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KUTUMB
March 2026 Edition

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Table of Contents

Marriage.....	5
1. Deep Dey v. State of West Bengal, CRR 2190 of 2017.....	5
2. Bheemappa L.K. v. Union of India, WPA 7583 of 2022.....	9
Divorce.....	14
3. Dinesh Sahu v. Padma Sahu, 2026 SCC OnLine Chh 4171.....	14
4. Smt. Nirma @ Nirmala v. Pooran D.B. Civ. Misc. Appeal No. 856/2022.....	18
5. Paras Jain & Anr. v. Nemo, MAT.APP.(F.C.) 72/2026.....	22
Maintenance.....	27
6. Mayurbhai Badvantbhai Dave v. State of Gujarat & Ors., R/CR.RA/181/2025.....	27
7. Sarita Devi v. Mohan Singh, CRM(M) Nos. 444/2020 & 279/2021.....	31
8. Gopal Maity v. Pratima Maity, 2026:JHHC:6794-DB.....	36
9. Shanti Kumari v. Lalan Kumar, 2026:JHHC:6681-DB.....	41

KUTUMB



CENTRE FOR COMPARATIVE
STUDIES IN PERSONAL LAWS



March 2026

Marriage



Marriage

1. Deep Dey v. State of West Bengal, CRR 2190 of 2017

Court: High Court of Calcutta

Coram: Uday Kumar, J.

Date: 6 March 2026

 **Relevance:** This case draws a critical distinction between a socially cohabited relationship and a legally solemnized marriage. It clarifies that a 'marriage' executed solely through signatures on stamp paper is a legal nullity under Hindu Law and cannot form the basis of criminal prosecution for bigamy under Section 494 IPC or matrimonial cruelty under Section 498A IPC.

Facts:

The opposite party (complainant) alleged that her relationship with the petitioner was formalized as a marriage on 27 June 2011. Crucially, in her initial written complaint that set the criminal law in motion, she explicitly stated that the 'marriage' was solemnized solely through the execution of signatures on a non-judicial stamp paper. No mention was made of any customary religious ceremonies such as the sacred fire, the Saptapadi (seven steps), or the exchange of garlands. Following this, the parties reportedly cohabited for approximately three years. On 26 July 2014, the petitioner entered into a formal, registered marriage with another woman, Sumita Saha, supported by a valid marriage certificate.

Aggrieved by this subsequent union, the complainant filed the present case registering charges of Bigamy (Section 494 IPC) and Matrimonial Cruelty (Section 498A IPC). During the investigation, the prosecution attempted to fill the legal gap

by introducing witness statements alleging a 'temple marriage', a version in direct contradiction to the 'stamp paper marriage' version in the foundational FIR. The petitioner approached the High Court seeking quashing of the criminal proceedings under Section 482 Cr.P.C.

Issues:

The Court framed the following key issues:

1. Whether a prosecution for Bigamy under Section 494 IPC can be sustained when the foundational 'first marriage' is admitted to be a signature-based union on stamp paper?
2. Whether the protective rigors of Section 498A IPC can be invoked in a relationship where the inception of marital status is legally void ab initio?

Ratio Decidendi:

1. **Stamp-Paper Union is a Legal Nullity:** The Court undertook a detailed analysis of Sections 5 and 7 of the Hindu Marriage Act, 1955. Section 7 mandates that a Hindu marriage must be solemnized in accordance with customary rites and ceremonies. Where such rites include the Saptapadi, the marriage becomes complete only upon the seventh step. A 'marriage' by signature on a stamp paper is a mode of union wholly unrecognized under the Hindu Marriage Act and, therefore, constitutes a legal nullity. As the Court observed, it lacks the 'legal alchemy' required to transform cohabitation into matrimony. Granting such a contract the sanctity of the Saptapadi would be legally impermissible.
2. **No Prosecution for Bigamy Without Valid First Marriage:** Relying on the landmark Supreme Court decision in *Bhaurao Shankar Lokhande v. State of*

Maharashtra (AIR 1965 SC 1564), the Court reaffirmed that the word 'marries' in Section 494 IPC implies a marriage celebrated with proper ceremonies and legal solemnization. Since the complainant herself admitted the union was based on a stamp paper, the essential requirement of solemnization was absent, making a charge of bigamy legally impossible. The FIR, in effect, carried the 'seed of its own destruction.'

3. **Section 498A Cannot Apply to a Non-Existent Marriage:** On the charge of matrimonial cruelty under Section 498A IPC, the Court acknowledged the precedent in *Reema Aggarwal v. Anupam* (2004) 3 SCC 199, which interprets 'husband' broadly to prevent offenders from escaping on technicalities. However, the Court drew a vital distinction between a marriage that is technically void (where ceremonies were performed but a legal disability existed, such as a subsisting prior marriage) and a union that is legally non-existent from the outset. The protection in *Reema Aggarwal* applies to the former category. Where the complainant's own version describes a union with no form of legal recognition, a secular contract on stamp paper does not clothe the parties with the status of 'spouse' for the purpose of Section 498A.
4. **Subsequent Contradictory Version Cannot Cure Fatal Infirmary:** The Court found that the prosecution's attempt to introduce a 'temple marriage' through witness statements during investigation was a 'transparent, albeit clumsy, attempt to cure a fatal legal infirmity.' Such an afterthought, contradicting the foundational FIR, could not inspire confidence or bridge the legal gap. The criminal machinery cannot be utilized to validate a relationship which the personal law of the parties expressly fails to recognize.

