examination, P.W.1 stated, at para 2, that when her husband and mother-in-law came to live with her in Jamshedpur in April 2015, they began abusing her with filthy language. P.W.2 is the father of the appellant, and when answering the Court's question, he stated that on 2nd June 2015 the respondent physically assaulted his daughter. The two acts refer to two different times and two different incidents. Further, while answering the Court's question, the father of the appellant has also stated that his daughter was subject to both physical and mental cruelty and that

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there was a demand for dowry. These statements remained unrebutted.

30. Considering the unrebutted pleadings and the virtually unrebutted oral testimony in their entirety, we are of the considered view that the appellant has successfully proved the case under Section 13(1)(i-a) of the Hindu Marriage Act, i.e., the respondent meted out cruelty to the appellant, making conjugal life incompatible and rendering the possibility of the parties residing together remote. Such cruelty is sufficient for the purpose of dissolving the marriage by a decree of divorce under Section 13(1)(i-a) of the Hindu Marriage Act.

31. The impugned judgment, by which the application for dissolution of marriage was dismissed by the Principal Judge, Family Court, Jamshedpur, predominantly rests its conclusion on the wife being *"allowed to pursue her education, including higher education, after marriage, which shows the liberal attitude of the husband"*. Secondly, the wife was "*allowed to take up a job even at Jamshedpur, which the husband also permitted, showing the accommodating and cooperative attitude of the respondent towards her"*.

32. Furthermore, the learned trial Judge also observed that the allegation that her husband has become lazy and is fully dependent on the present appellant, taking her entire salary, was categorised as a case of the appellant being over-ambitious.

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33. With respect, we cannot subscribe to such observations or approach. Such gender stereotyping cannot be permitted in such matters. The husband and wife are equal partners in marriage. The law is settled that the relationship between a husband and wife is not one of a superior and an inferior, nor of one person dominating another. This relationship rests on the premise that the husband and wife exercise equal rights and move in tandem. Even if moving in tandem may not always be possible, mutual respect is to be striven for. Therefore, based on this reasoning, the suit should not have been dismissed.

34. Pursuing higher education after marriage is not a privilege granted by the respondent, but a right which the wife is always entitled to exercise. Similarly, if the wife wishes to take up a government or even a private job, based on merit and eligibility, allowing her to do so is not some favour the husband does to his wife. A wife who is intent on further studies or on taking up a job after marriage cannot be considered ambitious or over-ambitious. A husband studying further or taking up a job after marriage is regarded as normal, perhaps as it should be. But the reverse cannot be stigmatised as abnormal or suggestive of ambition or over-ambition. Accordingly, the appellant's plea should not have been rejected on the basis of such gender stereotyping.

35. For all the above reasons, we answer the point for determination in favour of the appellant and against the respondent.

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36. Consequently, the impugned judgment and decree is set aside, the appellant's suit is allowed, the prayer for dissolution of marriage by decree of divorce on the ground of cruelty under Section 13(1) (ia) of the Hindu Marriage Act is granted, and the marriage between the appellant and the respondent stands dissolved in terms thereof. A decree to that effect is directed to follow.

37. The appellant has not filed any application for alimony or interim maintenance. We therefore propose not to pass any order on one-off permanent alimony or alimony by way of monthly maintenance. However, this right is reserved for both the appellant and her daughter to file an appropriate application for alimony/maintenance against the present respondent before a Court of competent jurisdiction, which shall decide the same on its merits, following the procedure established under law, after giving an opportunity of hearing to all concerned.

38. Pending I.As., if any, do not survive and are accordingly disposed of.

(M. S. Sonak, C.J.)

(Manoj Prasad, J.)

November 5th , 2026
A.F.R.
Pramanik/
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