

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
F.A. No.324 of 2023**

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Sushma Devi, aged about 33 years, wife of Raj Kumar Prasad @ Raj Kumar Sharma, daughter of Raghuwar Dayal resident of Village Lebura (Kalyanpur) P.O. Banjari, P.S. Rohtas, District Rohtas (Bihar).

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

Raj Kumar Prasad aged about 41 years, son of Mahendra Prasad, resident of Quarter No.IM-177-178, Rangamati, Sindri, P.O. and P.S. Sindri, District Dhanbad (Jharkhand).

... .. **Petitioner/Respondent**

**P R E S E N T**

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

.....

For the Appellant : Mr. Vijay Bahadur Singh, Advocate  
For the Respondent : Mr. Robin Kumar, Advocate  
: Ms. Nishi Rani, Advocate  
: Mr. Akanksha B Raje, Advocate

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**C.A.V. on 12.12.2025 Pronounced on 07/01/2026**

**Per Sujit Narayan Prasad, J.**

**Prayer:**

**1.** The instant appeal has been filed challenging the legality and propriety of impugned judgment passed on 18.04.2023 and decree signed on 28.04.2023 by learned Additional Principal Judge, Additional Family Court No.II, Dhanbad whereby and whereunder the Original Suit No. 839 of 2021 filed by the petitioner-husband (respondent herein) under Section 13(1), (i-a) of the Hindu Marriage Act, 1955 for a decree of divorce has been allowed.

**Factual Matrix**

**2.** The brief facts of the case of the petitioner/husband (respondent herein) as narrated before the learned Family Court, is that the marriage of the petitioner-husband was solemnized with the respondent (appellant herein) on 23.11.2008 at Rohtas according to Hindu rites and after marriage, both lived together as husband and wife at Sindri, Dhanbad. Out of the said wedlock, the couple was blessed with a female child namely Palak Kumari, aged about 10 years.

**3.** It has been stated that earlier, petitioner-husband has filed a suit against respondent for dissolution of their marriage in Dhanbad Court which was dismissed.

**4.** It has further stated that after few years of marriage, behavior of the respondent towards the petitioner and his family member was very much reluctant and intemperate as well. Her derogatory and ugly remarks for the petitioner was noticed to be unbearable using abusive words and foul language against her husband and in-laws were shameful and surprising.

**5.** It has further been stated that respondent also started trouble and making nuisance in the conjugal life. The husband-petitioner tried his level best to persuade the respondent but in vain.

**6.** It has been stated that on 16.09.2014 in the night, respondent left her matrimonial home alongwith her parents and daughter and went to her Maika with her belongings without the knowledge and consent of the petitioner/husband (respondent herein).

**7.** It has also been stated that respondent-wife has filed several cases against the petitioner-husband bearing C.P Case No.227/2016 in Dehari Dist. Rohtas, a Maintenance Case in Sasaram (Bihar) and also Baliapur P.S Case No. 127/2017 at Dhanbad.

**8.** According to plaint, cause of action for the present suit arose on dated 23.11.2008 when the marriage of the petitioner with the respondent was performed, it also arose on several occasions including on 16.09.2014 when the respondent behaved and committed cruelty upon them.

**9.** After appearance of the defendant-wife, the matter of the parties of the present proceeding has been referred to Mediation Center Dhanbad for reconciliation but the same failed.

**10.** In the aforesaid circumstances as alleged by the appellant, an application under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 had been preferred by him for a decree of divorce before the Court of learned Additional Principal Judge, Additional Family Court No.II, Dhanbad

numbered as the Original Suit No. 839 of 2021.

**11.** The case was admitted for hearing and upon notice the respondent wife appeared in this case.

**12.** Sufficient opportunity was given to the respondent-wife to file written statement and lastly on dated 24.01.2023 respondent (appellant herein) was debarred from filing the written statement.

**13.** The learned Family Judge has taken into consideration the pleading made by the petitioner since the respondent wife did not file her written statement.