Conclusion:

The High Court allowed the revision petition and quashed the criminal proceedings in G.R. Case No. 5501 of 2014. The petitioner, Deep Dey, was discharged. However, the Court preserved the complainant's liberty to seek legal recourse under other statutory provisions, such as the Protection of Women from Domestic Violence Act, 2005, or other civil or quasi-criminal remedies available to persons in a 'relationship in the nature of marriage.' The ruling firmly establishes that stamp-paper alliances are legally non-existent and cannot form the bedrock of serious criminal prosecutions.

2. Bheemappa L.K. v. Union of India, WPA 7583 of 2022

Court: High Court of Calcutta

Coram: Ajay Kumar Gupta, J.

Date: 19 March 2026

 **Relevance:** This case reinforces the foundational legal principle that mere cohabitation, police reports, or statements of relatives are insufficient to prove bigamy in disciplinary proceedings. Essential marriage ceremonies must be positively established. It also affirms the doctrine against double jeopardy in service law.

Facts:

The petitioner, a Constable (GD) in the Central Reserve Police Force (CRPF) with approximately 24 years of blameless service, faced a departmental charge of having contracted a second marriage during the subsistence of his first marriage, thereby violating Rule 15 of the CRPF Rules, 1955 and Rule 21 of the CCS (Conduct) Rules, 1964. The charge was based on a report from the Superintendent of Police, Sepahijala, Tripura, which in turn relied on statements made by the parents of the alleged second wife, Laxmi Bindha Debbarma, and local village authorities, to the effect that she had eloped and married the petitioner in 2001.

The petitioner denied the allegation, asserting only one lawful marriage with Laxmi B. Koraw, solemnized in 1997, and attributed the charge to mistaken identity. He pointed out that no marriage certificate, no evidence of the performance of essential ceremonies, no wedding photographs or cards, and no complaint from his first wife had ever been produced. Furthermore, the alleged second wife herself denied the

marriage in an affidavit, and the first wife claimed the child in question as her own. Despite this, the Enquiry Officer found the charge proved based solely on hearsay reports and school records showing a name discrepancy. The disciplinary authority ordered the petitioner's removal from service on 11 June 2020, which was confirmed by three successive appellate and revisional authorities.

A second allegation concerning submission of duplicate hostel subsidy claims was also part of the charge, though the petitioner had already been separately punished for this in 2014.

Issues:

The Court framed the following key issues:

1. Whether the allegation of contracting a second marriage was proved in accordance with law, particularly in the absence of evidence of essential marriage ceremonies?

Ratio Decidendi:

1. **Proof of Essential Ceremonies is Mandatory for Bigamy:** The Court examined the settled legal position on proof of a valid marriage, particularly in the context of a bigamy charge. Under the Hindu Marriage Act, 1955, a marriage must be solemnized in accordance with customary rites and ceremonies, including Saptapadi where applicable (Section 7). Relying on the Supreme Court's decisions in *Kanwal Ram v. Himachal Pradesh Administration* (1965) and *Priya Bala Ghosh v. Suresh Chandra Ghosh* (1971), the Court reiterated that mere admission of cohabitation or elopement is insufficient to establish a valid marriage. The factum of marriage must be established by direct proof of the performance of essential ceremonies.

Neither the statements of the parents of the alleged second wife, nor the report of the Superintendent of Police, nor school records reflecting a name discrepancy, constituted legally admissible proof of a valid second marriage.

2. **Departmental Findings Must Be Based on Reliable Evidence:** While acknowledging that departmental proceedings operate on the standard of preponderance of probabilities rather than proof beyond reasonable doubt, the Court held that even under this relaxed standard, findings must rest on reliable evidence. Citing *Roop Singh Negi v. Punjab National Bank* (2009) 2 SCC 570, the Court held that disciplinary findings cannot be based on mere suspicion, conjecture, or unproven hearsay materials. The entire case of the authority rested on statements of interested parties, the alleged second wife's parents, without examining either wife or his children, and without any documentary proof of marriage ceremonies. Even the alleged second wife's own affidavit denied the marriage, yet was discarded by the authority without reason. Such findings were held to be perverse and legally unsustainable.

Conclusion:

The High Court allowed the writ petition, set aside all impugned orders across all levels of the disciplinary hierarchy, and directed the Commandant, 165 Battalion, CRPF to reinstate the petitioner in service with all financial and service benefits within six weeks. The judgment is a significant affirmation that disciplinary proceedings involving marriage-related charges must meet the same standard of proof as civil courts, requiring positive establishment of marriage ceremonies, and that hearsay police reports or familial statements alone cannot sustain a charge of bigamy.

KUTUMB



March 2026

DIVORCE



Divorce

3. Dinesh Sahu v. Padma Sahu, 2026 SCC OnLine Chh 4171

Court: High Court of Chhattisgarh at Bilaspur

Coram: Sanjay K. Agrawal and Arvind Kumar Verma, JJ.

Date: 3 March 2026

 **Relevance:** This case authoritatively holds that a wife's filing of a false Section 498A IPC complaint, followed by seven years of criminal trial culminating in the husband's acquittal, constitutes mental cruelty sufficient to warrant a decree of divorce. It also resolves an important procedural question on the power of a High Court to admit additional evidence in family law appeals.

Facts:

The parties were married on 15 February 2015 according to Hindu rites and customs. The marriage deteriorated almost immediately: the wife cohabited with the husband for only 10–11 days before returning to her parental home and allegedly began pressuring him to live separately from his aged and ailing parents, threatening to implicate him in false cases if he refused. From July 2017, she started residing separately without reason.

