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2026:CGHC:27921-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

FA(MAT) No. 287 of 2025

Ayushi Ginoria (Agrawal) (Wrongly Typed As Ginodia) W/o Shri Sumit Agrawal, D/o Shri Vijay Ginodia Aged About 35 Years R/o Shiv Kuti (Wrongly Typed As Shiv Kutir), Gujarati Colony, Dhamtari C.G.

... Appellant

versus

Sumit Agrawal S/o Shri Ashok Kumar Agrawal Aged About 35 Years R/o A-404, Luxora, Vidhansabha Road, Mowa, Raipur C.G.

... Respondent

For Appellant	:	Mr.Manoj Paranjape, Senior Advocate assisted by Mr.Arpan Verma, Advocate
For Respondent	:	Mr.Trivikram Nayak, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

07.07.2026

1. This first appeal under Section 19 (1) of the Family Courts Act, 1984 is directed against the judgment and decree 22.07.2025 (Annexure P-1) passed by the Family Court, Dhamtari in Civil Suit No.104A/2023 in case of "Sumit Agrawal v. Ayushi Ginodia (Agrawal)", whereby the suit preferred by the respondent/husband for

dissolution of marriage and for grant of decree of divorce has been allowed.

2. Brief facts necessary for disposal of this appeal as per pleadings of the parties are that the respondent/husband filed a petition under Section 13(1) of the Hindu Marriage Act, 1955 (short short 'the Act, 1955') seeking dissolution of marriage on the grounds of cruelty and desertion. It was pleaded that the marriage between the parties was solemnized on 29.06.2020 at Mayfair Hotel, New Raipur, according to Hindu rites and customs. The respondent alleged that the appellant/wife had strained relations with his family members, used to ill-treat them, insisted upon living separately from the joint family, and misbehaved with his grandmother on 05.02.2022. It was further alleged that after leaving the matrimonial home for her brother's marriage, she took ancestral jewellery and other valuables worth approximately Rs.35 lakhs and never returned despite repeated requests. The respondent also relied upon an e-mail dated 17.03.2022, complaints made before Mahila Thana, Raipur, and counselling proceedings before Sakhi Centre, Raipur, to contend that the appellant was unwilling to resume cohabitation. On these allegations, the respondent sought a decree of divorce.
3. The appellant/wife filed her written statement denying all the allegations. She specifically contended that she was subjected to harassment and ill-treatment by the respondent and his family members and was always willing to continue the matrimonial relationship. She denied having insisted on living separately, denied

misbehaving with the respondent's family members, and denied taking any ancestral jewellery or other valuables. She further asserted that the respondent had uploaded his matrimonial profile on a matrimonial website describing himself as "Awaiting Divorce" even before filing the divorce petition, thereby demonstrating his intention to dissolve the marriage. The appellant also alleged that the respondent had created a fake profile in her name on the matrimonial website, regarding which she lodged complaints with the police and the website authorities. Consequently, an FIR bearing Crime No. 60/2024 was registered under Section 419 of the Indian Penal Code and Sections 66C and 66D of the Information Technology Act, and criminal case is pending before the Chief Judicial Magistrate, Dhamtari.

4. After recording the evidence of both parties, learned Family Court, by judgment and decree dated 22.07.2025, allowed the respondent's petition and granted a decree of divorce on the grounds of cruelty and desertion. Hence, this appeal.
5. Learned Senior Advocate appearing for the appellant/wife submits that the impugned judgment and decree passed by the learned Family Court are illegal, erroneous, and contrary to the evidence available on record. It is contended that the Family Court failed to appreciate the oral and documentary evidence in its proper perspective and recorded perverse findings while deciding the issues relating to cruelty and desertion. It is further submitted that the respondent/husband failed to establish the statutory grounds under

Section 13(1) of the Act, 1955. The pleadings and evidence adduced by the respondent were wholly insufficient to prove either cruelty or desertion. The Family Court accepted the allegations made by the respondent as gospel truth without any independent corroborative evidence, while completely ignoring the defence taken by the appellant in her written statement and the evidence led by her and her witness.

