IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No.310 of 2026

...**Appellant/Applicant**

Versus

... ...**Respondent**

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

For the Appellant : Mrs. Seema Kumari Singh, Adv
For the Respondent : Mr. Jitendra Nath Upadhyay, Adv.

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

Per Sujit Narayan Prasad, J.

Prayer:

1. The instant appeal under Section 19(1) of the Family Court Act, 1984 is directed against order/judgment dated 24.01.2025 passed by the learned Additional Principal Judge, Additional Family Court No.2, Jamshedpur in Original Suit No. 357 of 2019, whereby and whereunder the learned Additional Principal Judge has dismissed the suit filed by the appellant-petitioner under Section 9 of the Hindu Marriage Act, 1955, which was filed for restitution of conjugal rights.

Brief facts of the case:

2. The brief facts of the case, as per the pleading made in the original suit, needs to be referred herein reads, which reads as under:

3. The marriage of the appellant and respondent was solemnized on 22.01.2014 according to Hindu rites and customs at Jamshedpur, East Singhbhum. After marriage the applicant, the appellant herein, and the respondent started living together as husband and wife.

4. It is stated that the father of the appellant has got his own house at Adityapur, District Saraikella-Kharsawan, where the parents and other brother of the appellant were living and there was insufficient accommodation, due to which the petitioner and the applicant used to live together in a rented house at the same locality in Adityaur, District Saraikella-Kharsawan. It is further stated that from very beginning of the marriage there was no connection with the parents and other family members of the applicant and only the applicant and the respondent used to live together as husband and wife separately. Moreover the respondent-wife was not ready and willing to live in the joint family of the appellant at Adityapur-2

and as per her sweet will the appellant arranged for a rented house at Adityapur but the

respondent was not satisfied with the said rented house and had the desire to live in Bagbera area, where her parents were residing.

5. It has further been stated that the appellant, who was working in Tata Steel Ltd., had no company's quarter at Bagbera area, so the appellant failed to fulfill the demand of the respondent, and lastly the appellant got allotment of the company quarter bearing Qr. No. 10, Road No.12, Farm Area, Kadma, and the respondent reside together at Farm area, Kadma for some days but the respondent went away to her Maike at Bagbera along with her articles, ornaments silver and gold, cloths, and cash of Rs. 50,000/- and stayed there leaving the appellant.

6. It is the case of the appellant that he was being harassed by the respondent in several ways and she used to torture the appellant mentally and physically and she disclosed that she was not ready and willing to live with the appellant as her mother was poisoning the mind of the respondent. Thereafter the respondent, her mother and father asked the appellant to reside at Bagbera as "*GharJamai*", otherwise the respondent is not ready and willing to live with the appellant and she wants to obtain "Divorce" from the appellant, failing which the respondent would falsely implicate the applicant and his entire family members in

some false cases of heinous nature including the case U/s 498(A) I.P.C and other sections.

7. It is stated that immediately the appellant tried to contact the respondent on phone but intentionally the respondent did not receive the call then the appellant went personally to the parent's house of the respondent at Bagbera and asked her to come with him to his house at Farm Area, Kadma and to live with him but the appellant was threatened to be falsely implicated in some false cases and to put the applicant in jail if he would try to take back the respondent to his house at Company's Quarter at Kadma. Thereafter, the appellant brought the matter to Mahila P.S and it was referred to Nyaya Sadan for restitution of conjugal rights and the last opportunity was given to the respondent to appear on 13.05.2019 but due to the arrogant behavior of the respondent the matter remained unsettled as after making the agreement, the respondent was absent on 13.05.2019. At Nyay Sadan she did not agree to live with the appellant and the respondent is living at her parents' house and in spite of several request, the respondent is not ready and willing to restitute the conjugal rights with the appellant.

8. It has further been stated a male child was born out of their wedlock, namely but she used to reside at her parent's house most of the period after the marriage.

9. It is stated that left with no other option, the appellant had filed the suit wherein prayer was made for a decree for restitution of conjugal rights directing the respondent/wife to restitute the conjugal rights with the appellant.

10. On receipt of notice in the said suit respondent-wife appeared before the learned family court and filed her written statement stating that all the allegations made in the plaint are incorrect and wrong.

11. It has been submitted that the respondent and appellant lived together in a joint family and the respondent and appellant never lived in any separate rented house in Adityapur or anywhere. The respondent and the appellant never resided together at Farm area Kadma as husband and wife. The applicant never allowed the respondent to go to her *Maikey*. The reality is opposite of what has been said in the suit, in fact the appellant used to torture the respondent physically and mentally just after the marriage. The allegation that the mother of the respondent always poisoned the mind of the respondent is totally false as because the respondent was not allowed to go to her parental house at Bagbera or talk to them on phone. She

never threatened the appellant. So far as the allegation that the respondent did not sign the agreement arrived at Nayay Sadan, it is stated that it is the appellant who refused to sign the agreement made by the mediator at Nayay Sadan. The appellant has filed the suit only to harass the respondent, the appellant does not want to restore his marital life with the respondent, he, rather wants to get a divorce. It has further been stated that the respondent was assaulted by the appellant in her matrimonial house in small matters. She was subjected to cruelty for demand of dowry but respondent never complained anywhere with a hope that one day behaviour of the appellant will change. The respondent is anxious about the future of her only son. Accordingly, prayer was made that the suit filed by the petitioner-appellant may be dismissed as the same is devoid of any merit.

