

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.996 of 2018

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Alok Kumar Son of Shri Hare Krishna Singh, Resident of Mohalla- Near Marhipur Railway Crossing, Power House Road, Police Station- Kaazi Mohammadpur, District- Muzaffarpur.

... .. Appellant/s

Versus

Smt. Anupama Singh Wife of Alok Kumar, D/o of Uma Shankar Prasad Singh, Resident of Mohalla- Near Marhipur Railway Crossing, Power House Road, Police Station- Kaazi Mohammadpur, District- Muzaffarpur, Currently at Juran Chhapra, Road No. 1, Near Kejriwal Hospital, Police Station- Brahmapura, P.O. Main Post Office, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sriram Krishna, Advocate Mr. Prabhat Kumar Singh, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, Advocate Ms. Y. Madhavi, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE S. B. PD. SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 14-10-2025

Heard the parties.

2. The appellant-husband (Alok Kumar) has come up in this appeal against judgment and decree dated 11.09.2018 passed by the learned Principal Judge, Family Court, Muzaffarpur in Matrimonial (Divorce) Case No. 211 of 2013 whereby the petition filed by the appellant under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 (in short 'the 1955 Act') seeking dissolution of marriage by



a decree of divorce, has been dismissed.

3. Succinctly, the marriage of appellant- Alok Kumar was solemnized with respondent-Anupma Singh on 2nd December 2010 as per Hindu rites and ceremonies. The marriage was solemnized and performed at Lichhavi Hotel, Imlichatti, Muzaffarpur. The marriage was duly consummated; however, no child was born from the wedlock.

4. The pleaded case of appellant-husband in his petition filed under Section 13 (1)(i-a) of the 1955 Act was that appellant was employed in Merchant Navy. The marriage with the appellant was arranged one. The case of the appellant, in short is that appellant got married with respondent Anupma Singh on 02.12.2010 according to Hindu rites and rituals. The marriage was solemnized and performed at Lichhavi Hotel, Imlichatti, Muzaffarpur. It is further alleged that after the marriage, respondent came to her *Sasural* on 03.12.2010 where she was warmly welcomed by the appellant's parents and relatives and she was offered valuable goods including cash and gold ornaments. The behavior of the respondent since the date



of the marriage with the appellant and other in-laws was bad and the appellant anyhow continued to live with the respondent for 15 days. It is further alleged that respondent started pressurizing the appellant to go to her paternal house and she stopped taking food and sometimes she abused the appellant and his family members. Lastly, on 28.01.2011, the respondent went to her *Maike* along with her brother taking all her articles without any information. By this act of the respondent, appellant felt humiliation and he also made complaint to his in-laws but the family members of the respondent did not respond. It is further alleged that on 30.01.2011, the appellant visited to the parental house of the respondent and requested her to join him at his house but she refused then appellant came back to his house and went to his place of posting on 31.01.2011. It is further alleged that the father of the appellant regularly visited to the paternal house of the respondent about her well being but respondent did not behave properly with the father of the appellant and respondent was not ready to come back to her *Sasural*, rather she remained abusive with the appellant and other family members. It is alleged that



when the appellant returned from his service to his house on leave, at that time also, the respondent was in her parental house and she did not join the appellant in her matrimonial house and on request by the appellant to his in-laws to send respondent to her matrimonial house, the same was refused and told that she would never back to her *Sasural*. It is further alleged that the behavior of the respondent with the appellant was never good after 28.01.2011 and she kept the appellant away from herself and whenever the appellant tried to pursue her, she used to abuse the appellant and threatened that if he insisted further to go to her Sasural, she would commit suicide and get him and his family members in jail. The respondent deliberately denied for any cohabitation with the appellant about for the last two and half years as respondent is living at her paternal house without any rhyme and reason and by this attitude of the respondent, the appellant suffered great mental shock and he is gradually becoming sick while respondent is enjoying at her parents house. The further case of the appellant is that by way of last chance, he along with his father and relatives came to the parental



house of the respondent on 30.05.2013 and requested her to go along with him but she refused. The appellant, thereafter arranged a *Punchayati* where the respondent flatly refused to live with the applicant. The matrimonial relation between the appellant and respondent has already irretrievably broken down and there is no hope of restoration of their conjugal life. Hence, the divorce petition was filed by the appellant for dissolution of marriage between the parties.