In 2018, the respondent-wife lodged an FIR under Section 498A read with Section 34 IPC and Section 5 of the Chhattisgarh Tonhi Pratadna Nivaran Adhiniyam, 2005, against the husband, his two brothers, his father, and his mother, a total of five family members. A charge-sheet was filed on 4 October 2018. In counselling conducted before the Family Welfare Committee, the wife categorically stated she was not willing to return to the matrimonial home. The husband filed for divorce on grounds

of cruelty and desertion under Sections 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955. The Family Court rejected the petition on 18 January 2023, finding both grounds unestablished. The husband appealed, and during the pendency of the first appeal, all five family members were acquitted on 16 June 2025 by the Judicial Magistrate First Class, Bhatgaon in Criminal Case No. J-374/2018. The husband moved an application under Order 41 Rule 27 CPC to place the acquittal judgment on record.

Issues:

The Court framed the following key issues:

1. Whether Order 41 Rule 27 CPC is applicable to appeals before the High Court under Section 19(1) of the Family Courts Act, 1984, enabling the Court to receive the acquittal judgment as additional evidence?
2. Whether the wife's false Section 498A complaint, resulting in seven years of criminal trial before acquittal, constitutes mental cruelty under Section 13(1)(ia) of the Hindu Marriage Act, 1955?
3. Whether the ground of desertion under Section 13(1)(ib) was established?

Ratio Decidendi:

1. **Power to Admit Additional Evidence in Family Court Appeals:** The Court addressed a significant procedural question: Order 41 of the CPC has not been expressly made applicable to appeals under Section 19(1) of the Family Courts Act, 1984, but has also not been expressly excluded. Drawing upon the doctrine of *ex debito justitiae* ('as a debt of justice') and the principle that an express statutory grant of appellate jurisdiction carries with it all ancillary and incidental powers to make that jurisdiction effective and meaningful, the

Court held that it possessed the inherent power to admit additional evidence. The Court relied on the Supreme Court's decisions in *Income Tax Officer v. M.K. Mohammed Kunhi* and *Haryana Suraj Malting Limited v. Phool Chand*, which affirm that powers essentially necessary for effective exercise of jurisdiction are to be read as impliedly granted. The acquittal judgment was accordingly taken on record.

2. **False Section 498A Complaint as Mental Cruelty:** The Court engaged in a detailed analysis of the concept of 'mental cruelty' under Section 13(1)(ia) HMA, citing the landmark framework laid down in *Samar Ghosh v. Jaya Ghosh* (2007) 4 SCC 511. It held that the sustained distress of defending one's honour and that of one's entire family against an unfounded criminal prosecution spanning seven years, only to culminate in an acquittal, constitutes a potent form of mental cruelty. The Court reasoned that in our social fabric, such public accusations tarnish reputation and erode dignity long before any verdict. The criminal charge of 'Tonhi' (branding someone a witch), in addition to Section 498A, added a particularly grave social stigma. Relying on *Rani Narasimha Sastry v. Rani Suneela Rani* (2020) 18 SCC 247, the Court held that when a person undergoes a full trial and is ultimately acquitted of Section 498A charges levelled by the wife, one cannot conclude that no cruelty was inflicted upon the husband. The ground of mental cruelty was held to be established.
3. **Desertion Established After Seven Years of Separation:** On the ground of desertion, the Court found that the parties had been living separately for over seven years from 2018 onwards. The wife's separation was predicated on

allegations of cruelty that were found to be baseless by the criminal court. In the absence of any reasonable cause for the wife to leave the matrimonial home, and with no efforts at reconciliation, the Court concluded that she had deserted the husband intentionally and permanently, satisfying the factum of separation and animus deserendi (intention to bring cohabitation permanently to an end) required under Section 13(1)(ib) HMA. The wife's false criminal complaint had provided the triggering event for the separation, but her own inability to establish those allegations rendered her justification for leaving the home untenable.

Conclusion:

The High Court allowed the appeal and set aside the Family Court's judgment and decree dated 18 January 2023. It granted a decree of divorce in favour of the plaintiff-husband dissolving the marriage solemnized on 15 February 2015. The Court noted that the wife had not claimed permanent alimony in the proceedings but reserved her liberty to seek the same under Section 25 of the Hindu Marriage Act, 1955, by filing a separate application.

4. Smt. Nirma @ Nirmala v. Pooran D.B. Civ. Misc. Appeal No. 856/2022**Court:** High Court of Rajasthan**Coram:** Mr. Justice Sudesh Bansal and Mr. Justice Ashutosh Kumar, JJ**Date:** 5 March 2026

 **Relevance:** This case reinforces the evolving understanding of mental cruelty under Section 13 HMA, particularly recognizing that denial of cohabitation, prolonged separation, and sustained matrimonial discord can cumulatively amount to cruelty. It also reflects judicial acceptance of the “irretrievable breakdown” approach in substance, even where not formally invoked.

Facts:

The marriage between the appellant-wife and the respondent-husband was solemnized in 1999 according to Hindu rites and customs. After the marriage, the parties initially cohabited; however, over time, serious disputes arose between them. The husband alleged that the wife failed to discharge her matrimonial obligations and displayed conduct that was incompatible with a stable marital relationship. According to the husband, the wife persistently refused to engage in normal marital life, avoided cohabitation, and withdrew from the matrimonial home without reasonable cause.

It was further alleged that the wife frequently left the matrimonial home and chose to reside at her parental house for extended periods, thereby disrupting the continuity of marital life. Despite efforts by the husband and intervention by family members and relatives, reconciliation could not be achieved. The husband contended that the

wife's conduct created an environment of emotional estrangement and mental distress, making it impossible to sustain the marriage.

