

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
F.A. No. 02 of 2021**

Krishna Kumar, aged about 36 years, son of Ganauri Lal,
resident of Village-Makatpur, P.O.- Makatpur, P.S.-Giridih
(T), District- Giridih. **Appellant**

Versus

1. Rajni Lal, wife of Krishna Kumar, at present residing at
Village- Barabani, Station Road, Near Shiv Mandir, P.O.
& P.S. Domuhani, District- Burdwan (W.B.).
2. Sandeep Lal Burnwal, son of Indradeo Lal Burnwal,
resident of Village & P.O.-Sihodih, P.S.-Giridih (M),
District- Giridih. **Respondent**

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI**

For the Appellant : Ms. Kehkashan Afsheen, Advocate
 : Mr. Pran Pranay, Advocate
For the Respondent : Mr. Srikant Swaroop, Advocate
 : Ms. Sharda Kumari, Advocate

CAV on 17.12.2025 Pronounced on 15/01/2026

Per Sujit Narayan Prasad, J.:

1. The instant appeal under Section 19(1) of the Family Court Act, 1984 is directed against the judgment dated 28.01.2020 and Decree dated 14.02.2020 passed by the learned Principal Judge, Family Court, Giridih in Original Suit No.101 of 2014, whereby and whereunder, the petition filed under Section 13(1)(i) & (i-a) of the Hindu Marriage Act, 1955 by the plaintiff (appellant herein) seeking a decree of divorce against his wife

(respondent herein), has been dismissed.

Factual Matrix

2. The brief facts of the case leading to filing of the divorce petition by the appellant/ plaintiff needs to be referred herein as under:

The appellant/plaintiff and respondent/defendant No.1 are legally married husband and wife and their marriage has been solemnized in 11th November, 2008 as per Hindu rites and customs in a simple ceremony and they were blessed with two daughters namely Ritika aged about 5 years and Kabya aged about six months.

It has further been stated that defendant No.-1 is a lady of easy virtue from very beginning and she is maintaining illicit promiscuous relationship with another man even after her marriage with the plaintiff and this fact came into the knowledge of the plaintiff since the day of his marriage reception party on 30.11.2008, when the plaintiff went outside to see of some guests, a person who was previously known to the defendant No.-1 took her in his lap and walked up to the room of the newlywed couple in front of many ladies guests of the family of the plaintiff and at that time, the defendant did not object nor shown any sign of displeasure towards the act of that person and for the sake of maintaining respect of the family of the plaintiff/appellant could not raise

much objection.

It has further been alleged that from that day of 30.11.2008, the defendant No.-1 Rajni Lal always remained in contact with her aforesaid boyfriend on regular basis either through Mobile phone or through occasional physical contact.

It has further been alleged that in March 2009 when the plaintiff had gone outside Giridih for some business work and when he returned at about 10.00 pm in the night, he found the aforesaid boyfriend with his wife in his bed and the plaintiff/appellant lost his temper and started slapping and abusing the aforesaid boyfriend who somehow managed to flee away from the place.

After the aforesaid occurrence, the defendant No.-1 remained silent for some weeks and thereafter again established her usual relationship with her aforesaid boyfriend.

It has further been alleged that plaintiff in order to break the relationship of the defendant no-1 with her boyfriend, seized her mobile phone, thereafter getting very much disturbed, Rajni tried to commit suicide by cutting her wrist vein, but due to timely arrival of the plaintiff, her life was saved on that day.

It has further been alleged that defendant was saying openly that she cannot survive without her boyfriend and if

she is not allowed to meet her boyfriend, she will commit suicide.

It has further been alleged that on 31.08.2009 a female child was born and plaintiff believes that the aforesaid daughter Ritika is not his daughter as because, the plaintiff had no physical contact with his wife during the period aforesaid child was conceived. This fact can be duly ascertained through DNA test.

It has further been alleged that the behaviour of the defendant No.-1 continued as usual and in April 2013 during the marriage ceremony of the cousin of the plaintiff/appellant, she remained absent from the ceremony and in the next morning on search she was found with her boyfriend in a dark corner room of Dharamshala, where the marriage ceremony was taken place. In September 2013, the defendant No.-1 gave birth to another baby girl at her parental house and plaintiff brought his wife and daughters on 15.12.2013 and she was so disturbed that on the same day on 15.12.2013 she filed a complaint against her husband and in-laws in Mahila PS, Giridih (T).

It has further been alleged that defendant No.-1 behaviour deteriorated day-by-day towards her husband and in-laws. She turned more violent and quarrelsome and threatening of implicating them in dowry cases after

committing suicide, so the plaintiff filed a Senha as 28/14 on 04.01.2014 before CJM, Giridih, and also gave an application to the SP, Giridih on 15/01/2014 and 17/01/2014 with a prayer to monitor the mobile calls of his wife.

It has further been alleged that defendant No.1 tried to give poison to her mother-in-law, but somehow she was saved by the plaintiff and on 20.02.2014, the defendant No.-1 drank "Nurani Tel" and the plaintiff treated her and she could somehow be saved. This matter was also informed to the Police station of Giridih by way of a written compliant by the plaintiff.

It has further been alleged that on 22.02.2014, while the defendant No.-1 was still admitted in the Nursing Home, her parents came and forcibly asked for discharging her and the doctors discharged the defendant No.-1 on a written undertaking of the father of the respondent on 22.02.2014 and at that time, the younger daughter was also with the defendant No.-1 and the elder daughter Ritika was living with her father at Giridih.

It has further been alleged that the differences between the parties has grown due to misconduct and misdeeds as aforementioned of the defendant No.-1 Rajni Lal and in the aforesaid facts and circumstances it became extremely difficult for the plaintiff/appellant to put up with

the defendant No.-1.