5. The respondent-wife appeared and filed her written statement and submitted that the instant case is fit to be dismissed as it is not maintainable either in eye of law or on fact. It is further submitted that marriage of the appellant with the respondent was solemnized on 02.12.2010 and she stayed at her matrimonial home till 10 February 2011. She has alleged that at the time of the marriage, appellant was working as Marine Engineer at Varun Shipping and after return of the appellant to his place of posting, in-laws family members subjected her to the worst type of cruelty on small issues. The allegation made about abusive behaviour is totally incorrect rather



she was subjected to abuse and assault by the members of the appellant's family. It is further asserted that in the absence of the appellant, the in-laws drove her out from the matrimonial house. The appellant never intervened regarding ill behaviour by his family members with the respondent. The father of the respondent was in government service and to the best of his ability, he fulfilled the demand and after marriage also, he fulfilled the dowry demand. The father of the respondent had booked a flat in Sahara City Home Centre at Gaziabad in the name of his daughter (respondent) and after having come to know about this, the appellant and his family members mounted pressure upon her to sell the flat. The respondent was initially not interested to take refund of the deposited money against the booked flat, but in order to satisfy the demands of her in-laws, she sold the property and she could earn respect for sometime till she was able to meet the requirements of the sale proceeds of the flat. It is further alleged that respondent tolerated all humiliation and insult for the safeguard of her marriage but the behavior of the in-laws became bad to worst when the



entire money of the sale proceeds of the flat was exhausted. It is further alleged that in the month of December 2011, the respondent was driven out forcefully and the appellant also maintained distance from her and supported the misdeeds of his family members. The father of appellant is an alcoholic and after consuming liquor he used to pass lewd comments and indecent abuses against the respondent and there was none in the family who can support her in absence of her husband. It is further alleged that appellant is now Captain of the ship and he can keep the respondent with him but he never cared for taking her to his place of posting and now, he has developed interest outside his marriage and extra marital relationship was becoming deeper day by day and that is why her husband is not willing to keep her at her place of posting. It is also asserted that the income of the appellant is about one crore *per annum* but he is hardly taking interest to financially support his legally wedded wife who is totally dependent upon him. The respondent denied to have any *Punchayati* held on 30.05.2013 and also denied that she has left the matrimonial home, to the contrary she alleged that she was



not allowed to stay at her matrimonial house and even she was not allowed by the appellant to live with him at his place of posting. It is further alleged that being a traditional lady she can not think to live without her husband or to dissolve the marriage. Hence, the respondent prays to dismissed the matrimonial suit filed for dissolution of marriage.

6. On conclusion of the trial and considering the material evidences available on record, learned Principal Judge, Family Court, Patna held that the appellant-husband has not established his case for divorce on the ground of cruelty and desertion. Accordingly, the matrimonial suit, filed for dissolution of marriage has been dismissed on contest. The appellant-husband, aggrieved by the said judgment of the learned Family Court filed the instant appeal before this Court.