12. The learned family court, after hearing the parties, framed issues and appreciated the evidences which were adduced by the parties on the said issue and after appreciating the same dismissed the suit against which the instant appeal has been filed.

Submission of learned counsel for the appellant-husband

13. Learned counsel for the appellant has submitted that the impugned judgment passed by the learned Additional

Family Court is perverse as the learned family court did not consider the testimony and other materials available on record and without appreciating the same dismissed the suit.

14. Submission has been made that at paragraph 7 of cross-examination of RW-1, the respondent had specifically stated that she is residing to her parental house as per her own will and for that there is no pressure from her either matrimonial house or her parental house and she does not want to live with her husband and from her husband she only wants money, for which she has filed a maintenance case.

15. It has been submitted that when the matter came before the Mahila Police Station, the officer-in-Charge sent the matter to mediation and from 21.02.2019 to 13.05.2019, the mediation took place but on 13.05.2019 the respondent flatly refused to stay with the appellant.

16. Further, in Nyaya Sadan, the respondent imposed several conditions and without any reasonable cause left the appellant and refused to stay with the parents of the appellant.

17. Submission has been made that on 04.06.2018, the respondent went away from the house of the appellant and when the appellant went to the house of parental house of

the respondent for searching her, the father of the respondent not allowed the appellant to get inside.

18. Further submission has been made that the appellant is always ready and willing to keep his wife and son with him and wanted to lead a happy conjugal life, for which no signature or agreement is required to be made before mediation as the appellant by heart is always ready to lead a happy conjugal life with the respondent but the respondent refused to with live the appellant, which has been clearly expressed by her in para-7 of her affidavit.

19. Submission has been made that without just and sufficient reason, the respondent deserted the appellant and withdrawn herself from the society of the appellant, and she has specifically stated that she does not want to live with the appellant and she only wants money from him.

20. It has been submitted that though, the respondent had arrogant nature and she continuously pressurized the appellant to become *Gharjamai*, but in spite that the appellant never deviated from his stand and is always ready to lead a conjugal life with the respondent, and therefore, the appellant has not filed any divorce case against the respondent.

21. One of the reasons behind the refusal to live with the appellant is that the respondent runs a coaching centre in

the name of Sunita Coaching Centre along with her mother, moreover she also teaches in St. Xavier Public School, Kitadih and having self-sufficient money, she does not want to live with him.

22. It has been submitted that though the appellant fulfilled every criteria for restitution of his conjugal rights, but the learned concerned family court overlook the same and dismissed the matrimonial suit filed by the appellant for restitution of his conjugal rights.

Submission on behalf of respondent-wife

23. Learned counsel for the respondent-wife has submitted that at the time of her marriage cash of Rs. 4 lakhs and other household articles was given but they started saying that the articles are of sub-standard quality and asked her to demand a car from her parents and Rs. 3 lakhs for a land and when she did not fulfill their demand the petitioner-appellant herein and his family members started torturing her and finally on 03.06.2018 she along with her son was ousted from the matrimonial house after pushing her and told her not to come back and in spite of making several requests she was not allowed to enter the house.

24. She made several request, but her husband did not come to take her back and then she made complaint in Sakchi P.S bearing P.S Case NO. 48/19 wherefrom the matter was sent

for mediation but he refused to sign on the agreement and it remained unsettled. Therefore, she is staying at her parental place as she was tortured there and her life was not safe there.

25. Learned counsel for the respondent has further submitted that the learned family court taking into consideration all aspects of the matter has refused to grant relief, as sought for by the appellant, which requires no interference.

Analysis:

26. We have heard learned counsel for the appellant and gone through the pleading available on record as also the finding recorded by learned Additional Principal Judge, Additional Family Court, Jamshedpur and other materials available on record.

27. Before entering into legality and propriety of the impugned order, it needs to refer herein the testimonies of the witnesses adduced on behalf of parties.

28. The appellant-husband had adduced three witnesses.

29. The appellant, himself has been examined as A.W.1 who in his examination-in-chief given by way of affidavit dated 05.03.2022 has stated that he got married to respondent on 22.01.2014 in Jamshedpur and they are having a son aged 7 years. After the marriage his wife started living with his parents but she was not

ready to live in a joint family, so he took a rented house in Adityapur for taking care of his old parents but it was not acceptable to her and her parents. He has further deposed that his wife and her parents several times tortured him but keeping in mind his marital life he did not take any legal action and his wife and parents asked him to stay in their house in Bagbera as Ghar Jamai but he refused to the same then they threatened him that he will be implicated in false cases. After his wife went away from his house, several times he tried to bring her back but she refused. He even tried to contact her on phone but she ignored his calls and due to which he remained mentally tensed as he was staying alone in a rented house in Adityapur. Due to mental tension he is unable to work properly in Tata Steel Blast Furnace which dangerous department.