Thereafter being aggrieved with the conduct of respondent-wife, the appellant-husband had preferred a suit being Original Suit No. 101 of 2014.

In the divorce suit, the respondent-wife has appeared and filed her written statement wherein she took preliminary objection that the suit was not maintainable on the basis of facts and circumstances as mentioned by the plaintiff and the allegations levelled against her are false, bogus and manufactured one.

It has further been stated that the plaintiff and defendant No.-1 were married on 29.11.2008 and they lived together as husband and wife and two daughters were born.

It has further been stated that defendant No.-1 is fair and pious lady and come from a conservative family and cannot ever imagine of keeping Illicit relationship with another person and no such occurrence occurred on the date of marriage reception party and the reception party was held on 01.12.2008 and not on 30.11.2008 as stated in petition and defendant No.-1 Rajni Lal had no boyfriend and she never kept any relationship with another person as stated and no specific date has been mentioned for the incident and these statements are specifically denied by the defendant No.-1.

It has further been stated that it is quite wrong and

incorrect and she never tried to commit suicide by cutting her wrist, rather she was completely devoted to her husband as a married Hindu woman.

It has further been alleged that a girl child named Ritika was born from this wedlock on 31.08.2009 and after the birth of the female child, the defendant no. 1 was abused and tortured for carrying a female child and defendant suffered pain and misery after the birth of her daughter and plaintiff is keeping his daughter Ritika with him and not allowed to come with her mother. But now falsely disclaims his own blood and flesh for making a false case of adultery against his wife which is extremely shameful on the part of the plaintiff and it is correct that another girl child was born to Rajni Lal, who is now about 10 months and lives with her mother and after the birth of 2 girl child, the defendant No.-1 meted with extreme cruelty for carrying another girl child and she was compelled to file a complaint in the Mahila PS, but after getting assurance from the In-laws, she withdrew the complaint. The defendant No.-1 was tortured by the plaintiff and her In-laws for dowry and having girl child and life of the wife became extremely painful and miserable and she never tried to give poison to her mother-in-law.

It has further been alleged that the statement made in para 22 and 23 are false and concocted and the real fact is

that the plaintiff and the In-laws of the defendant No.-1 forcibly made her to drink poison in order to kill her, but due to intervention of neighbours, who come after hearing the cries of Rajni for help, the plaintiff and his parents took her to nearby Nursing home, but due to threatening by the plaintiff of dire consequences, the defendant No.-1 could not speak-out before police and after some treatment, defendant No.-1 went to her father's house in compelling circumstances.

It has further been alleged that the defendant No.-1 still wants to live with her husband peacefully and from the very beginning of the married life, defendant No.-1 was tortured for bringing more dowry. At the time of marriage, defendant's father had given cash of Rs. 5.00 lac and also spent Rs. 3.00 lac for jewelries, even after this, the plaintiff and his parents always demanded more money at least 2.50 lakh and she was always mentally and physically tortured.

It has further been alleged that the husband Krishna Kumar has chosen a girl and they always meet and also travel to places together as husband and wife, which is well known to the locality and it is the root cause of filing this divorce suit.

It has further been alleged that defendant No.-1 has filed a complaint case under Sections 328, 316, 498-A IPC against the plaintiff and her in-laws which is pending and she has also instituted a maintenance case No.-280 and a

complaint case No.-347/14 under Section 406 of IPC at Asansol Court, West Bengal.

It has further been stated that under the facts and circumstances as stated above the plaintiff is not entitled for getting any relief in this suit.

The defendant No.-2 Sandip Lal also appeared and filed his show-cause stating therein that defendant No.-2 has no concern with the instant suit and the defendant is added as party subsequently under ill advice of some back biters, who are on inimical terms with him and intended to create a fictitious ground for divorce.

It has further been alleged that all the allegations against own wife are surprising and never appreciable and this defendant has no knowledge of such reception party on 30.11.2008 and in petition, no name of alleged boy is mentioned.

It has further been stated that in the year 2010, the plaintiff Krishna Kumar had committed act of cheating and forgery against this answering defendant No.-2 and for such criminal acts, this answering defendant had filed a criminal case bearing No.-381/10 against him who later on had compromised.

It has further been alleged that defendant No.-1 had filed a dowry case against her husband Krishna Kumar, Gauri

Shankar Lal and others and with a view to save skin from dowry case, the plaintiff in collusion with Gauri Shankar Lal and Bijoy Kumar Lal, filed divorce suit and since this defendant no.2 had refused to give false evidence in favour of plaintiff, then subsequently made this answering defendant as defendant No.-2 in the instant suit.

The learned Family Court after taking into consideration the pleading had dismissed the prayer for dissolution of marriage as prayed by the appellant/plaintiff. Against the aforesaid order, the instant appeal has been preferred.

- 3.** The learned Family Judge has called upon the respondent/defendant/wife. The wife has filed written statement and altogether five issues have been framed which are as follows:
- (i) Whether the suit is maintainable in its present form?
 - (ii) Whether the respondent has after the solemnisation of the marriage had illicit relation with Sandeep Lal Burnwal?
 - (iii) Whether the respondent was victim of extreme cruelty by the petitioner and her In-laws?
 - (iv) Whether the petitioner was treated with cruelty by respondent?
 - (v) Whether the petitioner is entitled to decree of divorce?
- 4.** The suit has been filed on the ground of adultery and cruelty, but the issues could not be proved and accordingly, the prayer for dissolution of marriage has been dismissed which is the

subject matter of the present appeal.