7. Learned counsel for the appellant-husband submits that the learned Family Court has erred in law and facts both in not allowing the divorce petition filed by the appellant-husband. The marriage of the appellant with the respondent was solemnized on 02.12.2010 according to



Hindu rites and rituals. The marriage was consummated though no child was born out of the wedlock. The behavior of the respondent since the date of the marriage with the appellant and other in-laws was bad and the appellant anyhow continued to live with the respondent for 15 days. Lastly, on 28.01.2011, the respondent went to her *Maik*e along with her brother taking all her articles without any information. On 30.01.2011, the appellant visited to the parental house of the respondent and requested her to join him at his house but she refused then appellant came back to his house and went to his service place on 31.01.2011. The appellant and other in-laws family members of the respondent made all efforts to bring the respondent back to her matrimonial house but all their efforts went in vein. The respondent deliberately denied for any cohabitation with the appellant about for the last two and half years as respondent is living at her paternal house without any rhyme and reason and by this attitude of the respondent, the appellant suffered great mental shock and he is gradually becoming sick while respondent is enjoying at her parents house. It is further submitted that



the appellant along with his father and relatives came to the parental house of the respondent on 30.05.2013 and requested her to go along with him but she refused. The appellant, thereafter arranged a *Punchayati* where the respondent flatly refused to live with the applicant. It is further alleged that after filing of the present divorce petition, as a counter blast and for the sake of vengeance and with a *mala fide* intention, the respondent has filed Domestic Violence Complaint Case No. 847 of 2015 before learned Chief Judicial Magistrate, Muzaffarpur. She has also filed Complaint Case No. 1158 of 2015 against the appellant and other in-laws family members on 15.05.2015 under Sections 498(A) and other provisions of the Indian Penal Code, in which they are on bail.

8. Learned counsel further submits that appellant-husband is paying Rs. 10,000/- per month to the respondent as maintenance in pursuance to the order of learned Family Court dated 12.09.2013. The order-sheets of learned Court below clearly demonstrates that several efforts were made by the Court below to reconcile the issue between the appellant and the respondent, but it was



the respondent, who does not want to reconcile the issue with the appellant. Learned counsel also submits that due to the lackadaisical approach of the respondent, the dispute could not be settled before the Mediation Center of this Hon'ble Court also.

9. Learned counsel appearing on behalf of the appellant-husband has brought on record by way of affidavit, the proposal for permanent alimony wherein the appellant has offered Rs. 50 lakhs to the respondent as permanent alimony.

10. Learned counsel appearing on behalf of the respondent-wife, however, has not accepted the proposal of permanent alimony of the appellant-husband and submits that appellant-husband is getting salary of Rs. 1 crore *per annum* and keeping in view the income of the appellant-husband and the dependency of the respondent-wife completely on her old aged persons, an amount of Rs. 50 lakhs does not appear to be appropriate. The respondent, however, agrees for mutual divorce, if appellant is ready to pay Rs. 90 lakhs as permanent alimony.



11. Considering the submissions advanced on behalf of the appellant-husband and the respondent-wife, we find that the marriage between the appellant-husband and respondent-wife have irretrievably been broken and forcing them to continue their matrimonial relationship will be an abuse of the process of law where both sides does not want to continue their matrimonial relationship.

12. Accordingly, the judgment and decree dated 11.09.2018 passed by the learned Principal Judge, Family Court, Muzaffarpur in Matrimonial (Divorce) Case No. 211 of 2013 is hereby set aside and the marriage between the appellant and the respondent which was solemnized on 02.12.2010 is dissolved by a decree of divorce.

13. Registry is directed to prepare the decree accordingly.

14. So far as grant of permanent alimony to the respondent-wife is concerned, it is useful to refer to Section 25 of the 1955 Act, which reads thus:-

"Section 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 appellant 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 (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."

15. The Hon'ble Supreme Court in the case of **Rajnesh v. Neha** reported in **(2021) 2 SCC 324**, provided a comprehensive criterion and list of factors to be looked into while deciding the question of permanent alimony. This judgment lays down an elaborate and comprehensive framework necessary for deciding the amount of maintenance in all matrimonial proceedings, with specific



emphasis on permanent alimony and the same has been reiterated by Hon'ble Supreme Court in **Kiran Jyot Maini v. Anish Pramod Patel** reported in **2024 SCC OnLine SC 1724**.

