IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.527 of 2023

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Ajit Kumar Gupta @ Ajeet Kumar Gupta, S/o Ramayan Prasad, R/o Village-Balthar, Post-Balthar, P.S.- Bagaha, District - West Champaran, Bihar - 845437 and presently resides at JIMS Hospital Residential Quarters, 1st Floor, Flat No. 204, Budge Budge, South 24 Parganas, West Bengal-700137.

... ... Appellant/s

Versus

Anjali Devi, W/o Ajit Kumar Gupta and D/o Shatrudhan Prasad, R/o Village-Sariswa, P.O. - Sariswa, P.S. -Majhauliya, District - West Champaran.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Aryan Sinha, Advocate
		Mr. Puneet Siddhartha, Advocate
For the Respondent/s	:	Mr. Rajeev Ranjan, Advocate
		Mr. Gunjan Prakash, Advocate
		Mr. Sumit Kumar Srivastav, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)
Date : 20-08-2026

The instant miscellaneous appeal is preferred against the judgment dated 31.05.2023 and decree of dismissal dated 13.06.2023 passed by the learned Principal Judge, Family Court, West Champaran at Bettiah in Divorce Case No. 285 of 2013.

2. Suffice it to say that the appellant, namely Ajit Kumar Gupta @ Ajeet Kumar Gupta, as petitioner, filed a suit for divorce against his wife (the respondent herein), alleging cruelty under Section 13 (i)(a), (ia) of Hindu Marriage Act, 1955. The case of the appellant/petitioner as disclosed from the plaint, in brief, is that his marriage with the respondent-wife was

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solemnized on 29.05.2012 according to the Hindu rights and ceremonies. After marriage, she came to her matrimonial home and after few days of the marriage, the husband of the elder sister of the respondent, namely, Bajrangi Prasad came to the matrimonial home of the respondent-wife to take her to her paternal home, whereafter she went away with said Bajrangi Prasad and stayed in her paternal home for about one and half months and, thereafter, the respondent-wife returned to her matrimonial home. However, she was not happy at her matrimonial home and most of the time, she remained busy in conversion over phone with some persons, not known to her husband and used to talk to them. The appellant-husband, his elder brother and the other family members asked about the reason of her crying and also want to know the identity of the person to whom she used to talk. At this, the wife (respondent herein) became angry and used to abuse her husband and other family members of the matrimonial side. The husband of her elder sister used to visit the respondent very often and both of them used to spend time in a room. The appellant-husband suspected that his wife (respondent herein) has an adulterous relationship with the husband of her sister.

3. With the suspicion became strong, the appellant-

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husband started behaving with the respondent-wife with cruelty. The respondent used to leave her matrimonial home to go to Raxaul, where her sister and sister's husband resided.

4. At the time of marriage, the appellant-husband was a student of Masters of Surgery in NRS Medical College & Hospital, Kolkata and he had to stay in Kolkata for his study, taking advantage of his absence, his wife (respondent herein) continued her adulterous relationship. When the appellant-husband protested, she assaulted him with fists and blows and also by pulling his hair. She also threatened the husband and his family members that she would lodge a complaint against all her matrimonial relations and send them all to jail.

5. Once the appellant found his wife and the husband of his sister in a compromising position in a room of her matrimonial home. Thereafter, the respondent left her matrimonial home along with entire belonged properties in the year 2013 and since then, she deserted her husband (the appellant herein).

6. It is important to note that at the time of filing of the suit, the husband of the elder sister of the respondent-wife was impleaded as respondent No. 02 to this appeal, but subsequently, the husband (petitioner) deleted his name, as the

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allegation of adultery was not pressed during the trial of the case.

7. The respondent contested the said suit by filing written statement. In the said written statement, she denied all averments and material allegations made by her husband against her and stated that the statements relating to adulterous relationship of the respondent-wife is concocted, false and utterly humiliating to the respondent. She denied the allegation of torture and on the other hand, it is the specific case of the respondent that after two months of the marriage, the father of the appellant along with the one, Promod Upadhayay went to her paternal home and demanded one Maruti Swift Car. When the paternal relations of the respondent expressed their inability to fulfill the same, she was subjected to torture by her husband and other matrimonial relations.

8. Upon the pleadings of the parties, the Court below framed the following issues as enumerated below :-

> *" I. Whether the suit as framed and filed by the petitioner is maintainable?*
>
> *II. Whether petitioner got valid and sufficient cause of action to bring the suit?*
>
> *III. Whether the marriage between the petitioner husband and respondent wife may be dissolved by a decree of divorce u/s 13(1)(i) of Hindu Marriage Act, 1955 on the ground raised in divorce petition that respondent wife has after the*

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solemnisation of marriage had voluntarily sexual intercourse with her Bahanoi, namely, Bajrangi Prasad other than the petitioner husband?

IV. Whether the petitioner husband was treated with cruelty by her wife and he is entitled to decree of divorce on this ground u/s 13(1)(ia) of Hindu Marriage Act, 1955?

V. Whether the petitioner is entitled for any other relief?"

9. In order to prove their respective cases, the petitioner/appellant examined altogether four witnesses. Amongst them, P.W. 1, namely, Jata Shankar Prasad, is the cousin brother of the petitioner; P.W. 2, namely, Niraj Kumar, is the one of the siblings of the petitioner; P.W. 3, namely, Rohit Kumar, is his friend and P.W. 4, namely, Ajit Kumar Gupta, is the appellant himself.

10. The respondent-wife, on the other hand, examined two witnesses including herself, out of whom, D.W. 1, namely, Shatrughan Prasad, is her father and the respondent herself deposed as D.W. 2.

11. On perusal of the pleadings of the parties and the evidence available on record, we find, in usual fairness as admitted by the learned Advocate for the appellant, that the allegation of cruelty revolves around the allegation of adultery. When the appellant himself deleted the name of the person with whom the respondent-wife allegedly at adulterous relationship

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from the array of the defendant and did not press the same on the ground of adultery for the purposes of divorce, the case of the cruelty also does not stand.

12. Moreover, on perusal of the ground of divorce as envisaged in Section 13(1)(i) of the Hindu Marriage Act, 1955 empowers either of the parties to a marriage to pray for dissolution of marriage by decree of divorce on the ground that the other party has, after solemnization of marriage, had voluntary sexual intercourse with any person other than his or her spouse.

13. There is absolutely no evidence that the respondent-wife has voluntary sexual intercourse with any other person than her husband.

14. Since the allegation of cruelty revolves around the issue of adultery inasmuch as, it was alleged by the appellant that when he and his family members told the respondent-wife not to maintain any relationship with the husband of her elder sister, she started to treat the appellant with cruelty. No specific act of cruelty has been stated either in the pleadings or in the evidence on behalf of the appellant/petitioner.

15. Therefore, we have no other alternative, but to hold that the allegation of cruelty is vague and unsustainable.

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16. As a result of above findings, we hold that there is no reason for interference with the judgment dated 31.05.2023 and decree dated 13.06.2023 of dismissal of Divorce Case No. 285 of 2013 passed by the learned Principal Judge, Family Court, West Champaran at Bettiah.

17. The instant appeal is devoid of any merit and the same is, accordingly, dismissed.

(Bibek Chaudhuri, J)

(Rana Vikram Singh, J)

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