Submissions advanced by the learned counsel appearing for the appellant:

5. Learned counsel appearing for the appellant-husband has submitted that the Learned Family Court has failed to appreciate that the appellant has produced credible evidence which are sufficient to establish that the respondent-wife has subjected him to cruelty and on account of cruelty, the appellant is entitled for grant of decree of divorce.
6. Further, it has been submitted that the findings recorded by the learned Trial Court while answering issue no.(iv) (cruelty) are perverse and based on mere presumption, therefore, the same will not stand in the eye of law.
7. Submission has also been made that the learned Court below also failed to appreciate that the appellant has successfully substantiated the allegation that the respondent has extramarital affairs and, therefore, the petitioner / appellant is entitled for grant of decree of divorce. But that aspect of the matter has not been taken into consideration by the learned Family Court.
8. It has been contended on behalf of the appellant that the factual aspect which was available before the learned court supported by the evidences adduced on behalf of the appellant

has not properly been considered and as such, the judgment impugned is perverse, hence, not sustainable in the eyes of law.

- 9.** Learned counsel for the appellant has submitted that the specific pleadings of the plaintiff/ appellant to the effect that from the very day of Reception dated 30.11.2008, the respondent No.1 always remained in contact with her boyfriend on regular basis either through mobile or through occasional physical contacts and in March, 2009, when the appellant was out of Giridih, at about 10 p.m; he found the said boyfriend of the respondent No:1 with her in his bed, who managed to flee away from the room, could not be appreciated and considered in its true perspective, although the appellant has been able to establish such allegation.
- 10.** It has further been submitted that the evidence led by the appellant in support of his specific pleading in the petition for divorce could not be properly appreciated and considered by the learned court.
- 11.** Learned counsel has submitted that the finding of the learned court to the effect that although there is some differences between the parties and the defendant /respondent cannot be held responsible solely for their matrimonial misconduct, is contrary to the materials available on record.

12. He has further submitted that the learned court committed an error in observing that the appellant could not prove any act of cruelty on the part of respondent No.1 either in his plaint or in his evidence adduced on his behalf. Such observation/finding is completely perverse as would be evident from a bare perusal of the plaint as well as evidence of PWs 1 to 4 categorically stating that respondent No.2 is a relative working with Bijay Lal and before six months of his Ring Ceremony, respondent No.2 used to talk with his wife, but in the Reception party respondent No.2 took the respondent No.1 in his lap and went inside the room and all the relatives have seen such occurrence and he further stated that respondent No.2 had illicit relationship with respondent No.1. Such facts have totally been ignored by the learned court.

13. The learned court further failed to take note of the fact that the appellant (PW-1) categorically stated in his evidence that 10.03.2013 at on about 7 p.m. when he returned to his house, respondent No.1 started abusing him and also injured his head. He further stated in his evidence that respondent No.1 tried to administer poison to his mother. The specific and categorical statements of PW-1, to the effect that on 10.03.2013, the appellant got himself treated by doctor and he filed prescriptions in support thereof, marked Exhibits-1,

2 and 3, have not been taken note of which categorically establish cruelty on the part of respondent No:1.

14. Learned counsel for the appellant has submitted that the learned Family court also erred in not taking into consideration the specific evidence of PW-1 to the effect that on 22.02.2014, respondent No.1 left the company of the appellant without any reason and she filed four false cases against the appellant due to impleadment of respondent No.2 in this case.

15. He has further submitted that PWS-2, 3 and 4, being neighbours of the appellant, also supported the fact that respondent No.1 is an uncultured woman having ill-behaviour who always used to pick quarrel with the appellant and used to abuse her in-laws and members of the house and in June, 2014, she tried to administer poison to her mother-in-law and she had illicit relationship with respondent No.2 and upon objection by the appellant, she started quarrelling with them and in February, 2014, she took 'Nurani oil' and such statements clearly establish not only illicit relation between the respondent Nos.1 and 2, but also cruelty on her part.

16. Learned counsel for the appellant has submitted that such categorical statements on the part of different PWs clearly proves factum of cruelty as well as the factum of adultery.

17. Learned counsel for the appellant, based upon the aforesaid grounds, has submitted that the judgment impugned suffers from perversity, as such, not sustainable in the eyes of law.

Submissions advanced by the learned counsel appearing for the respondent:

18. Learned counsel for the respondent-wife, defending the impugned order, has submitted that the appellant has sought divorce on the ground that the behaviour of respondent-wife towards the appellant and his family members is torturous and she has extramarital affairs and, therefore, the appellant cannot reasonably be expected to live with the respondent but the learned Family Court, after taking into consideration the evidence, has held that the appellant-husband has not succeeded to prove and establish the ground of cruelty as also failed to prove that the respondent had any illicit relation and has rightly dismissed the suit.

19. Learned counsel for the respondent has further submitted that learned trial court has rightly held that the appellant is not entitled for the decree of divorce on the ground of cruelty and adultery because the appellant has miserably failed to prove his case even to the extent of preponderance of probabilities.

20. Learned counsel for the respondent-wife on the aforesaid grounds has submitted that the impugned judgment requires

no interference by this Court.

Analysis:

- 21.** We have heard the learned counsels appearing for the parties, gone through the Trial Court Records, as also the impugned judgment, the testimonies of the witnesses and the documents exhibited therein.
- 22.** This Court, before looking into the legality and propriety of the impugned order, requires to refer the testimonies of the witnesses, as available on record.
- 23.** The appellant, in support of his case, has adduced four witnesses including himself. The relevant portion of the testimonies of the witnesses are mentioned as under:-

PW-1 Damodar Singh is neighbour of plaintiff and he has stated that plaintiff is a very good person and his wife is ill behaved and uncultured woman and plaintiff kept his wife and children with love and affection, but his wife always used to quarrel with him and abused his in-laws also.

He has further stated that in the month of January, 2014, he tried to give poison to his mother-in-law and the reason behind this is that Rajni had illicit relation with one Sandeep Lal and when it was objected by plaintiff and his family members, then she started quarrelling with them.