16. The Hon'ble Supreme Court in the case of **Pravin Kumar Jain v. Anju Jain** reported in **2024 SCC OnLine SC 3678** has taken note of the various judgments to clarify the position of law with regard to determination of permanent alimony and the factors that need to be considered in order to arrive at a just, fair, and reasonable amount of permanent alimony. In para 31 it is held as under:

“31. There cannot be strict guidelines or a fixed formula for fixing the amount of permanent maintenance. The quantum of maintenance is subjective to each case and is dependent on various circumstances and factors. The Court needs to look into factors such as income of both the parties; conduct during the subsistence of marriage; their individual social and financial status; personal expenses of each of the parties; their individual capacities and duties to



maintain their dependents; the quality of life enjoyed by the wife during the subsistence of the marriage; and such other similar factors. This position was laid down by this Court in Vinny Paramvir Parmar v. Paramvir Parmar, and Vishwanath Agrawal v. Sarla Vishwanath Agrawal.”

17. The Hon’ble Apex Court, taking note of Rajnesh v. Neha (supra) and Kiran Jyot Maini (supra), in para 32 of Pravin Kumar Jain (supra) laid down the following eight factors to be looked into in deciding the quantum:

“i. Status of the parties, social and financial.

ii. Reasonable needs of the wife and the dependent children.

iii. Parties’ individual qualifications and employment statuses.

iv. Independent income or assets owned by the applicant.

v. Standard of life enjoyed by the wife in the matrimonial home.

vi. Any employment sacrifices made for the family responsibilities.



vii. Reasonable litigation costs for a non-working wife.

viii. Financial capacity of the husband, his income, maintenance obligations, and liabilities.

These are only guidelines and not a straitjacket rubric. These among such other similar factors become relevant.”

18. It is pertinent to mention here that duration of the marriage i.e., how long the marriage existed is also a relevant factor in determining the quantum of permanent alimony. Generally, marriages that lasts more than 10 years are entitled to be granted a lifetime alimony. The Hon’ble Supreme Court in Rajnesh v. Neha (supra) in para 74 observed that:-

“74. In contemporary society, where several marriages do not last for a reasonable length of time, it may be inequitable to direct the contesting spouse to pay permanent alimony to the applicant for the rest of her life. The duration of the marriage would be a relevant factor to be taken into consideration for determining the permanent alimony to be paid.”



(emphasis supplied)

19. The conduct of the party seeking the relief is also relevant. The three-judges Bench of Hon'ble Supreme Court in the case of **Sukhdev Singh v. Sukhbir Kaur** reported in **2025 SCC OnLine SC 299**, observed in para 26 as under:

“26.We must note that subsection 1 of Section 25 uses the word “may”. A grant of a decree under Section 25 of the 1955 Act is discretionary. If the conduct of the spouse who applies for maintenance is such that the said spouse is not entitled to discretionary relief, the Court can always turn down the prayer for the grant of permanent alimony under Section 25 of the 1955 Act. Equitable considerations do apply when the Court considers the prayer for maintenance under Section 25. The reason is that Section 25 lays down that while considering the prayer for granting relief under Section 25, the conduct of the parties must be considered.”

(emphasis supplied)



20. Section 25 of the 1955 Act itself envisages that the wife can initiate proceedings for grant of permanent alimony even after the decree of divorce. Therefore, the court does not become *functus officio* with the passing of the decree and continues to have jurisdiction to award alimony even thereafter.

21. Keeping in view the totality of circumstances and to do justice to the parties, we are of the considered view that while keeping it open to the appellant-wife to institute her claim for grant of permanent alimony before the court of competent jurisdiction, we deem it appropriate to grant some amount towards Interim permanent alimony subject to any final decision to be taken by the concerned court on an application to be filed under section 25 of the 1955 Act by the appellant-wife.

22. 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: (2011) 3 RCR (Civil) 900: 2011 (4) Recent Apex Judgments (R.A.J.) 357, 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 be 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.