On the other hand, the wife disputed these allegations and asserted that she had been subjected to neglect and ill-treatment. In response to the husband's actions, she initiated proceedings under Section 9 of the Hindu Marriage Act, 1955 (restitution of conjugal rights), seeking restoration of matrimonial cohabitation.

Subsequently, the husband filed a petition under Section 13(1)(ia) and (ib) of the Hindu Marriage Act seeking dissolution of marriage on the grounds of cruelty and desertion. The trial court, upon appreciation of evidence, concluded that the conduct of the wife, particularly prolonged withdrawal from cohabitation and failure to maintain matrimonial relations, amounted to cruelty and that the marriage had effectively broken down. Accordingly, a decree of divorce was granted in favour of the husband.

Aggrieved by the said decree, the wife preferred an appeal before the High Court challenging the findings of the trial court and contending that the essential ingredients of cruelty and desertion had not been established.

Issues:

1. Whether persistent denial of cohabitation and prolonged separation by the wife constitute mental cruelty under Section 13(1)(ia) of the Hindu Marriage Act, 1955?
2. Whether the conduct of the wife amounts to desertion within the meaning of Section 13(1)(ib), particularly in terms of intention to abandon the marital relationship?

3. Whether the filing of a petition under Section 9 HMA (restitution of conjugal rights) negates allegations of cruelty and desertion?
4. Whether the marriage had irretrievably broken down, justifying dissolution despite the absence of an express statutory ground?

Ratio Decidendi:

1. **Mental Cruelty - Cumulative Assessment of Conduct:** The Court reiterated that mental cruelty cannot be confined to instances of physical violence but must be assessed on the basis of the overall conduct of the parties. Persistent refusal to cohabit, lack of emotional companionship, and continued withdrawal from the matrimonial relationship can cumulatively amount to mental cruelty. The Court emphasized that where one spouse consistently avoids fulfilling essential marital obligations, the resulting emotional distress to the other spouse satisfies the threshold of cruelty under Section 13(1)(ia).
2. **Denial of Cohabitation as a Ground of Cruelty:** A significant aspect of the judgment is the recognition that denial of cohabitation and marital intimacy, without reasonable justification, strikes at the very foundation of marriage. The Court held that such conduct, when sustained over a prolonged period, is sufficient to constitute mental cruelty, as it deprives the other spouse of the basic elements of matrimonial life.
3. **Desertion - Intention and Continuity:** The Court clarified that desertion involves not only physical separation but also the intention to abandon the marital relationship permanently. Where a spouse repeatedly leaves the matrimonial home and fails to return despite efforts at reconciliation, such conduct may

indicate animus deserendi. Long and continuous separation strengthens the inference of desertion.

4. **Section 9 HMA Not a Shield Against Divorce:** The Court addressed the argument that the wife's petition for restitution of conjugal rights demonstrated her willingness to resume marital life. It held that such proceedings cannot automatically negate earlier conduct amounting to cruelty or desertion. A petition under Section 9 may, in certain circumstances, be a strategic or defensive move and must be evaluated in light of the overall factual matrix rather than treated as conclusive proof of bona fide intent.
5. **Breakdown of Marriage - Pragmatic Judicial Approach:** The Court adopted a practical approach in recognizing that where the matrimonial relationship has been strained for a prolonged period and the parties have lived apart for years, the marriage may effectively become non-functional. In such cases, the court should not insist on continuation of a relationship that exists only in law but has lost all emotional and practical significance.

Conclusion:

The High Court upheld the decree of divorce granted by the trial court, finding that the cumulative conduct of the wife, particularly prolonged separation and denial of cohabitation, constituted mental cruelty and desertion. The Court concluded that the marriage had effectively broken down beyond repair and that continuation of such a relationship would serve no meaningful purpose. The appeal was accordingly dismissed, and the dissolution of marriage was affirmed.

5. Paras Jain & Anr. v. Nemo, MAT.APP.(F.C.) 72/2026

Court: High Court of Delhi (Division Bench)

Coram: Vivek Chaudhary and Renu Bhatnagar, JJ.

Date: 10 March 2026

 **Relevance:** This case authoritatively applies the Full Bench ruling in *Shiksha Kumari v. Santosh Kumar* (17.12.2025) to hold that the statutory one-year separation period under Section 13B(1) HMA, as a prerequisite for filing a mutual divorce petition, can be waived under the proviso to Section 14(1) HMA upon a showing of exceptional hardship, and that neither waiting period (one-year or six-month cooling-off) is mandatory in appropriate cases.

Facts:

The parties were married on 7 May 2025. The marriage was never consummated. The parties were unable to adjust with each other and began living separately within days, on 15 May 2025, barely eight days after the wedding. On 19 September 2025, they entered into a mutual settlement agreement for dissolution of the marriage by consent divorce upon payment of a consolidated settlement amount. No children were born from the wedlock.

The parties jointly filed a petition under Section 13B(1) of the Hindu Marriage Act, 1955 for mutual divorce. Since the marriage was less than one year old, they filed an application under Section 14 of the HMA seeking waiver of the mandatory one-year period. The Family Court (Family Judge-03, Karkardooma Courts, Delhi) rejected the waiver application on 8 December 2025, holding that the one-year

period had not elapsed and that the parties must wait. Consequently, the divorce petition itself was also dismissed. The parties appealed before the Delhi High Court.

Issues:

1. Whether the statutory one-year period under Section 13B(1) HMA, as a prerequisite for filing the first motion for mutual divorce, can be waived by the Court under the proviso to Section 14(1) HMA?
2. Whether the present facts disclose 'exceptional hardship' warranting grant of such waiver?