He has further stated that in the month of February,

2014, she drank "Nurani Tel" and the reason behind this is that, the mother-in-law had objected her.

He further stated that on 25/12/2008, he went to Khandoli for Picnic where he saw that Rajni is sitting with Sandeep Lal in a side of a rock and when he objected, then she replied not to disturb them and he many times saw Rajni went on the motorcycle of many person.

During cross examination, he stated that he resided adjacent to the house of plaintiff on rent and he had a business of Brick and Sand and plaintiff has called him for giving evidence. He denied that he is falsely giving evidence and he had no knowledge that 2nd daughter of plaintiff was born in the year 2013 in Bangal.

He has further stated that he and Arjun Yadav, Balmukund Roy, and Rohit Roy went for Picnic and there were lots of people and crowd. He further stated that he is known to Sandeep and he had no knowledge where Sandeep lived and he is not his relative.

PW 2 Arjun Yadav is neighbour of plaintiff and he has stated that the behavior of Rajni to plaintiff is cruel and many times she insulted the plaintiff and always used to quarrel with him.

He has further stated that in the month of January, 2014, Rajni tried to give poison to her mother-in-law, but due

to plaintiff, she was saved and in the month of February, 2014 when the mother of plaintiff tried to object her, then she drink "Nurani Tel" and stated to implicate them in a false case.

He has stated that the behavior of Rajni is cruel towards plaintiff and his life became hell and Rajni always seen with Sandeep Lal. He further stated that on 25.12.2014, he went to Khandoli for Picnic and where he saw that Rajni is sitting with Sandeep in a side of a rock and when he objected, then she replied not to disturb them.

During cross-examination, he has stated that he resided with his family in the rented house of Vimal Vernwal from February 2013 to December 2015 and the behavior of Rajni towards Krishna was cruel. He further stated that Krishna has admitted Rajni in hospital on February, 2014 and she admitted for one day only and he had no knowledge that from hospital, the father of Rajni taken her to barabani and he had no knowledge about the name of that person who was with Rajni. He further denied that on 25.12.2014, Rajni was not in Khandoli and she was at her naihar.

PW 3 Laldeo Koda, is neighbour and he stated that in the reception party, he saw that Sandeep Lal, who is a relative of plaintiff had taken Rajni in his lap and taken to her room and plaintiff was busy in attending guests.

He has further stated that plaintiff always objected

Rajni not to talk with Sandeep, but she disobeyed him. Plaintiff became bankrupt due to dispute with his wife.

He has further stated that he also tried to make her understand, but she was adamant to live with Sandeep Lal.

During cross-examination, he has stated that he is a labour in stone colliery at Chargo and plaintiff has taken him for evidence.

He has further stated that he is well known to the plaintiff and his wife and their marriage has been solemnised about ten years ago but he could not specify the date of marriage and date of reception party and he could not narrate what had happened in that reception party.

He has further stated that both parties always quarrel with each other and he tried to pacify the matter. He denied that Sandeep and Rajni are brother and sister.

PW-4 Krishna Kumar, plaintiff himself has stated in his examination-in-chief that he has filed this case for divorce against Rajni Lal and Sandeep Lal and his marriage has been solemnised with defendant no.1 Rajni Lal on 29.11.2008 by Hindu rites and rituals at Deoghar.

He has further stated that defendant no.2 Sandeep Lal is a relative and the appellant and defendant no.2 are working with one Vijay Lal, so they had good relation.

He has stated that before six months of his ring ceremony, Sandeep Lal used to talk with his wife Rajni and he never objected, but on the event of his reception party, Sandeep Lal took Rajni on his lap and went inside the room and all relatives have seen this occurrence.

He has stated that Rajni Lal had illicit relation with Sandeep Lal and Rajni Lal ruined his prestige in the society. He has further stated that in the month of February, 2014, Rajni drank "Nurani Tel" and he admitted Rajni to a hospital and in front of police she stated that she wants to implicate the plaintiff and his family members in a false case.

He further stated that on 10.03.13 at about 7 pm, when he returned to his house and wanted drinking water, then she started abusing him and she hit him with "Lodhi" because of which he got injury on his head and at present he had pain in his head for which he takes medicine.

He has stated that in January 2014, Rajni tried to give poison to his mother, but she was somehow saved by him. He further stated that on 22.02.14, Rajni left the company of plaintiff without any reason and Rajni filed four false cases against plaintiff and when he made defendant no.2 Sandeep Lal as party in this case, she also filed a false case against him.

He has further stated that Sandeep Lal always used

to call on the mobile phone of Rajni Lal and when he objected, then she replied to face dire consequences. He further stated that on 10.03.2013 his wife had pelted "Lodhi" upon him on 10.03.13, he treated himself by Dr. B.K. Sinha and he filed the prescription which is marked as Ext-1. He further filed the treatment prescription of Dr. Prasen Ranjan marked as Ext-2 and also filed the treatment prescription of Dr. A.K. Deo marked as Ext-3.

He has stated that he filed Sanha against Rajni in the court marked as Ext-4. He further stated that he filed a petition before Mahila PS on 13.01.14 and receiving is marked as Ext-5. He further stated that on 17.01.14, he again filed a petition before Mahila PS which is marked as Ext-6. He further stated that on 21.02.14, he filed an application before Thana in-charge which is marked as Ext-7.

During cross-examination, he stated that he has filed this suit against Rajni Lal for divorce and he had not made Sandeep Lal party at the time of filing of this suit.

He stated that he is well known to Sandeep Lal prior to filing of this case and Sandeep Lal had also filed a case through his wife against him before filing of this suit for forgery.

He denied that due to inimical term, he has made him party in this suit. He has further stated that his wife had filed

dowry case, maintenance case against him after filing of his case and his marriage was solemnised with Rajni on 29/11/2008 and reception party was on 30/11/2008 and he denied that in marriage card, he printed the date as 01/12/2008 as reception party and he further denied that he made party to Sandeep Lal for getting divorce and Sandeep had no relation with his wife.