30. He has further deposed that then suddenly he came to know about a complaint made in Mahila P.S by his wife which disturbed him mentally and in the police station also his in-laws mentally tortured him and seeing all this the Officer in Charge sent the matter to mediation and from 21.02.2019 to 13.05.2019 mediation took place but on 13.05.2019 his wife flatly refused to stay with him. As asked in Nyaya Sadan he took a quarter in Kadma but she imposed several conditions for staying there and lastly on 13.05.2019 she refused to stay with him.

31. He has deposed that his wife without any reasonable cause and excuse has left him and staying with her parents in Bagbera and working as a teacher there in St. Xavier Public School. He has further deposed that even today even he is ready to stay with his wife, child and his parents as his parents are not of sound health and who needs his service. Presently he is staying with his parents in Adityapur. He has further stated that as per order of the court he deposited Rs. 72,000/- in favour of his wife in three installments.

32. In the cross-examination he has stated that his son is studying in Tagore Academy but he is not knowing that in which class he is studying. He got Rs. 50,000/- cash and a car as dowry and when his wife came, she brought furniture and household articles. He has further stated it is true that till date his wife has not filed case U/s 498A I.P.C and on 04.06.2018 his wife went away from his house and he used to call her on her landline number but he is not remembering the number. He went to the house of father of his wife searching his wife on 07.06.2018 but he was not allowed to get inside. He did not make any complaint as he wanted to take back his wife. Further he has denied the suggestion that he is not having any mental disturbance from his wife and he has filed this case to harass his wife and her family, although his wife was also ready to go with

him. Further he has denied the suggestion that in mediation center it was decided that he will take his wife but he refused to sign on the agreement. Further he has denied the suggestion that he has filed false case.

33. ***A.W.2 Ram Awtar Sharma*** who is father of the petitioner, in his examination-in-chief given by way of affidavit dated 20.05.2022 has stated that his son got married to on 22.01.2014 in Jamshedpur as per Hindu customs and his son and daughter-in-law is having a son namely out of their wedlock. After the marriage his son was staying with his wife with him in his house but she was not ready to live in a joint family, so his son took a rented house in Adityapur to make his wife happy. But his son told him that his wife is not satisfied there also. His son took rented house in Adityapur area because he and his wife are old and they remain ill so they needed help of their son . But his daughter in law and his parents did not take it in good taste, so his daughter in law always used to fight. His daughter in law and her parents continuously tortured his son to stay in their house in Bagbera as Ghar Jamai and when they objected to it then they were threatened that they will be implicated in false cases. Then his son informed over phone that his daughter in law has left the rented house then came to know that his daughter in law Sneha Kumari has left his son and went to her

parental place. Thereafter his son several times went to the parental house of his wife to bring her back but she refused to stay with his son. He even tried to make her understand and even met her father in his BSNL Office but he was insulted. Then her son several times tried to contact his daughter in law but she did not respond. Thereafter, he came to know that his daughter in law has made a complaint in Mahila P.S and there also his son was tortured by his wife and in-laws and seeing it the Officer in Charge sent the matter to mediation and from 21.02.2019 to 13.05.2019 mediation took place and in mediation centre he was insulted and abused by the parents of his daughter in law. However, as asked in Nyay Sadan his son took a quarter in Kadma, Farm area but she imposed several conditions for staying there and lastly on 13.05.2019 his daughter in law refused to stay with his son. Then his son in order to bring his daughter in law back filed this case.

34. He has further deposed that he and his wife is not having any interference in the marital life of his son and daughter in law. He several times requested his daughter in law to allow him to meet his grandson but she did not allow him to meet his grandson and always insulted him. His daughter in law is staying away from his son without any reasonable cause in Bagbera and doing job of teacher in St. Xavier Public School. Due to which his son remains unhappy. So,

he requests the court so that his daughter in law stays with his son and with them in a joint family happily as because he and his wife remain ill after covid 19 and he needs service of his son. It has been deposed that as per order of the court his son has deposited Rs. 72,000/- in favour of his wife in three installments.

35. In the cross-examination he has stated that he worked in Tata Steel and retired in 2007. Further he has denied that Rs. 50,000/- was given to his son and Rs. 3,50,000/- to him at the time of his marriage. Initially his daughter in law used to live properly and used to cook food and serve to them. Further he has denied the suggestion that his son tortured his wife and that the claim of his son is false and he has filed this case to harass ..