Ratio Decidendi:

1. **One-Year Period is Waivable in Cases of Exceptional Hardship:** The Court applied the comprehensive ruling of the Full Bench of the Delhi High Court in MAT.APP.(F.C.) 111/2025, Shiksha Kumari v. Santosh Kumar (17.12.2025), which settled the law on waiver of the waiting periods under Section 13B HMA. The Full Bench had held that: (i) the one-year separation period under Section 13B(1) can be waived by applying the proviso to Section 14(1) HMA; (ii) waiver of the one-year period does not preclude waiver of the six-month cooling-off period under Section 13B(2), and both are to be considered independently; (iii) where both periods are waived, the court is not legally mandated to defer the date of effect of the divorce decree; and (iv) such waiver is not to be granted merely for the asking but only where the court is satisfied that circumstances of 'exceptional hardship to the petitioner' or 'exceptional depravity on the part of the respondent' exist.
2. **Present Facts Disclose Exceptional Hardship:** The Court, having interacted with the parties in chambers and noting personal reasons that it chose not to

disclose in order to protect their privacy, was satisfied that the circumstances warranted waiver. The undisputed facts demonstrated that: the parties lived together for only about seven days after marriage; the marriage remained unconsummated; the parties had been living separately since 15 May 2025; there were no children from the wedlock; both parties had entered into a mutual settlement; and no possibility of reconciliation existed. The Court held that insisting on the completion of the one-year period in such circumstances would serve no meaningful purpose and would only prolong a marriage that existed 'merely in law and not in substance.'

3. Section 14 HMA - Purpose and Scope: The Court noted that Section 14 HMA embodies the legislative intent that parties should ordinarily have sufficient time to reconsider their decision and attempt reconciliation before seeking divorce within one year of marriage. However, the proviso recognizes that in certain situations, insistence on the waiting period itself results in undue hardship. The threshold of 'exceptional hardship,' properly applied, serves as a meaningful filter to ensure only genuine cases benefit from the waiver, while preventing casual or strategic misuse of the provision.

Conclusion:

The Delhi High Court allowed the appeal and set aside the Family Court's order dated 8 December 2025. It granted the parties leave under Section 14 HMA to present their joint petition for divorce by mutual consent under Section 13B(1) HMA forthwith, without waiting for the expiry of one year from the date of marriage. The matter was remanded to the Family Court to proceed with the petition under Section 13B(1), and upon filing of the second motion under Section 13B(2), the Family

KUTUMB



March 2026

Court was directed to consider and decide the petition expeditiously, keeping in view the law in *Amardeep Singh v. Harveen Kaur* (2017) 8 SCC 746.

KUTUMB



CENTRE FOR COMPARATIVE
STUDIES IN PERSONAL LAWS

March 2026

MAINTENANCE



Maintenance

6. Mayurbhai Badvantbhai Dave v. State of Gujarat & Ors.,

R/CR.RA/181/2025

Court: High Court of Gujarat at Ahmedabad

Coram: P.M. Raval, J.

Date: 3 March 2026

 **Relevance:** This case illustrates the limits of revisional jurisdiction in maintenance matters and the principle that while inflation justifies enhancement of maintenance, the court must still furnish palpable reasons for doubling the quantum. Maintenance should enable a reasonable standard of living but must not encourage idleness or be excessive. The wife's educational qualifications and earning potential remain relevant even when she is not currently employed.

Facts:

The applicant-husband challenged the order dated 25 September 2024 of the Principal Judge, Family Court, Surendranagar, which partly allowed an application under Section 127 Cr.P.C. for enhancement of maintenance. By the impugned order, the Family Court enhanced the total maintenance payable to the wife (respondent No. 2) and daughter (respondent No. 3) from Rs. 6,500 per month (Rs. 2,500 for the wife and Rs. 4,000 for the daughter) to Rs. 14,000 per month (Rs. 6,500 for the wife and Rs. 7,500 for the daughter, though judgment recites Rs. 4,500 and Rs. 7,000 initially at para 1, the effective enhanced total is addressed at Rs. 14,000).

The original maintenance of Rs. 6,500 per month had been granted by the Family Court on 5 July 2019 under Section 125 Cr.P.C. The wife and daughter then sought enhancement under Section 127, contending that the wife was no longer employed (she had been earning at the time of the original order), the husband's income had increased to Rs. 25,900 per month from an earlier estimated Rs. 20,000 per month, and the child's needs had grown. The Family Court allowed the enhancement primarily on three grounds: the husband's income had increased; the wife was no longer earning; and five years had elapsed with rising inflation. The husband challenged this in revision.

Issues:

1. Whether the Family Court's order doubling the maintenance amount from Rs. 6,500 to Rs. 14,000 was justified on the material before it?
2. What is the scope of revisional jurisdiction in maintenance matters?

Ratio Decidendi:

1. **Scope of Revisional Jurisdiction - Manifest Error Standard:** The Court reaffirmed the settled law that revisional jurisdiction is narrow and cannot be exercised as a matter of routine. Citing *Amit Kapoor v. Ramesh Chander* (2012) 9 SCC 460, the Court noted that revisional power should be invoked only to correct manifest error, where decisions are grossly erroneous, findings are based on no evidence, material evidence is ignored, or judicial discretion is exercised arbitrarily or perversely.
2. **Wife's Educational Qualification Relevant Even When Unemployed:** Applying *Smt. Jasbir Kaur Sehgal v. District Judge, Dehradun*, AIR 1997 SC 3397, the Court emphasized that the amount of maintenance must enable the wife

to live in reasonable comfort consistent with her status and the mode of life she was accustomed to, while not being excessive or extortionate. While the wife's actual unemployment is a relevant factor, her educational attainment (M.Com.) and potential to earn remains a consideration. Maintenance must not encourage idleness. The social objective behind maintenance is to balance the wife's need against the income and liabilities of the husband, as well as the education and prospects of the wife.