He has further stated that he has written in this suit that his elder daughter Ritika is not his daughter and he further stated that his wife demanded the custody of his daughter Ritika and he objected and Ritika was handed over to Rajni by the help of police and he made objection on the ground that Ritika is his daughter.

He further denied that he falsely stated on his affidavit that Rajni had pelted Lodhi upon his head and he also denied that due to accident on 10.03.13 by a motorcycle, he was treated by Dr. B.K. Sinha and he also further denied that due to accident by a motorcycle, he got injury on his head and he was treated by Dr. Prasen Ranjan on 31.08.16 and then treated by Dr. A.K.Deo on 02.08.17.

24. The respondent-defendant has adduced three witnesses including herself. For ready reference, the evidence adduced by the respondent-defendant and her witnesses is being referred as under:

D.W-1 Rajni Lal is defendant herself. She has denied the case of plaintiff and has stated that her marriage was solemnized with the plaintiff on 29.11.2008 and she resided with plaintiff and blessed with two daughters and at the time of her marriage, her parents had given Rs. 5.00 lac and other household articles of Rs. 3.00 lac. After marriage, she resided 4-5 months peacefully and thereafter she was tortured for demand of additional dowry and in the meantime, she was blessed with one daughter Ritika. In the year 2011, she became pregnant again and in-laws pressurized her to drink medicine and for that reason, she became ill and admitted in Shivam Clinic and Doctor informed that her unborn baby died. She again became pregnant and blessed with girl child and after birth of second daughter, plaintiff and his family members to tortured her and assaulted her.

She has further stated that all the allegations levelled by the plaintiff are false and she never made illicit relation with any other person and plaintiff always falsely alleged that she had a boyfriend.

She has stated that Sandeep Lal was made party after filing of this suit and she had no illicit relation with him and in business, plaintiff had made inimical relation with Sandeep, so he made him party and she has never made any attempt to suicide.

She has further stated that in this suit, plaintiff had alleged that her elder daughter Ritika is not his daughter, but denied to handover Ritika to her, but by the intervention of court and police, Ritika was handed over to her.

She has further stated that her reception was held on 01.12.2008 and not on 30/11/2008 and in that reception party, Sandeep Lal was not present.

She has stated that a dowry case bearing no- 158/14 was filed in Giridih court and one maintenance case was also filed in Asansol court and court awarded Rs. 7000/- per month as maintenance, but plaintiff is not paying the awarded maintenance allowance to her. She has also filed a domestic violence case no. 277/14 in Asansol court and the dowry case bearing no-347/14 was also filed in Asansol court and her husband has falsely filed this suit.

During cross-examination, she has stated that Rs. 5.00 lac was given by his father on installment, but she could not file any paper.

She has stated that she filed a petition in Mahila PS Giridih on 19.12.2013 and she had no paper regarding admission to Shivam clinic and she had filed a case u/s 498 A IPC.

She has stated that in the year 2009 on event of her abortion, she could not file any complaint and she had filed four cases against her husband and all the cases are filed after filing of divorce case by her husband and at the event of taking poison, she resided at Makatpur in the rent house of one Vimal Kumar and after birth of her first daughter from 01.09.2009, she was tortured by plaintiff and his family members.

She has stated that her elder daughter studies in Carmel School and she could not specify that who bears the educational expenses. Her husband had filed a petition for custody of her daughter. She is residing separate from 22.02.2014 from plaintiff. She denied that in the reception party on 01.12.2008, Sandeep Lal was also present and she also denied that after marriage, she had made relation with Sandeep Lal and for that reason, her husband used to quarrel with her and she had no documentary proof showing that Sandeep Lal had business relation with her husband.

She denied that she always quarreled with her husband and her behavior is cruel with plaintiff and he further denied that in the month of March 2009, she was caught red handed with Sandeep Lal.

DW 2 Ganesh Vernwal, is relative of defendant no.1.

He has stated that plaintiff is his maternal brother and the couple blessed with two daughters and at the time of marriage, the father of defendant no.1 had given Rs. 5.00 lac cash and other household articles of Rs. 3.00 lac and Rajni resided at her sasural for 4-5 months peacefully and her husband and his family members always tortured her and demanded additional dowry.

He has stated that after birth of daughter, she was subjected to cruelty and plaintiff had filed this divorce case on false allegations. Rajni had no any boyfriend.

He has further stated that defendant no.2 Sandeep Lal was made party after filing of this suit and Rajni had never made illicit relation with Sandeep and plaintiff had filed this case on false allegation.

He has stated that at present, defendant no.1 is residing at her naihar in very pathetic condition.

During cross examination, he has stated that he resided with her family at Baraboni and he had ice-cream business and he could not specify the date of giving Rs. 5.00 lac and he could not specify the date of demand of dowry and he could not specify the date from when Rajni is of living at her naiher.

He has further stated that he was present in

reception party and he could not specify the name of the relative of Krishna and he never visited to Giridih and he could not say where both parties lived in Giridih.

He has stated that he never met with Sandeep Lal and he is not known to Sandeep Lal but he has heard about him and he had no knowledge that Rajni had drunk "Nurani Tel" at her sasural and he had no knowledge that in reception party, Sandeep had taken Rajni in her lap and taken to her in room.

He has stated that the father of Krishna never told him regarding cruel behavior of Rajni towards them. He has denied that he had falsely stated that Rajni is a good character lady and she had no relation with Sandeep Lal and he further denied that due to cruel behavior of Rajni, her husband had filed this false divorce case.