36. **A.W.3 Ravi Kumar** who is the friend of the petitioner(appellant herein) of this case**,** in his examination in chief given by way of affidavit dated 18.07.2022 has stated that his friend got married to respondent on 22.01.2014 in Jamshedpur and they are having a son aged 7 years. After the marriage his friend and his wife stayed in his parental house with his parents. Sometime after the marriage he met his friend and he was very perturbed and on asking him he said that his wife is not ready to live in joint family and due to compulsion, he took a house on rent in Adityapur. He even tried to make

wife of his friend understand but she did not listen and started staying in the rented house. His friend told him that his wife is not satisfied there also. When he wanted to know the reason then his friend told him that wife and in-laws of his friend wanted him to stay in their house in Bagbera as Ghar Jamai and when his friend refused to the same then they threatened his friend and his parents that they will be implicated in false cases. After the marriage his friend made his wife go for higher education and he helped her in studying till graduation. Suddenly he got information from his friend on phone that his wife has left his house and has gone somewhere and on making search it was found that has gone to her parental house. His friend several times went to his in-laws place to bring his wife but his wife refused to come back and thereafter father of his friend tried to make her understand and his father even went to the BSNL Office of his father-in-law but there, father of his friend was insulted. Then his friend tried several times to contact his wife but she did not respond. His friend informed him that his wife has made a complaint in Mahila P.S and the Officer in Charge of Mahila P.S sent the matter for mediation but there in the Nyaya Sadan wife and parents of his friend insulted his friends and his parents and threatened them and due to which his friend remained mentally tensed. As

asked in Nyaya Sadan his friend took a quarter in Kadma but the respondent imposed several conditions for staying there and lastly on 13.05.2019 wife of his friend refused to stay with him. Then his friend took shelter of law for bringing his wife. Wife of his friend is staying at her parental home for last three- four years and she is a teacher in St. Xavier Public School, Kitadih and along with her mother she is also running a coaching center in the name of Sunita Coaching center. Still his friend and his parents want that Sneha Kumari stays with them happily in a joint family.

37. In the cross-examination he has stated that he is a very good friend of and he attended the marriage of Manoj. In May or June 2018 his friend informed him that his wife left his house but he cannot say the date and his friend went to bring back his wife 5-6 times but he cannot state the date. Further he has denied the suggestion that he has given evidence as per instruction of his friend

38. On behalf of respondent three witnesses have also been examined.

39. The respondent has been examined as R.W.1 who in her examination in chief given by way of affidavit dated 20.12.2022 has deposed that she got married to the petitioner on 22.01.2014 and after the

marriage she went along with her husband to her in laws place in Adityapur-2, Seraikella and started living in a joint family and she was blessed with a son on 27.09.2015. Her husband is working in Tata Steel and he is getting free medical facilities but in spite of that he never wanted to take her and her child for treatment whenever they fell ill. At the time of her marriage her parents gave cash of Rs. 4 lakhs and other household articles and her parents spent Rs. 15 lakhs in her marriage. But only some months after the marriage the petitioner and his parents started commenting that the articles given are sub standard and started telling her to demand a car and Rs. 3 lakhs form her parents and when she refused then the petitioner and his parents started torturing her mentally and physically and she has never stayed in any rented house and it is a concocted story. The petitioner-appellant and his parents did not allow her to talk to her parents and she was also not having a phone and she was also not allowed to go to her parents' house. When her parents used to come to her matrimonial house they used to be abused and insulted. She was only allowed twice to go to her parental house after the marriage. She always stayed in joint family and the petitioner never arranged for a separate accommodation. He and his parents continuously tortured her mentally and

physically but she kept on bearing the torture and she used to be assaulted after locking the door and she had to be admitted in hospital. Several times her husband even threatened her of taking away her life and once she was assaulted so brutally that blood clotted near her eye. He always asked her to tell her parents to keep him as a Ghar Jamai but as his parents is having two sons so it is not possible. On 02.06.2018 she gave keys of her car to her jeth and when her husband came from office then he said that why she gave the key and then she was badly pulled and kicked. On 03.06.2018 her husband ousted her and her son from his house and asked her not go come again. In spite of her request, she was not allowed to go inside the house. She kept on bearing the torture in a hope that in future everything will be fine. For a reasonable period, her father tried for a settlement but they were not ready to talk to them unless Rs. 2 lakhs are given to them for a land. Then she was compelled to make complaint in Mahla P.S bearing Case No. 48/19 and from there the matter was sent in Mediation Center, Jamshedpur and the mediation continued for three months and she got ready to go with her husband but finally the appellant-husband refused to sign on the agreement so the matter was unsettled on 13.05.2019. In January 2020 she came to know from newspaper that her husband has filed a case U/s 9 of the

H.M. Act. The petitioner has filed this case to harass her and her family and not to restitute his conjugal right so that he can get divorce. She was always tortured on small issues in her in laws place but she did not make any complaint with a hope that the behaviour of the husband will change.