3. Doubling Without Palpable Reasons is Insufficient: The Court found that while some enhancement was warranted, given the increase in the husband's income, the wife's current unemployment, and rising inflation, the Family Court had doubled the amount of maintenance without providing palpable reasons or adequate justification for so substantial an increase. The Court noted additional relevant factors: the husband also had to maintain his ailing mother (aged 76 years); the income as assessed from Income Tax Returns was Rs. 25,900 per month; and if the enhanced amount of Rs. 14,000 per month were paid, more than 50% of the husband's monthly earnings would be consumed by maintenance alone, leaving him unable to comfortably sustain himself and his dependent mother. These factors were not adequately weighed by the Family Court.

Conclusion:

The Gujarat High Court allowed the revision in part and modified the impugned order. The enhanced total maintenance was reduced from Rs. 14,000 per month to Rs. 12,000 per month, specifically: Rs. 5,500 per month for the wife (reduced from Rs. 6,500) and Rs. 6,500 per month for the daughter (reduced from Rs. 7,500). The reduced amount was directed to be paid from the date of the application for

KUTUMB



March 2026

enhancement. The Criminal Misc. Application for stay stood disposed of as infructuous.

7. Sarita Devi v. Mohan Singh, CRM(M) Nos. 444/2020 & 279/2021

Court: High Court of Jammu & Kashmir and Ladakh at Jammu

Coram: Sanjay Parihar, J.

Date: 6 March 2026

 **Relevance:** This case comprehensively examines the bar under Section 488(5) Cr.P.C. (equivalent to Section 125(4) CrPC) whereby a wife living separately by mutual consent is disentitled from claiming maintenance. It reinforces that consistent judicial admissions of separation and customary divorce, even if legally ineffective to dissolve the marriage, can operate through estoppel by conduct to disentitle a wife from maintenance, while acknowledging the court's inherent power to prevent destitution through a one-time settlement.

Facts:

The parties were married in 1990 according to Hindu rites. One son was born from the marriage. In 1995, the wife alleged bigamy by the husband and filed proceedings under Section 494/109 RPC along with a maintenance petition under Section 488 Cr.P.C. On 28 August 1995, the parties entered into a compromise: the wife withdrew both the bigamy complaint and the maintenance petition upon receipt of Rs. 10,000 as full and final settlement, and a customary divorce document (farakhtnama) was executed. Thereafter, the parties lived separately.

In 2003, the wife filed a maintenance petition on behalf of her minor son, in which she described herself as a divorcee. Maintenance for the son was fixed and subsequently enhanced in later proceedings. From 1995 to 2008, she made no claim for maintenance for herself. In 2007, she again filed a bigamy complaint (FIR No.

86/2007) which ended in the husband's discharge under Section 403 Cr.P.C. on account of the earlier compromise. In 2008, she filed a fresh maintenance petition under Section 488 Cr.P.C. without disclosing the earlier proceedings. During the pendency, both parties appeared before a Lok Adalat in 2013 and settled that the respondent would pay Rs. 2,50,000 as full and final permanent alimony, but the husband failed to pay within time, the wife challenged the award before this Court, and it was set aside.

The Chief Judicial Magistrate, Ramban, on reconsideration, allowed the fresh maintenance petition on 29 June 2020 directing the husband to pay Rs. 2,000 per month from the date of filing (14 March 2008) with 10% annual enhancement. The Sessions Court, in revision, reversed this order holding that the parties were living separately by mutual consent, disentitling the wife from maintenance under Section 488(5) Cr.P.C. Both parties challenged respective orders before the High Court.

Issues:

1. Whether the customary divorce (farakhtnama) legally dissolved the marriage between the parties?
2. Whether the bar under Section 488(5) Cr.P.C. (living separately by mutual consent) applied to disentitle the wife from maintenance?
3. Whether the principle of estoppel by conduct operated against the wife given her consistent judicial admissions of separation and divorce?

Ratio Decidendi:

1. **Customary Divorce Not Proved - Marriage Legally Subsists:** The Court affirmed the concurrent findings of the Trial Court and Sessions Court that the respondent failed to establish the existence of a valid custom permitting

dissolution of marriage by farakhtnama. Under the J&K Hindu Marriage Act, 1980, marriage between Hindus can only be dissolved by a decree of divorce in accordance with statutory provisions, unless a specific custom is specifically pleaded and strictly proved. Mere execution of a settlement deed or a farakhtnama cannot by itself dissolve the marriage in the absence of proved custom. The concurrent finding that customary divorce was not established was not interfered with.

2. Bar Under Section 488(5) Cr.P.C. Applies - Living Separately by Mutual

Consent: The Court held that even though the marriage may not have been formally dissolved, the bar under Section 488(5) Cr.P.C. independently disentitles a wife from maintenance if she is living separately by mutual consent. Examining the petitioner's conduct holistically, the Court found overwhelming evidence of consensual separation: she had withdrawn earlier maintenance proceedings upon compromise and accepted Rs. 10,000 as full and final settlement; she had described herself as divorced in subsequent judicial proceedings regarding her son's maintenance (2003 and 2007); she had remained separate for more than a decade without asserting any subsisting marital rights or seeking restitution of conjugal rights; and the Trial Court in 2011 had recorded a specific finding, which was not set aside in the remand, that the parties were living separately by mutual consent. These consistent admissions were held to constitute substantive evidence against the petitioner under the principle in *Narayan Bhagwantrao Gosavi Balajiwale v. Gopal Vinayak Gosavi* (1960) 1 SCR 773.

