

IN THE HIGH COURT OF JHARKHAND AT RANCHI
F.A. No. 214 of 2026

... ... **Appellant**
 Versus
 **Respondent**

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD**

For the Appellant : Mr. Prabhat Kr. Sinha, Advocate
Mr. Mayank Mridul, Advocate
Mr. Aditya Mazamdar, Advocate
For the Respondent : Mr. Ritesh Kumar, Advocate

Order No. 08: Dated 18th September, 2026

I.A. No. 4272 of 2026

- 1.** The instant application has been filed for condoning the delay of 48 days in filing the appeal.
- 2.** Learned counsel for the appellant has submitted that the petitioner/appellant had preferred suit being Original Suit No. 195 of 2024 for dissolution of marriage on the ground of Cruelty and desertion before the learned Family Court.
- 3.** It has further been submitted that the respondent-wife, in spite of service of notice did not appear before the learned family court, as such the suit proceeded ex-parte and suit was reserved for final judgment on 07.10.2025 and thereafter, dismissed vide judgment dated 03.11.2025 and decree was also signed on 17.11.2025.
- 4.** Further submission has been advanced that the appellant was wholly unaware of the judgment dated 03.11.2025. It is stated that on 18.11.2025, learned counsel for the appellant

procured the certified copy of the judgment alone, without simultaneously obtaining the certified copy of the decree. Thereafter, when the appellant approached his counsel on 22.01.2026 for the purpose of preferring an appeal against the order dated 03.11.2025, he was apprised that the certified copy of the decree was also indispensable. Consequently, the certified copy of the decree came to be obtained only on 02.02.2026.

5. It has further been urged that subsequent thereto the appellant approached the learned counsel for the purpose of instituting the appeal, and ultimately the appeal came to be filed on 09.02.2026. This sequence of events occasioned a delay of 48 days.

6. Learned counsel for the appellant has submitted that the delay in filing the appeal is not intentional rather it was beyond the control of the appellant and if the delay in filing the appeal is not condoned, the appellant will suffer irreparable loss.

7. Objection to the delay condonation application has been filed on behalf of respondent-wife stating therein that respondent had filed Original Maintenance Case No. 301 of 2024 wherein order dated 16.06.2026 has been passed to pay maintenance allowance to the tune of Rs.15,000/- per month to the petitioner/Wife (respondent herein) from the date of filing of application i.e. 16.07.2024. But in spite of the order passed by the court concerned, not a single penny has been paid leaving

the respondent-wife in destitute condition and the arrears of maintenance mounted to Rs.3,75,000/-.

8. Learned counsel for the respondent-wife has submitted that due to non-payment of arrears of maintenance as also the maintenance the respondent-wife is facing grave financial crunch.

9. Learned counsel for the respondent has further submitted that the reason for condoning the delay as assigned in the Interlocutory Application is not sufficient to condone the delay, as such the instant application be rejected.

10. This Court, having heard learned counsel for the parties, is of the view that the reason shown in the Interlocutory Application is sufficient to condone the delay in filing the appeal.

11. Accordingly, the delay in filing the appeal is condoned and the instant application being I.A. No. 4272 of 2026 stands allowed and disposed of.

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12. With the consent of learned counsel for the parties, the matter has been taken up.

13. Learned counsel for the respondent reiterating the argument has submitted that the learned family court in Original Maintenance Case No. 301 of 2024 filed under Section 125 Cr.P.C, has passed order directing the appellant-husband to pay maintenance to the tune of Rs. 15,000/-per month from

the date of filing of Original Maintenance Case No. 301 of 2024 which mounted to Rs. 3,75,000/- but in spite of the order passed by the court concerned, not a single penny has been paid leaving the respondent-wife in destitute condition.

14. This Court before appreciating the submissions advanced by parties needs to refer herein the object and intent of Section 125 Cr.P.C, which is to ensure that deserted wives, children, and parents are not thrown into a state of vagrancy, poverty, or beggary. The provision translates a person's moral and natural obligation to maintain their dependent family members into a legal compulsion. It has to provide temporary monthly financial support to the spouse, who is not in a position to survive on its own, while the main maintenance case is pending.