DW 3 Mahesh Vernwal is maternal uncle of defendant no.1 and has stated in his evidence that plaintiff had filed this false divorce case against Rajni and the marriage of both parties was solemnised on 29.11.2008 and they were blessed with two daughters. The father of Rajni had given Rs. 5.00 lac and other household articles of Rs. 3.00 lac and Rajni lived at her sasural for 4-5 months peacefully but she was tortured for demand of additional dowry. In the meantime, she

gave birth to her first daughter and after that she again became pregnant in the year 2011, and due to the medicine given by her in-laws, she was admitted to Shivam Clinic, where her unborn child died.

He has further stated that Rajni again became pregnant and she gave birth to another girl child at her naihar and due to birth of girl child, her In-laws again started torturing her.

He has stated that plaintiff had falsely alleged that Rajni had a boyfriend and filed this divorce case on false allegations. He has further stated that in this suit, plaintiff had alleged that her elder daughter Ritika is not his daughter, but the plaintiff refused to handover Ritika to Rajni, but by the intervention of court and police, Ritika was handed over to Rajni.

He has further stated that her reception was held on 01.12.2008 and not on 30.11.2008 and in that reception party, Sandeep Lal was not present.

He has identified the original marriage card of Rajni and Krishna which is exhibited as Ext-A. He further identified Giridih Town FIR no-158/14 dated 02.06.14 which is marked as Ext-B and he also identified Ext-C as Misc. case no.05/16.

During cross-examination, he has stated that Rajni had filed three cases in Asansol and one case in Giridih Court and he stated that Rajni is living separate from plaintiff from the year 2013-14 and after filing of this divorce case, there is very serious dispute arisen out between them.

He has further stated that out of Rs. 5.00 lac, some cash was given in front of him and some cash was given by the father and brother of Rajni and cash was given in presence of him in the year 2007, but he could not specify the date. He has stated that due to death of unborn child of Rajni, no one filed any case against plaintiff and he could not specify the date of demanding additional dowry and meeting was held between plaintiff and the family of Rajni, but no Panchayati was held and they continued to torture her.

He has stated that Rajni had filed a complaint in Mahila PS Giridih in the year 2015. He further stated that Ritika is studying in Carmel School, Giridih and at present she is studying at her maternal grandfather's house. He has further stated that it is correct that after filing of this divorce case, three cases are filed at Asansol Court and one case is filed at Giridih court. He has denied that due to cruel behavior of Rajni and due to assault and abuse, the plaintiff has filed this divorce case and he further denied that Rajni had tried to give poison to her mother-in-law and she filed false case

against her husband.

- 25.** The learned Family Judge has gone into the interpretation of the word “cruelty” and adultery and assessing the same from the evidences led on behalf of the parties as also the submission made in the pleading, i.e., plaint and written statement, has found that the element of cruelty and adultery has not been established.
- 26.** The learned counsel for the appellant/plaintiff has argued that the evidence of cruelty/adultery has not properly been considered and as such, the judgment suffers from perversity, hence, not sustainable in the eyes of law.
- 27.** While on the other hand, argument has been advanced on behalf of the respondent-defendant that the judgment is well considered.
- 28.** This Court while appreciating the argument advanced on behalf of the parties 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. 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 so 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.”

29. Thus, from the aforesaid it is evident that if any order made in conscious violation of pleading and law then it will come under the purview of perverse order. Further “perverse verdict” may probably

be defined as one that is not only against the weight of evidence but is altogether against the evidence.

- 30.** Now this court is adverting to the issue of cruelty. The learned Family Judge has dismissed the suit seeking divorce on the ground of cruelty.
- 31.** It needs to refer herein that the “cruelty” has been interpreted by the Hon’ble Apex Court in the case of ***Dr. N.G. Dastane vs. Mrs. S. Dastana, (1975) 2 SCC 326*** wherein it has been laid down that the Court has to enquire, as to whether, the conduct charge as cruelty, is of such a character, as to cause in the mind of the petitioner, a reasonable apprehension that, it will be harmful or injurious for him to live with the respondent.
- 32.** This Court deems it fit and proper to take into consideration the meaning of ‘cruelty’ as has been held by the Hon’ble Apex Court in ***Shobha Rani v. Madhukar Reddi, (1988)1 SCC 105*** wherein the wife alleged that the husband and his parents demanded dowry. The Hon’ble Apex Court emphasized that “cruelty” can have no fixed definition.
- 33.** According to the Hon’ble Apex Court, “cruelty” is the “conduct in relation to or in respect of matrimonial conduct in respect of matrimonial obligations”. It is the conduct which adversely affects the spouse. Such cruelty can be either “mental” or

“physical”, intentional or unintentional. For example, unintentionally waking your spouse up in the middle of the night may be mental cruelty; intention is not an essential element of cruelty but it may be present. Physical cruelty is less ambiguous and more “a question of fact and degree.”

- 34.** The Hon’ble Apex Court has further observed therein that while dealing with such complaints of cruelty it is important for the court to not search for a standard in life, since cruelty in one case may not be cruelty in another case. What must be considered include the kind of life the parties are used to, “their economic and social conditions”, and the “culture and human values to which they attach importance.”
- 35.** The nature of allegations need not only be illegal conduct such as asking for dowry. Making allegations against the spouse in the written statement filed before the court in judicial proceedings may also be held to constitute cruelty.
- 36.** In *V. Bhagat vs. D. Bhagat (Mrs.)*, (1994)1 SCC 337, the wife alleged in her written statement that her husband was suffering from “mental problems and paranoid disorder”. The wife’s lawyer also levelled allegations of “lunacy” and “insanity” against the husband and his family while he was conducting a cross-examination. The Hon’ble Apex Court held these allegations against the husband to constitute

“cruelty”.