**14.** The case proceeded for evidence during which the appellant has produced and examined only himself.

**15.** No oral or documentary evidence has been adduced on behalf of the respondent.

**16.** The learned Principal Judge, after hearing learned counsel for the petitioner-husband, framed only one issue for adjudication of the *lis*, which is being referred as under:

Whether the petitioner is entitled for the decree of divorce on the ground of Cruelty?

**17.** The aforesaid issue was decided against the appellant-wife and in favour of respondent-husband and decreed the suit on contest in the following terms :

“On the basis of the discussion, made-above, I have come to clear conclusion that petitioner has succeeded to prove his case U/s 13 (1) (ia) of Hindu

Marriage Act on the ground of cruelty to the extent as required by law against the respondent. Accordingly, I find and hold that petitioner is entitled to a decree for dissolution of their marriage on this ground.

It is therefore, ordered that the suit be and the same is decreed contest and marriage solemnized between the parties dated 23.11.2008 is hereby dissolved. Let a decree prepared accordingly.”

**18.** The appellant-wife, being aggrieved with the judgment passed on 18.04.2023 and decree signed on 28.04.2023 by learned Additional Principal Judge, Additional Family Court No. II, Dhanbad, approached this Court by filing the instant appeal.

**19.** The matter was heard on 27.11.2025 on that date Mr. Vijay Bahadur Singh, learned counsel appearing for the appellant-wife, has submitted that the respondent-husband is having illicit relationship with one lady and now there is no possibility to live together. Hence, the only issue of alimony requires consideration.

**20.** He has further submitted that one minor female child taken birth from the wedlock is living with the appellant-wife which may also be taken care of.

**21.** After hearing learned counsel for the appellant, this Court has passed following order on 27.11.2025, which reads hereunder as :-

**“Order No. 09/Dated 27<sup>th</sup> November, 2025**

**1.** In course of argument, Mr. Vijay Bahadur Singh, learned counsel appearing for the appellant-wife, has submitted that in the changed circumstances when the respondent-husband is having illicit relationship with one lady, there is no possibility to live together. Hence, the only issue of alimony requires consideration

**2.** He has further submitted that one minor child taken birth from the wedlock is living with the appellant-wife.

**3.** This Court, in order to pass an order on the issue of alimony, needs to consider the financial viability of both the parties.

**4.** Let the affidavit be filed on behalf of the appellant and respondent respectively giving therein the details of the asset/income along with current pay-in-slip, so far as the respondent-husband is concerned since he is serving in the Border Security Force as a permanent employee.

**5.** As prayed for, list this matter after two weeks, i.e., on 12.12.2025.”

**22.** In pursuance to the aforesaid order, an affidavit has been filed on behalf of respondent-husband on 10.12.2025 stating therein that he has solemnized second marriage with another lady and out of their wedlock one boy child has born.

**23.** In the aforesaid circumstances, the considered view of this Court is that now the marital relation between the parties has become "dead wood marriage" and marital relation has become lifeless and without emotional or

practical value. It is settled proposition of law that when a marriage is deemed a dead wood situation, Courts may consider it a valid reason to grant a divorce, recognizing that forcing a couple to remain in such a relationship only prolongs their suffering and no purpose will be served in sailing the dead wood.

**24.** The Hon'ble Apex Court in the case of ***Durga Prasanna Tripathy v. Arundhati Tripathy, (2005) 7 SCC 353***, while taking into consideration the long period of separation of husband and wife has observed, which reads as under:

"28. The facts and circumstances in the above three cases disclose that reunion is impossible. The case on hand is one such. It is not in dispute that the appellant and the respondent are living away for the last 14 years. It is also true that a good part of the lives of both the parties has been consumed in this litigation. As observed by this Court, the end is not in sight. The assertion of the wife through her learned counsel at the time of hearing appears to be impractical. It is also a matter of record that dislike for each other was burning hot.

29. Before parting with this case, we think it necessary to say the following:

Marriages are made in heaven. Both parties have crossed the point of no return. A workable solution is certainly not possible. Parties cannot at this stage reconcile themselves and live together forgetting their past as a bad dream. We, therefore, have no other option except to allow the appeal and set aside the



judgment of the High Court and affirming the order of the Family Court granting decree for divorce. -----."