15. Herein, the respondent-wife, being a destitute had preferred an application before the learned Family Judge invoking the jurisdiction conferred under Section 125 Cr.P.C., in which order was passed on 16.06.2026 directing the Opp. Party, herein the appellant-husband, to pay maintenance allowance of Rs.15,000/- per month to the wife from the date of filing of application i.e., 16.07.2024 and further direction was passed to pay total maintenance allowance i.e., Rs.15,000/- per month.

16. Although the order was passed on 16.06.2026, it is submitted by learned counsel for the petitioner that the said

order has not yet been assailed before the higher forum. The case put forth by the other side, namely the respondent-wife, is that not a single penny has been remitted in compliance with the order dated 16.06.2026 passed by the learned Family Court in Original Maintenance Case No.301 of 2024.

17. We are conscious that this Court in its appellate jurisdiction is not the executing court for enforcement of the order dated 16.06.2026 passed by learned family court in Original Maintenance Case No.301 of 2024 under Section 125 Cr.P.C., but keeping the fact into consideration being the jurisdiction which is to be exercised as an appellate court under the Family Courts Act to deal with the issue of divorce under the provisions of Hindu Marriage Act, 1955 which mandates for the purpose of taking care of predicament of the litigant(s) by insertion of Section 24 and 25 of the Hindu Marriage Act.

18. The scope of Section 24 of the Hindu Marriage Act is the maintenance *pendente lite* while the scope of Section 25 of the Act, 1955 is the alimony permanent in nature. For ready reference Section 24 of the Act 1955 is being quoted herein which reads as under:

“24. Maintenance pendente lite and expenses of proceedings.-

Where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the

petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable:

Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.

19. From the bare reading of Section 24 of the Hindu Marriage Act, 1955, it is apparent that if the party to the matrimonial proceedings does not possess independent income sufficient for his or her support (maintenance) during litigation and the expenses of the proceedings, then the Court can order to pay the expenses of the proceedings and for per month allowance “during the proceedings”.

20. The object of section 24 of the Act is to provide a monthly income and expenses of the litigation to an indigent spouse to enable it to prosecute or defend the proceedings under the Act and the law sees that nobody is disabled from prosecuting or defending the matrimonial case by starvation or lack of funds.

21. Thus, purpose of this provision is that a financially weak party to a matrimonial proceeding may not become unprovided for and may not be handicap in presenting his or her case in defending his or her legal rights. The affluent

party cannot be allowed by law to have an upper hand simply by the strength of his purse. Money cannot be determinant of the merit of a case. Not only the party against whom a petition is instituted in a court may claim maintenance pendente lite and the expense of litigation but also a party who has instituted the litigation can also claim the cost of litigation and maintenance pendente lite in case, he or she does not possess independent income sufficient for his or her support (maintenance) during litigation and the expenses of the proceedings.

22. The doctrine of maintenance pendente lite and expenses of the proceedings by the husband to the wife finds its root in the economic and social conditions under which normally most of the married women have to live and depend upon the income of their husband as the case herein. The provision for allowance is intended to secure justice to the wife who has no independent income sufficient for her support and necessary expenses of the proceeding while prosecuting or defending any proceedings under the matrimonial law. It is on this principle that the law relating to the matrimonial causes provides for rules for payment of maintenance pendente lite and expenses of the proceedings by the husband to the wife.

23. It is the utmost duty of this Court to ensure that a party to matrimonial litigation is not rendered destitute or

incapacitated from prosecuting or defending the proceedings. In terms of the mandate of the Act, 1984, it is incumbent upon the Court to secure fairness in matrimonial proceedings, and maintenance pendente lite is designed to obviate vagrancy and hardship during the pendency of litigation. The appellate court, therefore, is duly empowered to grant such relief where the facts disclose that a party is without means either to subsist or to contest the case.

24. Thus, as discussed and referred in the preceding paragraphs that the statutory scheme under Section 24 is remedial in nature. It empowers the Court to direct payment of maintenance pendente lite and litigation expenses to either spouse who has no independent income sufficient for support. The provision is intended to prevent destitution and to ensure that matrimonial litigation is conducted on a level playing field. Further the Maintenance pendente lite is not a matter of charity but a statutory right, and that the Court must ensure that the spouse without means is not handicapped in prosecuting or defending the litigation.