3. Estoppel by Conduct Operates Against the Wife: The Court held that the principle of estoppel by conduct operated against the petitioner. Having repeatedly asserted divorce and separation in judicial proceedings and having acted on the settlement arrangement, the petitioner cannot be permitted to approbate and reprobate, asserting divorce in earlier proceedings and now claiming desertion. Her consistent admissions in judicial proceedings disentitle her from asserting that she was deserted without cause. The Sessions Court's finding that the petitioner failed to establish neglect or refusal by the husband was legally sustainable.

4. Inherent Power to Prevent Destitution - One-Time Settlement Directed:

Notwithstanding the above findings, the Court exercised its inherent power under Section 482 Cr.P.C. to advance the cause of justice and prevent the petitioner from falling into a state of vagrancy. Noting that the petitioner was living separately since 1995 without an independent source of income, that the respondent had consciously agreed to pay Rs. 2,50,000 as full and final settlement before the Lok Adalat in 2013, and that a Division Bench of the same Court had held that the right of a wife to future maintenance is a matter of public concern that cannot be bartered away (*Vijay Kumari v. Ashwani Kumar*, AIR 2021 J&K 74), the Court directed the respondent to pay Rs. 2,50,000 as a one-time settlement within six months. In case of failure, the petitioner was entitled to interest at 6% per annum from the date of default. Amounts already deposited by the respondent (Rs. 1,40,091 in FDR plus Rs. 50,000 released) were to be adjusted toward this liability.

Conclusion:

Both petitions were dismissed. The High Court upheld the Sessions Court's order setting aside the maintenance award. However, in the exercise of its inherent jurisdiction, the Court directed a one-time payment of Rs. 2,50,000 to the petitioner-wife to prevent her destitution, acknowledging that the legal bar on maintenance under Section 488(5) Cr.P.C. does not entirely absolve the husband of his moral and equitable duty toward a woman he was married to for five years, particularly where the quantum of the 1995 settlement was acknowledged by both parties to have been grossly inadequate.

8. Gopal Maity v. Pratima Maity, 2026:JHHC:6794-DB**Court:** High Court of Jharkhand**Coram:** Sujit Narayan Prasad & Arun Kumar Rai, JJ.**Date:** 12 March 2026

 **Relevance:** This case is significant for reiterating that prolonged separation coupled with matrimonial conduct can justify dissolution of marriage under cruelty and desertion, and that courts must adopt a pragmatic approach by recognizing “dead wood marriages.” It also highlights that while adjudicating matrimonial disputes, courts may simultaneously consider permanent alimony by assessing income, assets, and the standard of living of the parties.

Facts:

The appellant-husband and the respondent-wife were married on 28 April 1998 according to Hindu rites and customs, and a daughter was born from the wedlock. Initially, the parties lived together peacefully; however, over time, serious matrimonial disputes arose. The husband alleged that the wife exhibited a quarrelsome and abusive temperament, frequently engaged in disputes over trivial issues, and ultimately refused to reside in the matrimonial home along with his aged parents. According to the husband, despite repeated efforts and intervention by relatives, the wife declined to return and resumed cohabitation only briefly before again leaving permanently.

The record indicates that the wife began residing at her parental home as early as 1999, with only intermittent and short-lived returns. During this period, allegations

of cruelty escalated, including abusive language, physical assault, and conduct causing mental agony to the husband. The wife also initiated criminal proceedings under Sections 498A, 406, and 313 IPC and under the Dowry Prohibition Act against the husband and his family members. These proceedings ultimately resulted in acquittal of the husband and his parents.

Subsequently, the wife instituted maintenance proceedings seeking financial support for herself and the minor daughter. The competent court directed the husband to pay maintenance of Rs. 8,000 per month, which he continued to pay regularly. Despite this, the marital relationship remained strained, and no reconciliation took place.

After nearly two decades of separation and failed attempts at settlement, the husband filed a petition under Section 13(1)(ia) and (ib) of the Hindu Marriage Act seeking dissolution of marriage on the grounds of cruelty and desertion. The Family Court, however, dismissed the petition, holding that the husband had failed to conclusively establish cruelty or desertion. Aggrieved by this decision, the husband preferred an appeal before the High Court.

Issues:

1. Whether the conduct of the respondent-wife, including long-term separation, alleged cruelty, and institution of criminal proceedings, constituted cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act?
2. Whether the prolonged separation of nearly 20 years amounted to desertion under Section 13(1)(ib), particularly in terms of intention to permanently abandon the marital relationship?

3. Whether the marriage had effectively broken down beyond repair, justifying dissolution despite the absence of a formal statutory ground of irretrievable breakdown?
4. What considerations are relevant in determining permanent alimony in the context of long-term matrimonial disputes?