6. Learned Senior Advocate argues that the appellant had consistently expressed her willingness to resume cohabitation and restore the matrimonial relationship, whereas no sincere effort was ever made by the respondent to bring about restitution of conjugal rights. On the contrary, the respondent's conduct, including creating a matrimonial profile and other acts brought on record by the appellant, clearly demonstrated that he was unwilling to continue the marriage. It is, therefore, submitted that the respondent cannot be permitted to take advantage of his own wrong. It is further contended that the findings of the Family Court regarding mental cruelty are based on conjectures and surmises rather than legally admissible evidence. Mere allegations of non-cohabitation or filing of complaints by the wife cannot, by themselves, constitute cruelty.
7. Learned Senior Advocate also submits that the allegations regarding adultery were never proved in accordance with law. Under Section 13(1)(i) of the Act, 1955, adultery can be established only by proving voluntary sexual intercourse with a person other than the spouse. No such evidence was adduced by the respondent, and therefore, any

reliance on such allegations was wholly unwarranted. It is further argued that the Family Court failed to appreciate that the initial burden of proving cruelty and desertion lay upon the respondent/husband. Without the respondent discharging this burden, the onus could not have been shifted upon the appellant. The impugned findings are thus contrary to the settled principles governing civil trials and matrimonial disputes. Learned Senior Advocate further submits that the Family Court completely ignored the evidence adduced by the appellant, including her testimony and that of her brother, as well as the documentary evidence produced by her. The reasons for the appellant residing separately from the respondent and the circumstances leading thereto were not considered at all. Likewise, the pendency of proceedings under the Protection of Women from Domestic Violence Act could not have been treated as a false or malicious complaint in the absence of any adjudication to that effect. It is lastly submitted that the Family Court awarded permanent alimony of Rs.10,00,000/- without complying with the principles laid down by the Hon'ble Supreme Court in ***Rajnesh v. Neha, (2021) 2 SCC 324***. Neither the income nor the assets of the respondent were properly ascertained, despite the appellant's specific case that the respondent was carrying on lucrative business and earning substantial income. In the absence of financial disclosure by the parties and without any factual foundation under Section 25 of the Act, 1955, the award of permanent alimony is arbitrary and unsustainable. On the aforesaid grounds, learned

Senior Advocate prays that the impugned judgment and decree be set aside and the appeal be allowed.

8. On the other hand, learned Counsel for the respondent supported the impugned judgment passed by the learned Family Court wherein vide order dated 22.07.2025 the decree of divorce has been granted in favour of the respondent. He contends that the appellant had treated the respondent with cruelty and she has deserted her since 07.02.2022 and such desertions tantamounts to cruelty. Furthermore, since 07.02.2022 the parties have been residing separately. Therefore, the learned Family Court has rightly granted the decree of divorce and awarded a sum of Rs. 10 Lakhs as permanent alimony in favour of the appellant.
9. We have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
10. Admittedly, the parties vis-à-vis Appellant-Ayushi Ginoria and Respondent-Sumit Agrawal had solemnized their marriage as per Hindu Customs and Rites on 29.06.2020 (Ex. P- 1 & P-2) and there is no child borne out of the said wedlock between the parties. However, since 05.02.2022 owing to initial dispute between the Appellant and grand-mother of the respondent, there has been continuous matrimonial discord between the parties which was aggravated by the email dated 17.03.2022 (Ex.P-18) sent by the appellant to the respondent. Furthermore, the appellant has left her

matrimonial home on 07.02.2022 citing her brother's marriage and thereafter despite repeated requests of the respondent and his family members and even at several counselling sessions which were conducted at the Mahila Thana, Raipur (Ex. P-13) as well as at the One-Stop Sakhi Centre (Ex. P-16) the appellant had refused to reside with the respondent at their matrimonial home. Accordingly, the respondent had filed an application under Section 13 of the Act, 1955 seeking divorce from the appellant primarily on the ground of desertion and cruelty citing several instances of dispute between the parties. In the meanwhile as the relationship between the parties turned bitter and acrimonious, cases under Domestic Violence Act, 2005 (Ex. P-25 as well as Ex. P-15) and allegations have been casted by the parties against each other.

11. During the divorce proceedings, the parties i.e. respondent (Plaintiff) and appellant (Defendant) have deposed in detail and have narrated the entire facts and circumstances from which it can be seen that parties are at point of 'no reconciliation'. The Family Court relying on the chief and cross-examination of the material witnesses vis-à-vis PW-1 (present Respondent) & DW-1 (present Appellant) has granted the decree of divorce on the ground of cruelty as well as desertion by the appellant and has further granted an alimony to the sum of Rs. 10 Lakhs in favour of the appellant.
12. A bare perusal of the deposition of witnesses in the matter at hand including the evidence tendered by the parties before the Family Court, shows that the refusal on part of the appellant