25. The jurisdiction to pass an order under section 24 of the Act arises as soon as any proceedings are instituted under the Act in the court and lasts so long as the proceedings are pending. The conditions circumscribing the exercise of jurisdiction are that the either of spouse should not have any

independent income sufficient for her or his support or necessary expenses of the proceedings. If the said conditions are satisfied, the Court has jurisdiction and power to order the other party to pay expenses of the proceedings and monthly maintenance of such sum as may be found reasonable by the court.

26. In *Manish Jain v. Akanksha Jain* [(2017) 15 SCC 801], the Hon'ble Supreme Court reiterated that an order for maintenance pendente lite or for costs of the proceedings is conditional on the circumstance that the wife or husband who makes a claim for the same has no independent income sufficient for her or his support or to meet the necessary expenses of the proceeding. It is no answer to a claim of maintenance that the wife is educated and could support herself. Likewise, the financial position of the wife's parents is also immaterial. Maintenance is always dependent upon factual situation; the Court should, therefore, mould the claim for maintenance determining the quantum based on various factors brought before the Court.

27. Further, the grant of relief under section 24 is not dependent either on the merits of the petition or on the decision of any particular issue or issues in the case or upon the ultimate success or failure of the petition and it is the duty of the affluent spouse to maintain the indigent spouse.

28. It is a settled proposition of law that, having regard to the object and purport of the Family Courts Act, 1984, the Court is required to function in the capacity of a guardian court. This position is manifest from the Preamble of the Act, which emphasizes the establishment of Family Courts with a view to secure speedy settlement of disputes relating to marriage and family affairs and the preservation of family values remain paramount considerations.

29. This Court has also taken note of the fact that no application has been filed seeking relief under Section 24 of the Hindu Marriage Act, 1955. The question, however, that arises is whether, merely because such an application has not been preferred by the respondent-wife, it would be proper for this Court to refrain from passing any ad interim order granting pendente lite maintenance in her favour. It is beyond dispute that, while exercising jurisdiction under the Family Courts Act, 1984, the Court is to act as a guardian Court, the legislation being a beneficial piece of enactment intended to secure sustenance and maintenance forthwith.

30. The things can be understood in the way by taking instance of provision of Section 125 Cr.P.C., which provides for the interim maintenance while Section 24 of the Hindu Marriage Act, 1955 provides for ad interim maintenance pendent lite. As per the judgment rendered by Hon'ble Apex Court in the case of ***Rajnish v. Neha & Anr., (2021) 2 SCC***

324 it has been held that while passing the order of interim maintenance the pleading is required to be seen regarding the financial viability of the party by disclosing their assets and property including the salary which the concerned is getting. Such requirement is there for adjudication of the issue and as has been laid down in the case of **Rajnish v. Neha & Anr. (supra)** that interim application is to be decided within a period of 4 to 6 months.

“72. Keeping in mind the need for a uniform format of Affidavit of Disclosure of Assets and Liabilities to be filed in maintenance proceedings, this Court considers it necessary to frame guidelines in exercise of our powers under Article 136 read with Article 142 of the Constitution of India:

72.10. (j) The Family Court/District Court/Magistrate's Court concerned must make an endeavour to decide the IA for interim maintenance by a reasoned order, within a period of four to six months at the latest, after the Affidavits of Disclosure have been filed before the court.

31. The question herein is that when the Hon'ble Apex Court has considered the aspect of the issue of grant of interim maintenance to be decided within a period of 4 to 6 months, then what will happen in a situation where maintenance amount is not being paid as the case herein, as per the averment made in the affidavit-in-objection filed on behalf of respondent-wife to the Interlocutory Application filed for condonation of delay, which has not been disputed since no rebuttal to the affidavit-in-objection has been filed

by the appellant-husband. Due to non-payment of maintenance amount by the petitioner/appellant to respondent/wife the very scope of Section 125 Cr.P.C is being frustrated.