Ratio Decidendi:

1. **Desertion Beyond Physical Separation:** The Court clarified that desertion is not merely a question of physical separation but involves two essential elements: (i) factum of separation, and (ii) intention to bring cohabitation permanently to an end (animus deserendi). The Court noted that where parties have lived separately for an extended period, nearly two decades, the inference of intention becomes unavoidable. Temporary or intermittent cohabitation does not negate desertion where the overall conduct demonstrates abandonment of marital obligations.
2. **Mental Cruelty - Cumulative Effect Doctrine:** The Court emphasized that cruelty cannot be assessed in isolation based on individual incidents. Instead, the cumulative effect of conduct must be evaluated. Repeated quarrels, refusal to cohabit, abusive behaviour, and initiation of criminal proceedings that culminate in acquittal were considered relevant factors contributing to mental cruelty. The Court observed that sustained mental harassment over a long duration is sufficient to satisfy the threshold of cruelty under matrimonial law.
3. **Long Separation and “Dead Wood Marriage” Concept:** A key aspect of the judgment is its recognition of the concept of a “dead wood marriage.” The Court held that where parties have lived apart for decades and there is no possibility of reunion, the marriage ceases to have any real substance. In such circumstances,

insisting on continuation of the marital bond serves no useful purpose and only prolongs the suffering of both parties. The Court adopted a pragmatic approach, aligning with the broader trend in matrimonial jurisprudence that prioritizes realistic outcomes over formalistic adherence.

4. **Role of Criminal Litigation in Matrimonial Disputes:** The Court took into account the fact that criminal proceedings initiated by the wife resulted in acquittal. While not automatically constituting cruelty, such proceedings, when found to be unsubstantiated, may contribute to mental harassment and breakdown of trust in the marital relationship.
5. **Permanent Alimony - Holistic Financial Assessment:** The Court underscored that determination of permanent alimony must be based on a comprehensive evaluation of the husband's financial position, including salary, retirement benefits, movable and immovable assets, and liabilities. Simultaneously, the financial dependency of the wife and her standard of living during the marriage must be considered to ensure fairness and adequacy.

Conclusion:

The High Court found that the Family Court had failed to properly appreciate the evidence and the prolonged nature of separation between the parties. It recognized that the marriage had irretrievably broken down and that the husband had established grounds of cruelty and desertion. The Court, therefore, inclined towards granting dissolution of marriage and directed that appropriate orders regarding permanent alimony be determined in light of the financial circumstances of both parties.

9. Shanti Kumari v. Lalan Kumar, 2026:JHHC:6681-DB

Court: High Court of Jharkhand at Ranchi

Coram: Sujit Narayan Prasad & Arun Kumar Rai, JJ.

Date: 6 March 2026

 **Relevance:** The Jharkhand High Court reaffirmed that permanent alimony under Section 25 of the Hindu Marriage Act must ensure financial dignity and security for the dependent spouse. It clarifies that even after dissolution of marriage and despite allegations of misconduct, courts must balance financial capacity, dependency, and standard of living while awarding alimony.

Facts:

The marriage between the appellant-wife and the respondent-husband was solemnized on 4 February 2019 in accordance with Hindu rites and customs. Soon after the marriage, disputes arose between the parties. The wife alleged that the marriage was performed under coercion and that she was subjected to harassment, cruelty, and exploitation by the husband and his family members. She further contended that she was denied conjugal companionship and was subjected to continuous mental and physical distress.

The husband, on the other hand, alleged that the wife refused to establish marital relations, maintained an illicit relationship with another person, and initiated multiple false criminal proceedings against him and his family members under various provisions of the IPC and the Dowry Prohibition Act. The matrimonial dispute escalated into multiple litigations, including criminal complaints and civil proceedings.

The husband filed a petition under Section 13 of the Hindu Marriage Act seeking divorce on grounds of cruelty, adultery, and desertion. The Family Court, after evaluating the evidence, granted a decree of divorce in favour of the husband. Aggrieved by the decision, the wife preferred an appeal before the High Court. During the pendency of the appeal, it was brought to the notice of the Court that the husband had contracted a second marriage. The wife, who was unemployed and financially dependent on her father, sought permanent alimony under Section 25 of the Hindu Marriage Act, contending that she had no independent source of income and required financial support for her sustenance.

Issues:

1. Whether the appellant-wife is entitled to permanent alimony under Section 25 of the Hindu Marriage Act, 1955 despite the decree of divorce?
2. What factors should govern the determination of quantum of permanent alimony?
3. Whether allegations of misconduct, including adultery or cruelty, disentitle a spouse from claiming maintenance?
4. What is the effect of the husband's remarriage on the wife's claim for alimony?

Ratio Decidendi:

1. **Section 25 HMA - Welfare-Oriented Provision:** The Court reiterated that Section 25 is an enabling provision designed to ensure that a spouse who lacks sufficient independent income is not left destitute. The objective of the provision is not punitive but protective, aiming to secure financial stability and dignity for the dependent spouse.

2. **Determination of Quantum - Multi-Factor Approach:** The Court held that while fixing permanent alimony, the following factors must be considered holistically:
 - Income, assets, and liabilities of both parties
 - Standard of living enjoyed during the marriage
 - Age, health, and financial dependency of the applicant
 - Conduct of parties (as a relevant but not decisive factor)
3. **Misconduct Not an Absolute Bar:** The Court clarified that allegations of misconduct do not automatically disentitle a spouse from claiming maintenance. While conduct may influence the quantum, it cannot defeat the fundamental objective of ensuring subsistence and dignity.
4. **Remarriage of Husband - Relevant Consideration:** The fact that the husband had remarried during the pendency of proceedings was considered significant. It indicated that the marital relationship had conclusively ended, thereby strengthening the need to secure financial protection for the wife.
5. **Maintenance as a Right to Dignified Living:** The Court emphasized that maintenance must enable the spouse to live with dignity and not merely survive. The quantum must strike a balance between the needs of the wife and the financial capacity of the husband.

Conclusion:

The High Court held that the wife was entitled to permanent alimony and directed that an appropriate amount be determined based on the financial position of the husband and the needs of the wife. The judgment reinforces the principle that

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maintenance is a tool of social justice and must be applied in a manner that ensures fairness and equity.