40. In the cross-examination she has stated that she has not filed any case regarding torture for dowry against her husband till date. Her husband messaged her but she could not see Whatsapp on that day as her phone got discharged and voluntarily said that her husband used to delete the message after sending it. After seeing the messages, she did not give response as her husband was supposed to come to her house and not to message her. It is true that she attends all the functions of school in Kitadih and her son is studying in Xavier Public School, Kitadih. Her husband is capable to keep her and her child in spite of that she will not go with him, and she is living separately from husband since 03.06.2018 and since then there is no connection between them. Further she has denied the suggestion that all the allegations levelled against her husband are false and baseless.

41. **R.W.2 Mere Lal** in his examination in chief given by way of affidavit dated 11.08.2023 has stated that his daughter got married to the petitioner on 22.01.2014 in Jamshedpur as per Hindu customs. After the marriage she

went along with her husband to her in laws place in Adityapur-2, and started living in a joint family and his daughter was blessed with a son on 27.09.2015 namely and his responsibility is on his daughter. Her husband is working in Tata Steel and he is getting free medical facilities but in spite of that he never wanted to take his daughter and grandson for treatment whenever they fell ill, so they had to be taken to private doctor. At the time of marriage of his daughter, he gave cash of Rs. 4 lakhs and other household articles and he spent Rs. 15 lakhs in her marriage. But only some months after the marriage the petitioner and his parents started commenting that the articles given are substandard and started telling her to demand a car and Rs. 3 lakhs from him for purchasing a land. When his daughter did not pay any heed then the petitioner and his parents stared torturing her mentally and physically and she has never stayed in any rented house and it is a concocted story. The petitioner and his parents did not allow his daughter to talk to them and she was also not having a phone and she was also not allowed to go to their house. When they used to go to the matrimonial house of his daughter they used to be abused and insulted. Whenever he went to bring back his daughter she was not allowed to come. And his daughter

always stayed in joint family and the petitioner never arranged for a separate accommodation. The petitioner and his parents continuously tortured her mentally and physically but his daughter kept on bearing the torture and she used to be assaulted after locking the door and she had to be admitted in hospital. Several times her husband even threatened her of taking away her life and once she was assaulted so brutally that blood clotted near her eye. He always tortured his daughter so that they can keep him as a Ghar Jamai but as his daughter was knowing that she was having two brothers, so she never told him regarding that and kept on bearing the torture with a hope that one day the matter will settle. On 02.06.2018 his daughter gave keys of her car to her jeth and when her husband came from office then he said that why she gave the key and then she was badly pulled and kicked her. On 03.06.2018 husband of her daughter ousted her and her son from his house and asked her not to come again. In spite of her request, she was not allowed to go inside the house. She kept on bearing the torture with a hope that in future everything will be correct. Several times they tried to meet the family members of the petitioner, so that petitioner takes his daughter but they did not allow them to enter their house and insulted them and repeated their demand that unless Rs. 3 lakhs is given for land they will not take

his daughter. In spite of several efforts when the petitioner did not come and he even did not made calls, then his daughter was compelled to lodge a complaint in Mahila P.S bearing Case No. 48/19 and there also his daughter was attacked by the petitioner and his family, so she was sent to MGM by the police of Sakchi P.S and the matter was sent for mediation in Mediation Center, Jamshedpur. Both the parties appeared in the mediation centre for 3-4 months and agreement was also prepared and the respondent got ready to go with the petitioner but finally he refused to sign on the agreement, so the matter remained unsettled on 13.05.2019. From the notice published in paper on 18.01.2020 they came to know regarding this case. The petitioner has filed this case to harass them and to defame the respondent and not to save his marriage. Till his daughter was with her husband no quarter had been allotted to him, so there was no question of staying with her husband in a quarter in Kadma. His daughter was always tortured on small issues in her in-laws' place but she did not make any complaint with a hope that the behaviour of the husband will change and their marital life will be restored, so she did not file any criminal case also and she is still ready to restitute conjugal right but the petitioner has a negative approach towards the marriage.

42. In the cross-examination he has stated that it is true that they did not make any complaint regarding the occurrence dated 03.06.2018 and they made complaint Mahila P.S after 10 months. His son in law till date has not come once to take his daughter and he has even not called her on phone. Further he has denied the suggestion that his daughter tortured his son in law and they are also continuously torturing him. Further he has also denied the suggestion that his son in law wants to keep his wife and child properly but due to their interference it has not become possible.

43. Lastly coming to the evidence **R.W.3** **.** She in her examination in chief given by way of affidavit dated 09.02.2024 has stated that her daughter got married to the petitioner on 22.01.2014 in Jamshedpur as per Hindu customs. And after the marriage she went along with her husband to her in laws place in Adityapur-2,