32. This Court is conscious of the fact that exercising the power of appeal, this Court cannot exercise the power to enforce the order passed by the learned Family Court passed under Section 125 Cr.P.C. but certainly can exercise the power conferred under Section 24 of the Hindu Marriage Act, 1955 for the purpose of providing the means of sustenance by way of ad-interim maintenance. The non-filing of an application, therefore, would not come in the way in exercising such jurisdiction, if the fact is very much apparent regarding financial crunch which the respondent is facing.

33. It has vehemently been placed by learned counsel for the respondent by making the allegation that not a single penny of the amount of maintenance as awarded under Section 125 Cr.P.C. by the learned Family Judge has been paid to the respondent-wife and the arrears of which has mounted to Rs.3,75,000/- and as such the respondent-wife is not in a position to survive what to say about contesting the case.

34. This Court, in view of fact that in a situation where the maintenance amount is not being paid as per the direction

passed by the learned Family Court under Section 125 Cr.P.C, would it be proper for this Court not to pass order exercising the power conferred to this court under Section 24 of the Hindu Marriage Act, 1955 even in absence of any application.

35. However, no objection has been raised on behalf of the appellant but this Court since is passing order deem it fit and proper to consider the issue of filing of application for the purpose of ad interim relief. If the application is to be filed for issuance of direction for making payment of ad interim relief, there will be difference in between the 'interim maintenance' and 'ad interim maintenance'.

36. Interim maintenance requires consideration based upon the pleadings made on behalf of the parties, which is to be decided as per the judgment as per the judgment rendered by Hon'ble Apex Court in the case of ***Rajnish v. Neha & Anr. (supra)*** within a period of 4 to 6 months. The interpretation of the word 'ad interim maintenance' requires making payment of the amount of maintenance forthwith meaning thereby the very purport of the stipulation made under the Hindu Marriage Act, 1955 is to provide financial means forthwith without any aid of consideration of any pleading.

37. This Court, therefore, is of the view that non-filing of the application will not be a rider in not invoking the jurisdiction conferred under Section 24 of the Hindu Marriage Act.

38. Now the further question is that whether the power which has been conferred under Section 24 of the Hindu Marriage Act, can be invoked by the appellate Court.

39. The proceeding which is civil in nature and if the appeal is provided the appeal will be in furtherance of the original court and in that view of the matter and also in view of the fact that the reference has been made under Section 24 of the Act, 'Court' which impliedly means so long as the lis is pending then the Court which also includes the appellate court is well within the power to exercise the power conferred under Section 24 of the Hindu Marriage Act.

40. In the present appeal, the respondent-wife has been found in financial crunch to maintain herself or to contest the litigation effectively. Since, the right to maintenance/maintenance pendente lite is an incident of the status of marriage and cannot be defeated by procedural technicalities. The absence of a formal application under Section 24 cannot, in such circumstances, fetter the jurisdiction of this Court to mould relief in aid of justice.

41. In view of the above discussion, it is absolute view of this Court that the absence of a formal application cannot

fetter the jurisdiction of this Court to grant maintenance pendente lite *suo motu*, if the facts disclose that the respondent-wife is without means to survive or contest the case. Matrimonial litigation often places the economically weaker spouse at a disadvantage. The Court must intervene to prevent vagrancy and hardship, thereby ensuring that the respondent-wife is not rendered incapable of defending her rights.

42. The fact about financial crunch, which is faced by the respondent-wife, has been indicated in the affidavit-in-objection filed on behalf of respondent-wife to the Interlocutory Application filed for condoning the delay, wherein it has been stated that even in spite of the order passed by the learned family judge dated 16.06.2026 in Original Maintenance Case No.301 of 2024, the amount of maintenance has not been paid and even the same has not been challenged before the higher forum, which ought to have been challenged within a period of 90 days.

43. This Court irrespective of the fact as to whether order dated 16.06.2026 passed in Original Maintenance Case No. 301 of 2024 has been challenged or not, is exercising the jurisdiction conferred to this Court under Section 24 of the Hindu Marriage Act, 1955 so as to achieve the object of Section 24 of the Act, 1955 for the purpose of enabling the respondent-wife to survive and contest the case, otherwise, if no order

would be passed, the question would be that how the respondent-wife will survive and contest the case. Further, if no such order is passed, it would amount to violation of principles of natural justice for the reason that if the respondent is not in a position to survive where is the question to contest the case.