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

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

39. Further in the case of *Vishwanath Agrawal v. Sarla Vishwanath Agrawal*, (2012) 7 SCC 288, the Hon’ble Apex Court has held as follows:—

22. *The expression “cruelty” has an inseparable nexus with human conduct or human behaviour. It is always dependent upon the social strata or the milieu to which the parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status.*

25. *After so stating, this Court observed in Shobha Rani case about the marked change in life in modern times and the sea change in matrimonial duties and responsibilities. It has been observed that : (SCC p. 108, para 5)*

“5. ... when a spouse makes a complaint about the treatment of cruelty by the partner in life or relations, the court should not search for standard in life. A set of facts stigmatised as cruelty in one case may not be so in another case. The cruelty alleged may largely depend upon the type of life the parties are accustomed to or their economic and social conditions. It may also depend upon their culture and human values to which they attach importance.”

26. *Their Lordships in Shobha Rani case referred to the observations made in Sheldon v. Sheldon wherein Lord Denning stated, “the categories of cruelty are not closed”. Thereafter, the Bench proceeded to state thus: (Shobha Rani case, SCC p. 109, paras 5-6)*

“5. ... Each case may be different. We deal with the conduct of human beings who are not generally similar. Among the human beings there is no limit to the kind of conduct which may constitute cruelty. New type of cruelty may crop up in any case depending upon the human behaviour, capacity or incapability to tolerate the conduct complained of. Such is the wonderful (sic) realm of cruelty.

6. *These preliminary observations are intended to emphasise that the court in matrimonial cases is not concerned with ideals in family life. The court has only to understand the spouses concerned as nature made them, and consider their particular grievance. As Lord Reid observed in Gollins v. Gollins : (All ER p. 972 G-H)*

‘... In matrimonial affairs we are not dealing with objective

standards, it is not a matrimonial offence to fall below the standard of the reasonable man (or the reasonable woman). We are dealing with this man or this woman.’”

40. In the case of **Samar Ghosh v. Jaya Ghosh, (2007) 4 SCC**

511 it has been held by the Hon’ble Apex Court as follows:—

99. Human mind is extremely complex and human behaviour is equally complicated. Similarly human ingenuity has no bound, therefore, to assimilate the entire human behaviour in one definition is almost impossible. What is cruelty in one case may not amount to cruelty in other case. The concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, traditions, religious beliefs, human values and their value system.

100. Apart from this, the concept of mental cruelty cannot remain static; it is bound to change with the passage of time, impact of modern culture through print and electronic media and value system, etc. What may be mental cruelty now may not remain a mental cruelty after a passage of time or vice versa. There can never be any straitjacket formula or fixed parameters for determining mental cruelty in matrimonial matters. The prudent and appropriate way to adjudicate the case would be to evaluate it on its peculiar facts and circumstances while taking aforementioned factors in consideration.

41. Thus, from the aforesaid settled position of law it is evident that “Cruelty” under matrimonial law consists of conduct so grave and weighty as to lead one to the conclusion that one of the spouse cannot reasonably be expected to live with the other spouse. It must be more serious than the ordinary wear and tear of married life.

42. Cruelty must be of such a type which will satisfy the conscience of the Court that the relationship between the parties has deteriorated to such an extent that it has become impossible for them to live together without mental agony. The cruelty practiced may be in many forms and it must be productive of an apprehension in the mind of the other spouse that it is dangerous to live with the erring party. Simple trivialities which can truly be described as a reasonable wear and tear of married life cannot amount to cruelty. In many marriages each party can, if it so wills, discover many a cause for complaint but such grievances arise mostly from temperamental disharmony. Such disharmony or incompatibility is not cruelty and will not furnish a cause for the dissolution of marriage.

43. Since the allegation of extramarital affair has also been levelled by the plaintiff/appellant therefore in the aforesaid context, it needs to refer herein that Section 13(1)(i) of the Hindu Marriage Act, 1955, allows for divorce if the other spouse has, after the marriage, had voluntary sexual intercourse with anyone other than their spouse and providing a ground for divorce for either husband or wife. This is one of several grounds under Section 13(1) for dissolving a Hindu marriage, alongside cruelty (13(1) (ia)), desertion (13(1) (ib)), conversion, mental disorder, and venereal

disease. For ready reference the said section is being quoted herein which reads as under:

“13. Divorce.—(1) *Any marriage solemnised, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party—*
²²*[(i) has, after the solemnisation of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or”*

44. It needs to refer herein that the Hon'ble Apex Court, while striking down the offence of adultery in **Joseph Shine v. Union of India, (2019) 3 SCC 39** also acknowledged how the notion of marriage had changed since the enactment the Penal Code in 1860:

“102. The background in which this provision was enacted now needs to be stated. In 1860, when the Penal Code was enacted, the vast majority of the population in this country, namely, Hindus, had no law of divorce as marriage was considered to be a sacrament. Equally, a Hindu man could marry any number of women until 1955. ...

Two of the fundamental props or bases of this archaic law have since gone. Post 1955-1956, with the advent of the “Hindu Code”, so to speak, a Hindu man can marry only one wife; and adultery has been made a ground for divorce in Hindu Law.

45. It is considered view of this Court that since adultery is a very grave allegation in the context of matrimonial life,

therefore, a very high degree or standard of proof is required and the offence of adultery should be proved beyond reasonable doubt. Further a husband or wife can ask for divorce only if at the time of filing the suit, the other party 'is in adulterous relationship and merely a bald allegation without any cogent evidence of extra marital intercourse is not sufficient to dissolve the marriage.

- 46.** Herein since appellate jurisdiction has been invoked therefore, before entering into merit of the case, at this juncture it would be purposeful to discuss the appellate jurisdiction of the High Court.

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, reappraise 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:

27. 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, reappraise and review the entire evidence—oral as well as documentary—and can come to its own conclusion.