**25.** The Hon'ble Apex Court in the case of **Sujata Uday Patil v. Uday Madhukar Patil, 2007 (3) PLR 521** has observed as under:

"Matrimonial disputes have to be decided by courts in a pragmatic manner keeping in view the ground realities. For this purpose a host of factors have to be taken into consideration and the most important being whether the marriage can be saved and the husband and wife can live together happily and maintain a proper atmosphere at home for the upbringing of their offsprings. Thus the court has to decide in the fact and circumstances of each case and it is not possible to lay down any fixed standards or even guidelines."

**26.** This Court, taking into consideration the aforesaid settled position of law and also on the basis of the submission advanced on behalf of the appellant-wife that there is no possibility to live together as also the fact that the respondent-husband has solemnized second marriage with another lady and out of their wedlock one boy child has born, is of the view that the judgment passed on 18.04.2023 and decree signed on 28.04.2023 by learned Additional Principal Judge, Additional Family Court No.II, Dhanbad whereby and whereunder the Original Suit No. 839 of 2021 filed by the petitioner-husband (respondent herein) for a decree of divorce under Section 13(1), (i-a) of the Hindu Marriage Act, 1955 has been allowed, requires no



interference by this Court. Therefore, the judgment passed on 18.04.2023 and decree signed on 28.04.2023 by learned Additional Principal Judge, Additional Family Court No.II, Dhanbad in Original Suit No. 839 of 2021 is hereby affirmed.

**27.** This Court is now proceeding to consider the quantum of amount per month which can be said to be just and proper for the maintenance of wife as also welfare of the daughter, for her study and other miscellaneous expenditure which a female child requires.

**28.** This Court, before considering the aforesaid issue, needs to refer herein the provision of law as contained under Section 25 of the Hindu Marriage Act, 1955, wherein, it has been provided that any Court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant, it may seem to the court to be just, and any such payment may be secured, if necessary,

by a charge on the immovable property of the respondent. For ready reference, Section 25 of the Act, 1955 is quoted as under:

**"25. Permanent alimony and maintenance.**--(1) Any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant 1 [the conduct of the parties and other circumstances of the case], it may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.

(2) If the court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the court may deem just.

(3) If the court is satisfied that the party in whose favour an order has been made under this section has re-married or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he has had sexual intercourse with any woman outside wedlock, 2 [it may at the instance of the other party vary, modify or rescind any such order in such manner as the court may deem just]."

**29.** It is evident from the aforesaid provision that concept

of permanent alimony as provided under Section 25 have been enacted with the object of removing the hardship of the wife or the husband with no independent income sufficient for living or meeting litigant expenses; such a leave can be granted as well who may also be deprived of the same on proof of having sexual intercourse outside the wedlock. It is also settled position of law that the Court may grant permanent alimony to the party while disposing of the main application even if application has been moved; meaning thereby the intent of the Act is to remove the handicap/hardship of a wife of husband by passing an appropriate order at the appropriate stage either under Section 24 or 25 of the Hindu Marriage Act, 1955. The basic behind is to sustain the live of husband or wife, if having no sufficient source of income.

**30.** Thus, from the aforesaid it is evident that Section 25 of Act 1955 is an enabling provision. It empowers the court in a matrimonial case to consider facts and circumstances of the spouse applying and decide whether or not to grant permanent alimony or maintenance. Sub-section (1) of Section 25 provides that a matrimonial Court exercising the jurisdiction under the Hindu Marriage Act may at the time of passing a decree or at any time subsequent thereto on an Application made to it, order to pay maintenance.

Thus, a power is conferred on the Matrimonial Court to grant permanent alimony and maintenance on the basis of a decree of divorce passed under the Hindu Marriage Act even subsequent to the date of passing of the decree on the basis of an application made in that behalf. Sub-section (2) of Section 25 confers a power on the Court to vary, modify or rescind the order made under Sub-section (1) of Section 25 in case of change in circumstances. The power under Sub-section (3) of Section 25 is an independent power. The said power can be exercised if the Court is satisfied that the wife in whose favour an order under Subsection (1) of Section 25 of the Hindu Marriage Act is made has not remained chaste. In such event, at the instance of the other party, the Court may vary, modify or rescind the order under Sub-section (1) of Section 25 of the Hindu Marriage Act. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Kalyan Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy, (2017) 14 SCC 200.***