44. Further, it needs to refer herein that the primary function of a Court is to adjudicate the dispute between the parties on the basis of substantial justice. A court's duty is to deliver substantial justice, meaning ensuring fair outcomes based on merits. Laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizens under personal, property and other laws. The procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify the miscarriage of justice.

45. The Hon'ble Apex Court in the case of ***Sugandhi v. P. Rajkumar, (2020) 10 SCC 706*** has specifically observed that the procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation, relevant paragraph of the aforesaid order is being quoted as under:

“9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute.”

46. In the case of **Jasraj Inder Singh v. Hemraj Multanchand, (1977) 2 SCC 155** the Hon'ble Apex court has observed that *"Justice is truth, is beauty and the strategy of healing injustice is discovery of the whole truth and harmonising human relations. Law's finest hour is not in meditating on abstractions but in being the delivery agent of full fairness. This divagation is justified by the need to remind ourselves that the grammar of justice according to law is not little litigative solution".*

47. Justice is nothing but a manifestation of the truth. It is truth which transcends every other action and when procedural law stands in the way of the truth, the Court must find a way to circumvent it. Similarly, when substantive law, as it appears, does not facilitate the emergence of the truth, it is the paramount duty of the Court to interpret the law in light of its teleos. Such an exercise is warranted in a higher degree, particularly while considering a social welfare legislation, reference in this regard be made to the judgment passed by the

Hon'ble Apex Court in the case of ***Om Prakash @ Israel @ Raju @ Raju das Vs. Union of India & Anr. 2025 INSC 43.***

48. As per discussion made hereinabove, Section 24 of the Hindu Marriage Act, 1955 confers jurisdiction upon the Court to award maintenance pendente lite and litigation expenses to either spouse who has no independent income sufficient for support. The provision is remedial and intended to prevent destitution during the pendency of matrimonial litigation. The appellate court, being seized of the lis, possesses jurisdiction to mould relief in aid of justice, therefore, the absence of a formal application cannot fetter the Court's duty to ensure fairness in matrimonial proceedings. To deny maintenance merely on the ground of non-filing of an application would amount to sacrificing substantive justice at the altar of procedural formality.

49. It is further pertinent to note that the financial distress faced by the respondent-wife has been specifically indicated in the affidavit-in-objection filed on her behalf to the interlocutory application seeking condonation of delay. In the said affidavit, it has also been asserted that, notwithstanding the order passed by the learned Family Judge on 16.06.2026 in Original Maintenance Case No.301 of 2024, not a single penny has been paid to her by the appellant.

50. This Court, upon consideration of the aforesaid circumstances and settled position of law and on discussion made hereinabove in the preceding paragraph, is of the view that a quantified sum on a monthly basis ought to be directed to be paid during the pendency of the present appeal, both towards the necessary expenses of the proceedings and for the financial sustenance of the respondent-wife. Failure to pass such an order would, in effect, amount to placing the appellant-husband in a position where the respondent-wife is disabled from contesting the matter, thereby caused hinderance in dispensation of substantial Justice.

51. This Court considering the aforesaid fact is of the view that a sum of Rs.15,000/- [fifteen thousand] is required to be paid during pendency of the present appeal by the petitioner/appellant to respondent/wife and if no order will be passed the implied meaning of this would be that this Court is prompting the appellant-husband in not allowing the respondent-wife to contest the case, which will amount to miscarriage of justice.

52. This Court, in view thereof, directs the appellant to pay a sum of Rs. 15,000/- per month in favour of respondent-wife, *pendente lite*.

53. List this matter after two weeks showing compliance of the order passed by this Court, so that the matter may be proceeded for further hearing.

54. We make it clear that we have not expressed any opinion on the merits of the matter.

55. This order shall remain operative during the pendency of the appeal, subject to further orders of this Court.

56. In the meanwhile, the trial court record be called for.

57. List this case on 06.10.2026 under appropriate heading.

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

Alankar/-

18th September, 2026
A.F.R.