Seraikella Kharswan and started living in a joint family and her daughter was blessed with a son on 27.09.2015 namely Daksh and his responsibility is on her daughter. Her son-in-law is working in Tata Steel and he is getting free medical facilities but in spite of that he never wanted to take her daughter and grandson for treatment whenever they fell ill, so they are taken to private doctor. At the time of marriage of her daughter, they gave cash of Rs. 4 lakhs and other

household articles and they spent Rs. 15 lakhs in her marriage. But only some months after the marriage the petitioner and his parents started commenting that the articles given are substandard and started telling her daughter to demand a car and Rs. 3 lakhs from them for purchasing a land. When her daughter did not pay any heed then the petitioner and his parents stared torturing her mentally and physically and she has never stayed in any rented house and it is a concocted story. The petitioner and his parents did not allow her daughter to talk to them and she was also not having a phone and she was also not allowed to go to their house. When they used to go to the matrimonial house of her daughter they used to be abused and insulted. Whenever they went to bring back her daughter she was not allowed to come. Her daughter always stayed in joint family and the petitioner never arranged for a separate accommodation. The petitioner and his parents continuously tortured her mentally and physically but her daughter kept on bearing the torture and she used to be assaulted after locking the door and she had to be admitted in hospital. Several times her husband even threatened her of taking away her life and once she was assaulted so brutally that blood clotted near her eye. He always tortured his daughter so that they can keep him as a Ghar Jamai but as her daughter was knowing that she was having two

brothers, so she never told them regarding that and kept on bearing the torture with a hope that one day the matter will settle. On 02.06.2018 her daughter gave keys of her car to her jeth and when her husband came from office then he said that why she gave the key and then she was badly pulled and kicked. On 03.06.2018 husband of her daughter ousted her and her son from his house and asked her not to come again. In spite of her request, she was not allowed to go inside the house. She kept on bearing the torture in a hope that in future everything will be ok. Several times they tried to meet the family members of the petitioner, so that the petitioner takes her daughter but they did not allow them to enter their house and insulted them and repeated their demand that unless Rs. 3 lakhs are given for land they will not take her daughter. In spite of several efforts when the petitioner did not come and he even did not made calls, then her daughter was compelled to lodge a complaint in Mahila P.S bearing Case No. 48/19 and there also her daughter was attacked by the petitioner and his family, so she was sent to MGM by the police of Sakchi P.S. The matter was sent for mediation in Mediation Center, Jamshedpur and both the parties appeared in the mediation centre for 3-4 months and agreement was also prepared and the respondent got ready to go with the petitioner but finally he refused to sign on the agreement so

the matter remained unsettled on 13.05.2019. From the notice published paper on 18.01.2020 they came to know regarding this case. The petitioiner has filed this case to harass them and to defame the respondent and not to save his marriage. Till her daughter was with her husband no quarter had been allotted to him, so there was no question of staying with her husband in a quarter in Kadma. Her daughter was always tortured on small issues in her in-laws place but she did not make any complaint with a hope that the behaviour of the husband will change and their marital life will be restored, so she did not file any criminal case also and she is still ready to restore her conjugal right but the petitioner has a negative approach towards the marriage.

44. In the cross-examination, she has stated that beside this case her daughter has also filed a case for maintenance and it is true that her son in law is giving Rs. 7,000/- P.M to her daughter and grandson. She cannot say whether her daughter is ready to live with her son in law or not and her daughter can only take decision on this. Her daughter is staying in her house since June 2018 and since then she has not gone to her matrimonial home. It is true that till date the petitioner neither called nor came to their place. Further she has denied that due to their interference the marital life of her daughter has been disturbed.

45. It needs 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.

46. 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).

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

48. 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."*

49. Further, it needs to refer herein that under section 3 of the Indian Evidence Act a fact is said to be proved when the Court either believes it to exist or considers its existence so probable that a prudent man under the circumstances would proceed on the supposition that such fact really exists. Therefore, the normal rule of preponderance of probability is the rule which governs the civil proceedings like this.

50. The expression "preponderance of probability" is not capable of exact definition nor can there be any strait-jacket formula or a weighing machine to find out which side the balance is tilted. The preponderance of probability would imply a positive element about possibility of existence of a

fact. This means a higher degree of probability of happening of something and existence of a fact.

51. In ***"A. Jayachandra v. Aneel Kaur" (2005) 2 SCC 22*** the Hon'ble Apex Court has observed that the concept, a proof beyond the shadow of doubt, is to be applied to criminal trials and not to civil matters and certainly not to matters of such delicate personal relationship as those of husband and wife.

52. Since this Court is exercising the power of appeal as referred hereinabove and as per the settled position of law which require the consideration of the appellate Court is that the order/judgment passed by the appropriate Forum, if suffers from perversity, the same is to be taken as a ground for its reversal.

53. Since the issue of perversity has also been raised, as such, 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.

54. 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, 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.*
>
> ***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.*
>
> ***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.*
>
> *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.*

"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.)

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."*

55. 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.

56. 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.

57. 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, 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.

58. In the backdrop of the aforesaid factual and legal circumstances, this Court has carefully examined the impugned judgment and decree passed by the learned Family Court in order to ascertain whether the findings recorded therein suffer from perversity, arbitrariness, or any patent illegality warranting interference in the exercise of appellate jurisdiction.