**31.** We may note here that an amendment has been brought to Sub-section (3) of Section 25 of the Hindu Marriage Act by the Act No. 68 of 1976 with effect from 27th May 1996. Earlier, it was provided under Sub-section (3) of Section 25 that if the Court was satisfied that the party in

whose favour an order has been made has not remained chaste, it shall rescind the order. The words "it shall rescind the order" appearing in Sub-section (3) of Section 25 were replaced by the said amendment by the words "*it may at the instance of the other party vary, modify or rescind any such order .....*". The legislature in its wisdom by the said amendment has provided that after the facts stated in Sub-section (3) of Section 25 of the Hindu Marriage Act are established, the Court may vary, modify or rescind any such order under Sub-section (1) of Section 25 of the Hindu Marriage Act. Thus, after 1976, there is a discretion conferred on the Court by Sub-section (3) of Section 25 of the Hindu Marriage Act of declining to rescind, vary or modify the order under Sub-section (1) of Section 25 thereof, even if on an Application made by the husband, it is established that the wife has not remained chaste after the decree of maintenance is passed under Sub-section (1) of Section 25.

**32.** The Hon'ble Apex Court in the case of ***Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112*** while appreciating the core of Section 25 of the Act 1955 has observed that for permanent alimony and maintenance of either spouse, the respondent's own income and other property, and the income and other property of the applicant

are all relevant material in addition to the conduct of the parties and other circumstances of the case, for ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

"12. As per Section 25, while considering the claim for permanent alimony and maintenance of either spouse, the respondent's own income and other property, and the income and other property of the applicant are all relevant material in addition to the conduct of the parties and other circumstances of the case. It is further seen that the court considering such claim has to consider all the above relevant materials and determine the amount which is to be just for living standard. No fixed formula can be laid for fixing the amount of maintenance. It has to be in the nature of things which depend on various facts and circumstances of each case. The court has to consider the status of the parties, their respective needs, the capacity of the husband to pay, having regard to reasonable expenses for his own maintenance and others whom he is obliged to maintain under the law and statute. The courts also have to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and mode of life she was used to live when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party. These are all the broad principles courts have to be kept (sic keep) in mind while determining maintenance or permanent alimony."

**33.** It needs to refer herein that no arithmetic formula can be adopted for grant of permanent alimony to wife. However,

status of parties, their respective social needs, financial capacity of husband and other obligations must be taken into account. The Hon'ble Apex Court in the case of ***U. Sree v. U. Srinivas, (2013) 2 SCC 114*** has observed that while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the status of the parties, their respective social needs, the financial capacity of the husband and other obligations. For ready reference, the relevant paragraph is being quoted as under:

"33. We have reproduced the aforesaid orders to highlight that the husband had agreed to buy a flat at Hyderabad. However, when the matter was listed thereafter, there was disagreement with regard to the locality of the flat arranged by the husband and, therefore, the matter was heard on merits. We have already opined that the husband has made out a case for divorce by proving mental cruelty. As a decree is passed, the wife is entitled to permanent alimony for her sustenance. Be it stated, while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the status of the parties, their respective social needs, the financial capacity of the husband and other obligations. In [Vinny Parmvir Parmar v. Parmvir Parmar](#) [(2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290] (SCC p. 116, para 12) while dealing with the concept of permanent alimony, this Court has observed that while granting permanent alimony, the court is required to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in



reasonable comfort considering her status and the mode of life she was used to when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party."

**34.** In the case of *Rajnish v. Neha*, (2021) 2 SCC 324 the Hon'ble Apex Court has extensively dealt with the issue of granting interim/permanent alimony and has categorically held that the objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded. The Hon'ble Apex Court further held that the Court while considering the issue of maintenance, should consider the factors like the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage, for ready reference the relevant paragraphs of the

aforesaid judgment are being quoted as under:

"77. The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

78. The factors which would weigh with the court *inter alia* are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the 2025:JHHC:21438-DB same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. [Refer to *Jasbir Kaur Sehgal v. District Judge, Dehradun*, (1997) 7 SCC 7; Refer to *Vinny Parmvir Parmar v. Parmvir Parmar*, (2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290]

79. In *Manish Jain v. Akanksha Jain* [*Manish Jain v. Akanksha Jain*, (2017) 15 SCC 801 : (2018) 2 SCC (Civ) 712] this Court held that the financial position of the parents of the applicant wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself.