- 49.** Further, it requires 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 but herein since grave allegation of extra-marital affair has been alleged therefore cogent evidence is required to be laid by the plaintiff/appellant.

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. Therefore, the Court has to see what are the probabilities in the case and legal cruelty has to be found out, not merely as a matter of fact, but as the effect on the mind of the complainant spouse caused by the acts or omissions of the other.

- 52.** Since this Court are 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.** In the aforesaid backdrop of the aforesaid settled position of law and factual aspect of the instant case this Court is now adverting to the issue of cruelty as well as allegation of extra marital affair as involved in the present case.
- 54.** Admittedly, the plea of cruelty along with extra-marital affair has been raised by the appellant-husband. It has been stated by the appellant-husband that his respondent-wife had adulterous relationship with respondent no.2 Sandeep Lal Burnwal.
- 55.** Herein, as per the pleading, the ground of adultery has also been taken for dissolution of the marriage. The appellant/plaintiff who had been examined as P.W.4 had stated that defendant has treated him with cruelty as she is moving with Sandeep Lal freely, and he is suspicious of their relationship and the fact that on the day of his marriage reception on 30.11.2008, respondent no.2 Sandeep Lal Burnwal took the respondent-wife in his lap and went inside the room and all the relatives have seen such occurrence.

- 56.** But, respondent-wife has in her evidence at paragraph-16 has stated that her reception was held on 01.012.2008 and not on 30.11.2008. DW-3 Masesh Burnwal, is the maternal uncle(*mama*) of the respondent Rajni Lal and he has also stated in his evidence that reception was held on 01.012.2008 but, appellant has in his plaint has mentioned that reception party was held on 30.11.2008.
- 57.** Hence, the very genesis of the case, which the appellant has tried to build that on the day of reception respondent no.2 Sandeep Lal had taken his defendant no.1/respondent-wife in his lap and went inside the room and all the relatives have seen such occurrence, is demolished due to serious objection raised by the respondent-wife and her maternal uncle(*mama*) DW-3 Masesh Burnwal as to denial of date of reception party on 30.11.2008.
- 58.** Further, in his plaint at paragraph-14 appellant-husband has stated that he believes that his daughter Ritika is not his daughter as petitioner had no physical contact with his wife at the period on which the aforesaid child was conceived.
- 59.** But, contrary to his statement made in paragraph-14 of his plaint, appellant in his cross-examination at paragraph-24 admitted that Ritika is his daughter.
- 60.** Hence, appellant-husband has raised question on the

character of his respondent-wife and has alleged illicit relationship, but, appellant-husband has failed to give cogent evidence.

61. The allegation levelled by the appellant in his pleading that daughter Ritika is not his daughter and his wife being unchaste and having extra-marital affair itself constitute of cruelty upon the respondent/wife.

62. Thus, it is evident from the aforesaid statement of the appellant-husband that he has alleged adultery against the defendant-wife but this allegation against defendant-wife appears to be a bald allegation since in support of the aforesaid allegation plaintiff/husband has not filed any cogent evidence rather it appears that the same has been alleged without any basis only because the appellant-husband wants divorce from his wife.

63. Further from impugned order it is evident that since February, 2014, both parties are living separately and the instant suit was also filed in the year 2014.

64. Now coming to the testimony of the appellant wife who had been examined as D.W.1 wherein she had deposed that she was treated with cruelty by appellant and her in-law because she gave birth to two female children as also for demand of additional dowry and she never made illicit relation with any

other person and appellant falsely alleged that she had a boyfriend. The aforesaid testimony of the respondent/wife has fully been substantiated by the other defence witnesses.

- 65.** This Court, based upon the aforesaid discussions is of considered view that the issue of cruelty as has been alleged by the appellant-husband against his wife could not be proved because no cogent evidence to that effect has been produced by the appellant and, as such, this Court has no reason to take different view that has been taken by the learned Family Court observing that the plaintiff has not been able to prove that the defendant subjected him with cruelty to the extent required by law.
- 66.** Hence, appellant-husband has failed to prove any act of cruelty on part of his respondent-wife, instead from the evidence it appears that cruelty has been meted out to the respondent wife by the appellant-husband.
- 67.** Appellant has-stated that in January,2014, Rajni tried to give poison to his mother, but somehow his mother was saved. But, appellant mother did not come forward to give evidence and this has been taken note by the learned family Court.
- 68.** So far as issue of adultery as has been alleged by the appellant is concerned, the appellant and his witnesses have stated in their evidence that respondent-wife has illicit relation with

defendant no-2. They have stated that in the reception party, the defendant no-2 had taken the respondent-wife in his lap and taken to her room, but neither the plaintiff nor any witnesses have stated that they have personally seen that occurrence. Therefore, the learned Family Judge has rightly come to the conclusion that the plaintiff has not been able to prove this issue and the plaintiff failed to prove that the respondent had any illicit relation.

69. On the perusal of the impugned judgment, it is considered view of this court that learned Family Court after due deliberation of factual aspect as well as evidence led by both the parties has recorded its finding, therefore, the contention of learned counsel for the appellant that impugned judgment is suffering from perversity, is not fit to be accepted, hence rejected.

70. This Court, on the basis of discussions made hereinabove, is of the view that the judgment passed on 28.01.2020 and Decree dated 14.02.2020 passed by the learned Principal Judge, Family Court, Giridih whereby and whereunder Original Suit No.101 of 2014 filed by the appellant-husband under Section 13(1)(i)(i-a) of the Hindu Marriage Act, 1955 for a decree of divorce has been dismissed, requires no interference by this Court.

71. Accordingly, the instant appeal fails and is dismissed.

72. Pending interlocutory application, if any, also stands disposed of.

(Sujit Narayan Prasad, J.)

I agree,

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

Date : 15/01/2026

Birendra/**A.F.R.**

Uploaded on 16.01.2026