59. Further in backdrop of the aforesaid factual aspect and settled position of law, it would be apt to discuss the object and scope of decree of restitution. The object of restitution decree was to bring about cohabitation between the estranged parties so that they could live together in the matrimonial home in amity. The leading idea of Section 9 was to preserve the marriage. For ready reference Section 9 of the Hindu Marriage Act is being referred as under:

> *9. Restitution of conjugal rights.— When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other aggrieved party may apply, by petition to the district court, for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.*

[Explanation.—Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.]

60. From perusal of the aforesaid provision it is evident that if either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, before the court concerned, for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and further taking into consideration the legal ground that why the application should not be granted, may decree restitution of conjugal rights accordingly.

61. Further in explanation part of the said provision, it has been prescribed that when a question arises whether there has been "reasonable excuse" for withdrawal from the society, the burden of proving "reasonable excuse" shall be on the person who has withdrawn from the society.

62. It needs to refer herein that conjugal rights may be viewed in its proper perspective by keeping in mind the dictionary meaning of the expression "Conjugal" wherein the meaning of 'conjugal' as "of or pertaining to marriage or to husband and wife in their relations to each other" is given (Shorter Oxford English Dictionary, 3rd Edn. Vol. I page 371).

63. In the Dictionary of English Law, 1959 Edn. at page 453, Earl Jowitt defines 'conjugal rights' thus:

> *"The right which husband and wife have to each other's society and marital intercourse. The suit for restitution of conjugal rights is a matrimonial suit, cognizable in the Divorce Court, which is brought whenever either the husband or the wife lives separate from the other without any sufficient reason, in which case the court will decree restitution of conjugal rights (Matrimonial Causes Act, 1950, s. 15), but will not enforce it by attachment, substituting however for attachment, if the wife be the petitioner, an order for periodical payments by the husband to the wife (s.22). Conjugal rights cannot be enforced by the act of either party, and a husband cannot seize and detain his wife by force (R.V. Jackson [1891] 1 Q.B. 671)".*

64. In India it may be borne in mind that conjugal rights i.e. right of the husband or the wife to the society of the other spouse is not merely creature of the statute. Such a right is inherent in the very institution of marriage itself. Thus, the restitution of conjugal rights is often regarded as a matrimonial remedy. The remedy of restitution of conjugal rights is a positive remedy that requires both parties to the marriage to live together and cohabit.

65. Thus, the requirements of the provision of restitution of conjugal rights are the following:

I. The withdrawal by the one of spouse from the society of the other spouse.

II. The withdrawal is without any reasonable cause or excuse or lawful ground.

III. There should be no other legal ground for refusal of co-habitation.

IV. The court should be satisfied about the truth of the statement made in the petition.

66. The Hon'ble Apex Court in the case of ***Suman Singh v. Sanjay Singh, (2017) 4 SCC 85*** has categorically observed that when there is evidence establishing that it was respondent husband who withdrew from appellant's company without any reasonable cause, appellant is entitled to decree for restitution of conjugal rights. For ready reference the relevant paragraph is being quoted as under:

> ***24.*** *In our considered view, as it appears to us from perusal of the evidence that it is the respondent who withdrew from the appellant's company without there being any reasonable cause to do so. Now that we have held on facts that the respondent failed to make out any case of cruelty against the appellant, it is clear to us that it was the respondent who withdrew from the company of the appellant without reasonable cause and not the vice versa.*
>
> ***25.*** *In view of the foregoing discussion, the appeals succeed and are allowed. The impugned judgment [Suman Singh v. Sanjay Singh, 2013 SCC OnLine Del 2138 : (2013) 136 DRJ 107] is set aside. As a result, the petition filed by the respondent (husband) under Section 13(1) of the Act seeking dissolution of marriage is dismissed. As a consequence thereof, the marriage between the parties is held to subsist whereas the petition filed by the appellant against the respondent under Section 9 of the Act seeking restitution of conjugal rights is allowed. A decree for restitution of conjugal rights is, accordingly, passed against the respondent.*
>
> ***26.*** *We hope and trust that the parties would now realise their duties and obligations against each other as also would realise their joint obligations as mother and father towards their grown up daughters. Both should, therefore, give a quiet burial to their past deeds/acts and bitter experiences and start living together and see that their daughters are well settled in their respective lives. Such reunion, we feel, would be in the interest of all family members in the long run and will bring peace, harmony and happiness. We find that*

the respondent is working as a "Caretaker" in the Government Department (see Para 4 of his petition). He must, therefore, be the "Caretaker" of his own family that being his first obligation and at the same time attend to his government duties to maintain his family.

67. Thus, on the basis of aforesaid settled position of law, it is evident that the court will grant a decree for restitution of conjugal rights when one spouse has withdrawn from the other's society without reasonable excuse. This means if a husband or wife leaves the marital home or refuses to live with their spouse without a justifiable reason, the other spouse can petition the court for this remedy. The court, if satisfied with the truth of the petition and finding no legal barrier, may order the withdrawing spouse to return and resume cohabitation.