The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the court should mould the claim for maintenance based on various factors brought before it.

80. On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able-bodied and has educational qualifications.[Reema Salkan v. Sumer Singh Salkan, (2019) 12 SCC 303 : (2018) 5 SCC (Civ) 596 : (2019) 4 SCC (Cri) 339]

81. A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that

the wife is able to maintain herself with reasonable comfort.

**35.** In the backdrop of the aforesaid settled proposition of law this Court, is now advertent to consider the issue of alimony which is to be paid by the respondent/ husband in favour of the appellant/ wife.

**36.** Learned counsel for the appellant/wife has submitted that one minor female child taken birth from the wedlock is living with the appellant-wife and, therefore, order for providing adequate maintenance for the appellant-wife and the minor daughter may be passed.

**37.** Learned counsel for the respondent has submitted that after the order having been passed dissolving the marriage between the appellant and respondent, the respondent has solemnized second marriage and out of the wedlock, he has a boy child.

**38.** He has further submitted that the respondent's father is bedridden, suffering from after effects of brain hemorrhage leading to paralysis and requires regular medical care and further, his married sister who is separated from her husband, having two children, her maintenance and daily expenses are also borne by the respondent.

**39.** Learned counsel for the respondent-husband has submitted that the respondent is ready to provide financial support to the appellant-wife and the daughter, but has prayed that such support may kindly be considered in light of respondent's actual financial conditions.

**40.** The respondent-husband, has filed affidavit dated 10.12.2025 wherein he has stated his income from salary, expenses, deductions etc. He has annexed the Pay Slip for the month of November, 2025 as Annexure-2 Series and as per the aforesaid Pay Slip, his Gross Pay is Rs.86,706/- and Net Pay is Rs.78,476/-. However, after deductions, the net amount credited to his Bank Account is Rs.77,705/-.

**41.** This Court, taking into consideration the fact that in the case of dissolution of marriage in between the husband and the wife, the interest of the child born out of the wedlock is also the subject matter for consideration, because why will the child suffer due to the effect of dissolution of marriage. Therefore, the question of welfare of kids, herein the female child, is also required to be considered.

**42.** The aforesaid aspect of the matter is also necessary to be looked into by this Court since the age of the female child is about 15 years only.

**43.** There cannot be any separation from the daughter, rather, the respondent-father is duty bound to maintain his daughter.

**44.** The gross salary of the appellant, as per the salary slip is Rs.86,706/- per month. He is working in the capacity of Constable in the Border Security Force (040 BN BSF). The respondent being the father, has got every duty to maintain his daughter and to discharge his accountability so as to bring his daughter to a responsible position in the society.

**45.** We all know that a kid, particularly a female child, is in requirement of financial means for her study, upbringing, higher studies and solemnization of marriage.

**46.** At this juncture it needs to refer herein the judgment rendered by Hon'ble Apex Court in the case of **Rakhi Sadhukhan Vs. Raja Sadhukhan [2025 SCC OnLine SC 1259]**.

**47.** This Court has considered the factual aspect of the said case i.e. **Rakhi Sadhukhan Vs. Raja Sadhukhan (supra)** and on perusal of the fact, referred therein, it is evident that the appellant-wife and respondent-husband were married on 18.06.1997. A son was born to them on 05.08.1998. In July 2008, the respondent-husband filed Matrimonial Suit No. 430 of 2008 under Section 27 of the Special Marriage Act, 1954 seeking dissolution of

marriage on the ground of cruelty allegedly inflicted by the appellant-wife. Subsequently, the appellant-wife filed Misc. Case No. 155 of 2008 in the same suit under Section 24 of the Hindu Marriage Act, 1955, seeking interim maintenance for herself and the minor son. The Trial Court, by order dated 14.01.2010, awarded interim maintenance of Rs. 8,000/- per month to the appellant-wife and Rs. 10,000/- towards litigation expenses. The appellant-wife then instituted Misc. Case No. 116 of 2010 under Section 125 of the Criminal Procedure Code, 1973. The Trial Court, *vide* order dated 28.03.2014, directed the respondent-husband to pay maintenance of Rs. 8,000/- per month to the appellant-wife and Rs. 6,000/- per month to the minor son, along with Rs. 5,000/- towards litigation costs. The Trial Court, *vide* order dated 10.01.2016, dismissed the matrimonial suit, finding that the respondent-husband had failed to prove cruelty. Aggrieved, the respondent filed FAT No. 122 of 2015 before the High Court of Calcutta. During the pendency of the appeal, the appellant-wife filed CAN No. 4505 of 2015 seeking interim maintenance of Rs. 30,000/- for herself and Rs. 20,000/- for the son, along with Rs. 50,000/- towards litigation expenses. The High Court, by order dated 14.05.2015, directed the respondent-husband to pay interim



maintenance of Rs. 15,000/- per month. Subsequently, by order dated 14.07.2016, the High Court noted that the respondent-husband was drawing a net monthly salary of Rs. 69,000/- and enhanced the interim maintenance to Rs. 20,000/- per month. Finally, the High Court, by the impugned order dated 25.06.2019, allowed the respondent's appeal, granted a decree of divorce on the ground of mental cruelty and irretrievable breakdown of marriage, and directed the respondent-husband to redeem the mortgage on the flat where the appellant-wife was residing and transfer the title deed to her name by 31.08.2019; allow the appellant-wife and their son to continue residing in the said flat; and continue to pay permanent alimony of Rs. 20,000/- per month to the appellant-wife, subject to a 5% increase every three years. Additionally, the High Court directed payment of educational expenses for the son's university education and Rs. 5,000/- per month for private tuition.

**48.** Aggrieved by the quantum of alimony awarded, the appellant-wife is approached the Hon'ble Apex Court.

**49.** The Hon'ble Apex Court, by interim order dated 07.11.2023, noting the absence of representation on behalf of the respondent-husband despite proof of service, enhanced the monthly maintenance to Rs. 75,000/- with

effect from 01.11.2023. The respondent-husband subsequently entered appearance and filed an application seeking vacation of the said interim order.

**50.** The appellant-wife contended that the amount of Rs. 20,000/- per month, which the High Court made final, was originally awarded as interim maintenance. She submits that the respondent-husband has a monthly income of approximately Rs. 4,00,000/- and the quantum of alimony awarded is not commensurate with the standard of living maintained by the parties during the marriage.

**51.** In response, the respondent-husband submits that his current net monthly income is Rs. 1,64,039/-, earned from his employment at the Institute of Hotel Management, Taratala, Kolkata. He has placed on record salary slips, bank statements, and income tax returns for the year 2023-2024. It is further stated that he was earlier employed with the Taj Hotel, drawing a gross annual salary of Rs. 21,92,525/-. He also submits that his monthly household expenses total Rs. 1,72,088/-, and that he has remarried, has a dependent family, and aged parents. The respondent-husband contends that their son, now 26 years of age, is no longer financially dependent.

**52.** The Hon'ble Apex Court taking note of the quantum of permanent alimony fixed by the High Court has come to the

conclusion that it requires revision. The said revision is on the basis of the respondent-husband's income, financial disclosures, and past earnings which establish that he is in a position to pay a higher amount. The Hon'ble Apex Court has observed that the appellant-wife, who has remained unmarried and is living independently, is entitled to a level of maintenance that is reflective of the standard of living she enjoyed during the marriage and which reasonably secures her future. It has also been observed, the inflationary cost of living and her continued reliance on maintenance as the sole means of financial support necessitate a reassessment of the amount.

**53.** Therefore, Hon'ble Apex Court has held that, a sum of Rs. 50,000/- per month would be just, fair and reasonable to ensure financial stability for the appellant-wife. The said amount shall be subject to an enhancement of 5% every two years. As regards the son, now aged 26, the Hon'ble Apex Court has expressed its view that the Court is not inclined to direct any further mandatory financial support. However, it is open to the respondent-husband to voluntarily assist him with educational or other reasonable expenses. It has been clarified that that the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

**54.** Accordingly, the appeal was allowed and the order of the High Court was modified to the extent that the permanent alimony payable to the appellant-wife shall be Rs. 50,000/- per month, subject to a 5% increase every two years, for ready reference the relevant paragraph of the said order is being quoted as under:

**“7.** Having considered the submissions and materials on record, we are of the view that the quantum of permanent alimony fixed by the High Court requires revision. The respondent-husband's income, financial disclosures, and past earnings establish that he is in a position to pay a higher amount. The appellant-wife, who has remained unmarried and is living independently, is entitled to a level of maintenance that is reflective of the standard of living she enjoyed during the marriage and which reasonably secures her future. Furthermore, the inflationary cost of living and her continued reliance on maintenance as the sole means of financial support necessitate a reassessment of the amount.

**8.** In our considered opinion, a sum of Rs. 50,000/- per month would be just, fair and reasonable to ensure financial stability for the appellant-wife. This amount shall be subject to an enhancement of 5% every two years. As regards the son, now aged 26, we are not inclined to direct any further mandatory financial support. However, it is open to the respondent-husband to voluntarily assist him with educational or other reasonable expenses. We clarify that the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

**9.** In view of the above, the appeal is allowed. The impugned order of the High Court is modified to the

extent that the permanent alimony payable to the appellant-wife shall be Rs. 50,000/- per month, subject to a 5% increase every two years, as noted above.”

**55.** It is evident from the aforesaid judgment that 30% of the salary of the appellant of the said case was awarded to be paid in favour of the wife. However, no alimony was directed to be paid in favour of the son since he was 26 years of age but the Hon'ble Apex Court has made an observation that giving monetary aid to the said son is being left open upon the father.

**56.** This Court, applying the aforesaid observation and direction of Hon'ble Apex Court in the facts of the present case, is of the view that in the instant case, the gross salary of the respondent-husband as per the salary slip is Rs.86,706/- per month. The Hon'ble Apex Court, in the aforesaid case has awarded 30% of the salary to wife only and no amount was awarded to the son who was aged about 26 years. But, in the instant case, one female child aged about 15 years is also there.

**57.** This Court, also taking into consideration the fact that the respondent-husband has solemnized second marriage and out of that wedlock one male child has born.

**58.** Furthermore, this Court has also took note of the fact that the respondent-husband is a salaried person having monthly salary, as such, this Court is of the view that the

permanent alimony is required to be ordered on month-to-month basis, as per law laid down in the case of **Rakhi Sadhukhan Vs. Raja Sadhukhan (supra)**.

**59.** Hence, this Court, thought it proper that a sum of Rs. 25,000/- (twenty five thousand) per month would be just, fair and reasonable, for sustenance of the appellant-wife, till her natural life, therefore, it is hereby directed that the respondent-husband shall pay an amount of Rs.25,000/- (Twenty Five thousand only) per month to the appellant/wife.

**60.** Further, a sum of Rs. 10,000/- (Ten Thousand) per month would be proper to ensure financial stability of the daughter, for his study and future prospects.

**61.** Both the amounts shall be paid to the account of the respondent (mother of the daughter) by 10<sup>th</sup> of each month.

**62.** The said arrangement of depositing the amount in the account of the respondent (mother of the daughter) will be till attaining the majority of the daughter and, thereafter, the amount to be paid to the daughter will be deposited directly in the account of the daughter which shall be opened by her mother after the daughter attains majority.

**63.** The awarded amount will be enhanced to the extent of 5% after every two years.

**64.** This Court further needs to refer herein that in case any of the order will not be adhered to by the respondent, the appellant will be at liberty to make appropriate application before this Court.

**65.** With these observations and directions, the instant appeal is disposed of.

**66.** Pending interlocutory application, if any, also stands disposed of

I agree

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

**(Arun Kumar Rai, J.)**

**(Arun Kumar Rai, J.)**

**Date: 07/01/2026**

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

Uploaded on 08.01.2026.