23. Be that as it may, it is the duty of the Court to see that the wife lives with dignity and comfort and not in penury. The living need not be luxurious but simultaneously she should not be left to live in discomfort. The Court has to act with pragmatic sensibility to such an issue so that the wife does not meet any kind of man-made misfortune.

24. This Court finds that appellant-husband is working as Master in Merchant Navy and getting Rs. 5,00,000/- to 6,00,000/- per month, a details of which has been mentioned in the supplementary affidavit filed on



behalf of the appellant-husband. Apart from the salary, the appellant has also possesses ancestral properties. The appellant-wife has still not re-married with anyone. The appellant has no issue. She is solely dependent on her old aged parents. The appellant has no other source of income and she is getting a maintenance amount of Rs.10,000/- per month as awarded by the Family Court.

25. This Court, while hearing the present petition has observed in para 1, 2, and 3 of the order dated 12.12.2024 which reads as under :-

“Respective parties are living separately for more than one decade. The respondent had filed petition under Section 9 of the Hindu Marriage Act, 1955 and thereafter it was dismissed in the year 2015 during the pendency of the Matrimonial (Divorce) Case No. 211 of 2013..

2. The respondent has not taken further steps so as to show her bona fide in joining her husband. In the absence of such interest shown by her, it is necessary to apprise the respective parties for settlement. In this regard both the appellant and respondent are hereby directed to file



*their assets and liabilities in the form of affidavit in the light of the Hon'ble Supreme Court decision in the case of **Rajnish vs. Neha** reported in (2021) 2 SCC 324 read with **Aditi alias Mithi vs. Jitesh Sharma** reported in (2023) SCC Online SC 1451 before the next date of hearing. They are hereby directed to exchange such affidavit in advance.*

*3. The appellant counsel is hereby directed to take note of latest Hon'ble Supreme Court decision in the case of **Pravin Kumar Jain vs. Anju Jain** reported in 2024 SCC OnLine SC 3678 (Paragraph No. 32) where the Hon'ble Supreme Court has formulated certain factors for the purpose of considering the permanent alimony. On this issue, he is hereby directed to give tentative proposal for permanent alimony with a particular amount so as to examine on the next date of hearing.”*

26. We have also observed in para 2 of the order dated 18.01.2025 which reads as under:-

“ 2. Be that as it may, Appellant has offered an amount of Rs. 50 lakhs as a



permanent alimony and one time settlement. In this regard, Respondent-Smt. Anupama Singh is requested to furnish her counter proposal. If there is any settlement with reference to proposal and counter proposal of one time permanent alimony, in that event, we need not examine correctness and details of the assets and liabilities filed on behalf of the Appellant.

27. While hearing the present appeal on 11.04.2025 we have observed thus:-

“Pursuant to our earlier recording the fact that Appellant has offered a sum of Rs. 50 lakhs. Today, learned counsel for the respondent, on instruction, submitted that Respondent is furnishing counter offer of Rs. 90 Lakhs plus one residential accommodation. Therefore, matter is required to be adjudicated on merits with reference to assets and liabilities read with the fact that how long both were living in a matrimonial home.”

28. Accordingly, after going through the entire facts of this case, we deem it appropriate to grant an



amount of Rs. 90,00,000/- (Rupees Ninety Lakhs Only) towards Permanent Alimony to be paid by appellant-husband to the respondent-wife. Let the said amount be paid by appellant-husband to the respondent-wife within a period of six months from today; failing which the said amount shall carry simple interest @ 6% *per annum*.

29. Accordingly M.A. No. 996 of 2018 stands disposed of with the aforesaid direction. No order as to costs.

30. Pending I.A(s), if any, stand disposed of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, CJ)

Shageer/-

AFR/NAFR	AFR
CAV DATE	11/04/2025
Uploading Date	14/10/2025
Transmission Date	N/A