68. In the backdrop of aforesaid provisions of law, on appreciation of the evidence adduced on behalf of parties, has taken note above, it is admitted fact that the appellant and the respondent are legally wedded husband and wife. Both started living as husband and wife in the house of the father of the petitioner/appellant in Adityapur in a joint family. One child was born to them namely who was presently aged about 7 years at the time of passing of impugned order.

69. It is evident from the averments made in the plaint that the petitioner-appellant has alleged that the respondent-wife was unwilling to reside in a joint family set-up. According to

him, in order to accommodate her wishes, he shifted from the joint family residence and arranged a rented accommodation at Adityapur, where both of them started residing separately. However, even thereafter, the respondent allegedly remained dissatisfied and frequently quarrelled with him.

70. The further case of the petitioner-appellant is that the respondent-wife and her parents (R.W.-2 and R.W.-3) exerted pressure upon him to reside with them as a *Ghar Jamai*. The said allegation, however, has been categorically denied not only by the respondent-wife but also by the witnesses examined on her behalf. No convincing evidence has been brought on record by the appellant to substantiate such assertion.

71. Upon consideration of the pleadings and the evidence available on record, this Court finds that the petitioner-appellant does not appear to have approached the Court with a genuine intent to secure restitution of conjugal rights. A reading of the plaint reveals that it is largely replete with grievances and allegations against the respondent. The same stand has been reiterated by him in his deposition. The respondent-wife, on the other hand, has denied the allegations levelled against her and has specifically asserted that she herself was subjected to cruelty at the hands of the appellant.

72. The documentary evidence adduced on behalf of the respondent-wife, particularly the medical documents marked as exhibits, lends support to her case that she was subjected to physical and mental harassment by the petitioner. The records further disclose that complaints were lodged by her pursuant to which the matter was referred for mediation, though the mediation proceedings ultimately failed. The allegations contained in Exhibits-C and D further corroborate her stand regarding the ill-treatment meted out to her by her husband, namely

as has also been noticed by the learned Additional Family Court while passing the impugned order. Exhibit-A, being the emergency prescription issued by MGM Medical College and Hospital, Jamshedpur dated 16.02.2019, records a history of assault and indicates that she was medically examined and prescribed treatment accordingly.

73. The materials available on record further reveal that the petitioner-appellant has levelled allegations touching upon the character of the respondent-wife and has accused her of maintaining an illicit relationship with one . However, during his cross-examination, the appellant failed to produce any cogent, reliable or convincing evidence whatsoever to substantiate such serious allegations. As such, the said accusations remain wholly unproved.

74. This Court finds it rather incongruous that while the petitioner professes his desire to resume cohabitation and seeks restitution of conjugal rights, he simultaneously indulges in making unsubstantiated allegations affecting the chastity and character of his wife. Such conduct casts a serious doubt upon the bona fides of his claim and his professed intention to restore matrimonial harmony.

75. It is a well-settled principle of matrimonial jurisprudence that the foundation of a petition for restitution of conjugal rights lies in the reciprocal entitlement of each spouse to the society, consortium and companionship of the other. The burden lies upon the petitioner to establish that the other spouse has withdrawn from his or her society without reasonable cause. Such withdrawal must be proved by clear, cogent and convincing evidence. Equally, the justification for such withdrawal is to be assessed on the touchstone of whether the circumstances were such as would render cohabitation impossible or unreasonable for the spouse concerned.

76. In the facts of the present case, the burden squarely rested upon the petitioner-husband to establish that the respondent-wife had withdrawn from his society without any reasonable excuse. However, for the reasons discussed hereinabove, this Court is of the considered view that the appellant has failed to discharge the said burden. The

evidence on record does not establish that the respondent has been living away from the matrimonial home without sufficient and reasonable cause.

77. In view of the discussions made hereinabove and having regard to the evidence, facts and circumstances of the case, this Court is of the opinion that the essential ingredients required for grant of relief under Section 9 of the Hindu Marriage Act, 1955 have not been established by the petitioner-appellant. Consequently, he has failed to make out a case for restitution of conjugal rights and is, therefore, not entitled to the relief sought.

78. This Court has also carefully examined the impugned judgment and order passed by the learned Additional Family Judge. It is evident therefrom that while dismissing the suit, the learned family has duly considered the relevant factual aspects, appreciated the evidence available on record and correctly applied the settled principles governing restitution of conjugal rights. The findings so recorded are based on proper appreciation of the materials on record and do not suffer from any perversity or legal infirmity warranting interference by this Court in exercise of its appellate jurisdiction.

79. Accordingly, order/judgment dated 24.01.2025 passed by the learned Additional Principal Judge, Additional Family

Court No. 2, Jamshedpur in Original Suit No. 357 of 2019, requires no interference.

80. Resultantly, the instant appeal stands dismissed.

81. Pending Interlocutory Application, if any, stands disposed of.

I agree **(Sujit Narayan Prasad, J.)**

(Akhil Kumar, J.) **(Akhil Kumar, J.)**

05/11/2026

Alankar/**A.F.R.**

Uploaded on 06.11.2026