tantamounts to mental cruelty and harassment as despite repeated requests she has refused to reside with the respondent and moreover, the relationship had reached to such a level of enmity that several cases and counter cases have been filed by the parties against each other and moreover, the desertion and unwillingness of the appellant is clear from her conduct and evidence tendered. Such desertion amounts to cruelty. Furthermore, the appellant during her cross-examination upon query being raised immediately after para 96 of her cross-examination, she herself has affirmed and agreed on the fact that it was her proposal as per which if she (appellant) is granted a lump-sum amount of Rs. 2 Crores by the respondent, she would readily agree for divorce. Also, the parties have been living separately since 07.02.2022, henceforth, there is no scope of reconciliation between the parties. Also, it is worthwhile to note that this is the 2nd Marriage of the appellant and previously as well she has received alimony to the tune of Rs. 25 Lakhs from the previous husband vide order dated 15.01.2019 (pg.80-85 of Paper Book) and therein similarly a case under domestic violence had been initiated and the parties had stayed together for a period of 19 months (29.06.2020 upto 07.02.2022) and since then they are residing separately. Since, there appears no scope for reconciliation between the parties to the extent of living together, hence, considering the statements of the counsels in the

matter at hand this Court had referred the matter for mediation and conciliation vide order dated 18.06.2026 for mutual settlement between the parties with respect to alimony, however, despite efforts made during the mediation proceedings, the parties could not arrive at an amicable settlement, and the mediation ultimately failed on account of the exorbitant monetary demand raised by the appellant.

13. Admittedly, the respondent is proprietor of firm Greenliving (Ex. P-7) and he had submitted the account statement of the firm (Ex. P- 6) for relevant years before the Family Court, whereas the appellant is a Graduate in Fine Arts and she works as an Artist/Painter (Paragraph 34 of cross-examination of DW-1/Appellant). Therefore, looking to the entire facts and circumstances and the evidence tendered in the matter at hand, there is no ground for interference with the findings of the Family Court.

14. The learned Family Court, in paragraph 53 of its judgment, observed that, upon appreciation of the oral and documentary evidence adduced by both parties, it found that, having regard to the nature of the disputes between them, the respondent/wife had shown no inclination to return to the matrimonial home and resume cohabitation with the applicant/husband. By depriving the applicant of matrimonial companionship and consortium, she subjected him to mental cruelty, thereby bringing the matrimonial relationship to an end. The evidence further revealed that the respondent/wife had misbehaved with the applicant's aged grandmother, which also constituted an act of cruelty. The Family Court further found that the

respondent/wife, with mala fide intent, subsequently initiated proceedings under the Protection of Women from Domestic Violence Act against the applicant/husband, his parents, and other family members. According to the Family Court, the said proceedings were unwarranted. It further observed that, after complaints had already been lodged by the applicant and his mother, the respondent/wife deliberately and intentionally initiated criminal proceedings against the applicant and his family members with the object of humiliating and defaming them, thereby causing them harassment and mental agony. In these circumstances, the Family Court was of the opinion that the parties could not reasonably be expected to live together. Considering the facts and circumstances of the present case, it held that requiring the applicant/husband to continue the matrimonial relationship with the respondent/wife would render his marital life wholly intolerable. The respondent/wife had been residing separately from the applicant/husband for the last three years, thereby depriving him of matrimonial companionship, and had shown no willingness to return to the matrimonial home. Her conduct had caused the applicant immense mental pain, frustration, and emotional distress, which, according to the Family Court, squarely fell within the ambit of mental cruelty. The Family Court further observed that continuous objectionable conduct, deliberate neglect, indifference, or a complete departure from the ordinary standards of marital obligations, which causes injury to the mental well-being of a spouse or deprives the

spouse of marital happiness and consortium, amounts to mental cruelty.

15. The learned Family Court, in paragraph 56 of its judgment, further observed that the evidence on record revealed that, despite repeated efforts made by the applicant/husband, his mother, and his father to persuade the respondent/wife to resume cohabitation, she refused to return to the matrimonial home. The mediation efforts undertaken by the elders of the Agrawal community also proved unsuccessful. The Family Court further noted that the respondent/wife expressed her willingness to consent to a decree of divorce only upon payment of a substantial sum of ₹2 crores, indicating that she had no intention of continuing the matrimonial relationship and was interested solely in obtaining a divorce. The respondent/wife abandoned the applicant/husband without any justifiable cause and had been residing separately at her parental home for the past three years, thereby depriving the applicant of matrimonial companionship and consortium. The Family Court was of the considered opinion that a matrimonial relationship which has, over a period of time, become increasingly bitter and acrimonious serves no purpose except to inflict cruelty upon both parties. It further observed that keeping such a broken marriage alive merely for the sake of its continuance would result in injustice to both spouses. The respondent/wife had deserted the applicant/husband for a considerable period, and her cumulative conduct and behaviour, as discussed above, were sufficient to constitute mental cruelty towards the applicant/husband. As a

consequence of the respondent's conduct, the applicant had suffered such grave mental pain, agony, and distress that it was no longer possible for him to continue residing with the respondent/wife. The continuation of the marital relationship would be seriously detrimental and injurious to the applicant's life and well-being. The Family Court further observed that, during the pendency of the present proceedings, the respondent/wife approached the Department of Women and Child Development and initiated proceedings under the Protection of Women from Domestic Violence Act against the applicant and his parents, thereby attempting to subject them to criminal prosecution. According to the Family Court, such conduct also appeared to be an improper attempt to tarnish the reputation of the applicant and his family members. The deep anguish, frustration, mental agony, and despair suffered by the applicant clearly demonstrated that he had been compelled to spend a substantial part of his valuable time defending himself against such proceedings.

16. Having given our anxious consideration to the rival submissions advanced by learned counsel for the parties and upon a careful reappreciation of the pleadings, oral and documentary evidence available on record, we are of the considered opinion that the learned Family Court has rightly appreciated the evidence in its proper perspective and has recorded findings which are based on the material available on record. The appellant has failed to demonstrate that the findings recorded by the Family Court suffer

from any perversity, illegality, or material irregularity warranting interference by this Court in exercise of its appellate jurisdiction.

17. The evidence on record clearly establishes that the parties have been living separately for a considerable period and that the appellant has not shown any genuine inclination to resume matrimonial life. Despite repeated efforts made by the respondent and his family members, as well as mediation attempts, the matrimonial relationship could not be restored. The cumulative conduct of the appellant, as found by the Family Court, has caused the respondent grave mental agony and constitutes mental cruelty within the meaning of Section 13(1)(i-a) of the Act, 1955. The findings recorded by the Family Court in this regard are supported by the evidence on record and do not call for interference.

18. It is also pertinent to note that, with a view to explore the possibility of an amicable resolution of the matrimonial dispute, this Court, vide order dated 18.06.2026, referred the matter to mediation. The mediation proceedings were undertaken in earnest with the object of facilitating a mutually acceptable settlement, particularly with regard to the issue of permanent alimony and dissolution of marriage. However, despite sincere efforts made by the learned Mediator and adequate opportunities afforded to both parties, no settlement could be arrived at. From the report of the Mediator as well as the material available on record, it is evident that the mediation proceedings failed primarily on account of the exorbitant lump-sum monetary demand made by the appellant, which was not acceptable to the respondent.

The failure of the mediation proceedings further demonstrates that the matrimonial relationship between the parties has irretrievably broken down and that there remains no possibility of restoration of conjugal life or reconciliation. The unsuccessful mediation proceedings, coupled with the prolonged separation of the parties and the multiple litigations pending inter se, reinforce the conclusion that the marriage has reached a stage where its continuance would serve no meaningful purpose and would only perpetuate the mental agony and hardship already suffered by both parties.

19. We also find no merit in the contention that the respondent failed to prove the grounds of cruelty and desertion. The Family Court has assigned cogent and convincing reasons while arriving at its conclusions, and the appellant has not been able to point out any material evidence that has been ignored or misread so as to vitiate the impugned judgment.

20. Insofar as the challenge to the award of permanent alimony is concerned, we do not find any ground to interfere with the discretion exercised by the Family Court. The appellant has failed to establish that the amount awarded is arbitrary or contrary to the settled principles governing grant of permanent alimony.

21. Considering the totality of the facts and circumstances of the case, it is evident that the matrimonial bond between the parties has irretrievably broken down, and the relationship has reached a stage where there remains no possibility of the parties resuming

cohabitation. In such circumstances, compelling the parties to continue the marital relationship would only prolong their suffering and serve no useful purpose.

22. Accordingly, the grounds for cruelty are met out in the instant matter at hand and considering the facts, circumstances, grounds and laws discussed hereinbefore, no interference is called for in the present matter. Hence, the appeal being devoid of merit is liable to be and is hereby **dismissed**. The judgment and decree passed by the Family Court granting divorce and permanent alimony to the sum of Rs.10 Lakhs is hereby **affirmed**. Furthermore, the respondent is hereby directed to deposit the decreed amount of Rs.10 Lakhs as permanent alimony before the concerned Family Court within a period of four weeks from the date of this judgment and the appellant shall be at liberty to withdraw the same, if so advised.

23. There shall be no order as to costs.

24. Decree be drawn up accordingly.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice