FAMILY LAW: IMPORTANT LEGAL ISSUES EXPLAINED THROUGH RECENT JUDGMENTS

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JURISDICTION

❖ ***Baga Tirkey v. Pinki Linda, 2021 SCC OnLine Jhar 1339***

The appeal arose from an order of the Principal Judge, Family Court, Ranchi, dismissing a divorce suit filed by members of the Oraon Scheduled Tribe as not maintainable. The Family Court held that since the parties were governed by customary law and not by any codified matrimonial statute such as the Hindu Marriage Act, 1955, the Special Marriage Act, 1954 or the Divorce Act, 1869, the Court lacked jurisdiction and that divorce under tribal custom could only be granted by the Community Panchayat. The Jharkhand High Court examined whether the absence of a codified substantive law governing Scheduled Tribes ousted the jurisdiction of the Family Court.

The High Court held that the Family Courts Act, 1984 is a **secular procedural statute** enacted to establish a specialised forum for adjudication of matrimonial and family disputes. It does not derive jurisdiction from the personal law applicable to the parties. Referring to the scheme of Section 7, the Court observed that the expression "all the jurisdiction" employed in Section 7(1) clearly demonstrates the legislative intent that every matrimonial dispute enumerated in clauses (a) to (g) of the Explanation falls within the exclusive jurisdiction of the Family Court, irrespective of the religion or community of the parties. The Court held:

> "*The Family Courts Act, 1984(FCA) is a secular law applying to all religions." (Para 9)*

Further explaining the legislative intent, the Court observed:

> *"Use of the words 'all the jurisdiction' makes the legislative intent clear that all the enumerated matters in the Explanation to Section 7 would be the exclusive domain of the Family Courts established under the FCA. In other words, the FCA created a forum for adjudication of matrimonial matters... which forum can be resorted to by one and all, be it a member of Scheduled Tribe or a person of any religion."* (Para 9)

The Court relied upon the Supreme Court's decision in *K.A. Abdul Jaleel v. T.A. Shahida, (2003) 4 SCC 166,* wherein it was held that the jurisdiction of Family Courts should receive a broad and liberal interpretation, and that a restrictive construction would frustrate the very object for which Family Courts were established. The Court also relied on *Balram Yadav v. Fulmaniya Yadav, (2016) 13 SCC 308,* reiterating that all matters falling within Section 7 are within the exclusive jurisdiction of the Family Court.

After surveying the statutory framework and judicial precedents, the High Court categorically held:

> *"There is no precedent which bars members of the Scheduled Tribe to approach the Family Court by filing any suit or proceedings relating to matters mentioned in Clauses-(a) to (g) of the Explanation to Section 7 of the FCA. If at all, such matter is filed, seeking adjudication under the law, applicable to them i.e. Customary Laws, they cannot resort to the provisions of Hindu Marriage Act, 1955, if the parties are not governed by the Hindu Marriage Act, 1955. Reference is made to the decision of this Court in the case of Rajendra Kumar Singh Munda v. Smt. Mamta Devi in **F.A. No. 186 of 2008**, vide judgment dated 20th August, 2015. This Court affirmed the order of the Family Court, dismissing the suit for divorce, filed by a member of Schedule Tribe, under Section 13 of the Hindu Marriage Act, 1955, on the ground that the Hindu Marriage Act does not apply. Customary Laws are applicable in the matters of succession, where parties are governed by Customary Laws. [See Bharat Bhushan v. Tej Ram, reported in (2016) 15 SCC 655; T. Ravi v. B. Chinna Narasimha, reported in (2017) 7 SCC 342 as also in the case of Narayanan Rajendran v. Lekshmi Sarojini, reported in (2009) 5 SCC 264.]"* (Para 14)

The Court clarified, however, that although members of Scheduled Tribes may not invoke the provisions of the Hindu Marriage Act because of Section 2(2) thereof, this does not deprive the Family Court of jurisdiction. Rather, the Court must adjudicate such disputes by applying the applicable customary law after it is properly pleaded and proved.

The Court further emphasised that jurisdiction of a court is conferred by statute and cannot be curtailed merely because the governing substantive law is uncodified. Referring to the settled principle that exclusion of jurisdiction cannot readily be inferred, it observed that customary practices cannot deny an individual access to a court of law. In this context, the Court accepted the submission of the Amicus Curiae that:

> *"It is a principle of law that every citizen has a right of unimpeded access to a court." (Para 17)*

The High Court distinguished between jurisdictional facts and adjudicatory facts. It held that the fact that both parties belonged to the Oraon community and had married according to tribal customs constituted the jurisdictional fact, which entitled the Family Court to entertain the proceeding. Whether a particular customary law governing divorce actually existed, and whether it entitled the parties to dissolution of marriage, were adjudicatory facts to be decided after trial on the basis of pleadings and evidence.

Accordingly, the Court held:

> *"The Family Court Act, being a secular law, applying to all religions and communities... could not have held that the suit is not maintainable in the absence of a codified Customary Law of the parties." (Para 20)*

The Court further ruled that once it is found that the parties are governed by customary law, the Family Court must frame an appropriate issue regarding the existence of such custom and require the parties to establish it by evidence. It observed:

> *"The learned Family Court ought to have framed an issue to that effect. Once it is found that the parties are governed by the Customary Law, the parties are required to plead and prove the customs by which they are governed in matters concerning marriage and divorce." (Para 21)*

Relying upon *Yamanaji H. Jadhav v. Nirmala, (2002) 2 SCC 637*, the Court reiterated that a custom permitting divorce, being an exception to the general law, must be specifically pleaded and strictly proved. Likewise, relying on Subramani v. M. Chandralekha, (2005) 9 SCC 407 and Dr. Surajmani Stella Kujur v. Durga Charan Hansdah, (2001) 3 SCC 13, the Court reiterated that a party relying upon custom must establish that it is ancient, certain, continuous, reasonable and proved by clear and cogent evidence.

Concluding the matter, the High Court held that the Family Court had committed a clear jurisdictional error in refusing to entertain the suit merely because there was no codified personal law applicable to the parties. The Court held:

"The legislature having consciously conferred jurisdiction upon the Family Court to adjudicate on matters enumerated under Clauses (a) to (g) of the Explanation to Section 7(1)... the learned Family Court could not have held the suit to be not maintainable, as there is absence of a substantive codified law governing the parties." (Para 26)

Accordingly, the judgment of the Family Court was set aside, and the matter was remanded with directions to frame appropriate issues regarding the existence and proof of the relevant customary law and decide the matrimonial dispute on merits after recording evidence. This decision firmly establishes that the jurisdiction of the Family Court is determined by Section 7 of the Family Courts Act and not by the existence of a codified personal law, while the applicable customary law constitutes the substantive law to be pleaded and proved during trial.

❖ ***Amrit Lal Chakma v. Babita Chakma; 2023 SCC OnLine Tri 830***

The appeal arose from an order of the Family Court, Kailashahar rejecting a joint petition for divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. The Family Court held that although the parties were Buddhists, they belonged to the Chakma Scheduled Tribe and, in view of Section 2(2) of the Hindu Marriage Act, 1955, the Act was inapplicable to them in the absence of a Central Government notification. It therefore concluded that disputes relating to divorce among Scheduled Tribes were governed only by customary tribal rules and that the Family Court had no jurisdiction to entertain the petition.

Setting aside the order, the Tripura High Court held that the Family Court had misdirected itself on the question of jurisdiction. It reiterated that the Family Courts Act, 1984 is a secular procedural statute creating a specialized forum for adjudication of matrimonial disputes and that the jurisdiction of the Family Court is independent of the substantive personal law applicable to the parties.

Referring to Section 7 of the Family Courts Act, the Court observed:

"The Family Courts Act is a secular law applying to all religions. Section 7(1)(A) of the Family Courts Act, 1984 confers 'all the jurisdiction' hitherto exercised by any District Court or any Subordinate Civil Court in suits or proceedings relating

> *to matters mentioned in Clauses (a) to (g) of the Explanation…. Use of the words 'all the jurisdiction' makes the legislative intent clear that all the enumerated matters in the explanation to Section 7 would be the exclusive domain of the Family Courts established under the Family Courts Act, 1984. In other words, the Family Courts Act, 1984 created a forum for adjudication of matrimonial matters… which forum can be resorted to by one and all, be it a member of scheduled tribe or a person of any religion." (Para 12)*

The Court expressly relied upon ***Baga Tirkey v. Pinki Linda; 2021 SCC OnLine Jhar 1339: (2021) 2 JBCJ 723 (HC)*** and adopted its reasoning regarding the jurisdiction of Family Courts over matrimonial disputes involving members of Scheduled Tribes.

The Court further relied upon *K.A. Abdul Jaleel v. T.A. Shahida; (2003) 4 SCC 166,* wherein the Supreme Court held:

> *"The wordings 'disputes relating to marriage and family affairs and for matters connected therewith'… must be given a broad construction." (Para 11)*

and further observed:

> *"It is now a well-settled principle of law that the jurisdiction of a court created specially for resolution of disputes of certain kinds should be construed liberally. The restricted meaning if ascribed to Explanation (c) appended to Section 7 of the Act… would frustrate the object wherefor the Family Courts were set up." (Para 14)*

The High Court also referred to *Balram Yadav v. Fulmaniya Yadav; (2016) 13 SCC 308*, wherein the Supreme Court explained the width of the Family Court's jurisdiction under Section 7:

> *"Under Section 7(1) Explanation (b), a Suit or a proceeding for a declaration as to the validity of both marriage and matrimonial status of a person is within the exclusive jurisdiction of the Family Court… It makes no difference as to whether it is an affirmative relief or a negative relief. What is important is the declaration regarding the matrimonial status." (Para 14)*

On the strength of these authorities, the Court held:

"The illuminating opinion of the Apex Court leaves no room of doubt on an expansive and liberal interpretation of the jurisdiction of the Family Courts under the Family Courts Act, 1984. There is no precedent which bars members of the Scheduled Tribe to approach the Family Court by filing any suit or proceedings relating to matters mentioned in Clauses-(a) to (g) of the Explanation to Section 7 of the Family Courts Act, 1984." (Para 15)

The High Court observed that the parties had specifically pleaded that although they belonged to a Scheduled Tribe, they professed Buddhism, had solemnised their marriage under the Hindu Marriage Act, 1955 and had also registered it under Section 8(1) of that Act. Therefore, the Family Court ought not to have dismissed the petition solely because the parties belonged to a Scheduled Tribe. Instead, the Court held:

"It is for the parties to plead and prove that they were sufficiently Hinduised for being governed by the provisions of the Hindu Marriage Act, 1955…. The learned Court should have allowed the parties to plead and prove that they are Hinduised and are governed by the Hindu Marriage Act, 1955 and that they had got their marriage registered under Section 8(1) of the Hindu Marriage Act, 1955." (Para 16)

The High Court emphasized that the Family Court possessed procedural jurisdiction to entertain the matrimonial proceeding and had wrongly treated the issue relating to the applicability of the Hindu Marriage Act as one of jurisdiction. The Court observed:

"The Family Court has procedural jurisdiction to entertain a suit for dissolution of marriage and there is no patent lack of jurisdiction. The Family Court seems to have posed a wrong question and answered it incorrectly thereby committing error of jurisdiction. 'Adjudicatory Facts' and 'Jurisdictional Facts' are different."]" (Para 17)

In support, reliance was placed upon *Carona Ltd. v. Parvathy Swaminathan & Sons; (2007) 8 SCC 559,* wherein the Supreme Court held:

"Stated simply, the fact or facts upon which the jurisdiction of a Court… depends can be said to be a 'jurisdictional fact'. If the jurisdictional fact exists, a Court… has jurisdiction to decide other issues." (Para 27)

“There is distinction between ‘jurisdictional fact’ and ‘adjudicatory fact’… An ‘adjudicatory fact’ is a ‘fact in issue’ and can be determined… on merits, on the basis of evidence adduced by the parties.” (Para 29)

“For assumption of jurisdiction by a Court or a Tribunal, existence of jurisdictional fact is a condition precedent. But once such jurisdictional fact is found to exist, the Court or Tribunal has power to decide adjudicatory facts or facts in issue.” (Para 36)

Applying the above principles, the High Court held that the parties' pleadings - that they belonged to a Scheduled Tribe, professed Buddhism, solemnised their marriage under the Hindu Marriage Act and had the marriage registered under Section 8(1) - constituted the jurisdictional facts enabling the Family Court to entertain the matter. Whether they were “sufficiently Hinduised” so as to attract the provisions of the Hindu Marriage Act was merely an adjudicatory fact requiring evidence. Accordingly, the Court held:

“The underlying jurisdictional fact as pleaded before the Family Court was that though both the parties belong to a Scheduled Tribe community but they have adopted Buddhism. Their marriage was performed as per Hindu Marriage Act and has been registered under the Hindu Marriage Act. Whether the parties could plead and prove that they were sufficiently Hinduised to be governed by the Hindu Marriage Act, 1955 was a matter of determination on issues being the 'Adjudicatory Facts'. As such, simply being guided by the fact that the parties did belong to a Scheduled Tribe community, the suit ought not to have been dismissed.”(Para 19)

The Court further observed:

“The learned Family Court ought to have framed an issue to that effect that whether the parties are sufficiently Hinduised to be governed by the Hindu Marriage Act. It was thus necessary for the parties, seeking divorce under the Hindu Marriage Act to plead and establish that they are sufficiently Hinduised.”(Para 19)

Accordingly, the High Court set aside the order of the Family Court and remanded the matter for fresh adjudication with directions to frame appropriate issues, permit amendment of pleadings and allow the parties to lead evidence regarding their claim that they were governed by the Hindu Marriage Act by reason of their Hinduisation and registration of marriage under Section 8(1). The judgment reiterates that the jurisdiction of the Family Court flows from Section 7 of the Family Courts Act, whereas the applicability of the Hindu Marriage Act is a matter to be determined on evidence and not a ground to decline jurisdiction at the threshold.

❖ ***Ravindra Sukhdev Ghadge v. Swati Ravindra Ghadge, 2018 SCC OnLine Bom 4133***

*“**6.** The Family Courts Act, 1984 was enacted to provide for the establishment of Family Courts “with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith,” as indicated in the preamble of the Act. A separate forum known as Family Court, with facilities for expert advice on matrimonial matters from marriage counsellors, and with emphasis on the conciliatory process more than adjudicatory process, was set up under this Act.*

***7.** As per section 7 of the Family Courts Act, the Family Court shall have jurisdiction of district Court or any subordinate Civil Court under any law for the time being in force in respect of suits and proceedings of the nature referred to in sub-clause (a) to (g). Clause (f) of section 7 deals with suit or proceeding for maintenance.*

***11.** Section 8 is specific. It lays down that, where a Family Court is established in any area, no district Court or any subordinate Civil Court referred to in sub-section (1) of section 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the explanation. Similarly, the jurisdiction of the Magistrate Court is also ousted by the sub-clause (b).”*

❖ <u>**Balram Yadav v. Fulmaniya Yadav; (2016) 13 SCC 308**</u>

Q. Whether the Family Court has jurisdiction to entertain a suit seeking a negative declaration that the respondent is *not* the legally married spouse of the plaintiff?

The Supreme Court held that the Family Court has exclusive jurisdiction to entertain a suit seeking either an affirmative or a negative declaration regarding the validity of a marriage or the matrimonial status of a person under Section 7(1) Explanation (b) of the Family Courts Act, 1984.

The Court observed that what is material is the nature of the declaration sought, namely, the determination of the matrimonial status of a person. The jurisdiction of the Family Court does not depend upon whether the plaintiff seeks a declaration that a marriage is valid or invalid, or whether a person is or is not the legally wedded spouse. A suit seeking a declaration that the respondent is not the legally married wife of the plaintiff squarely falls within the ambit of Section 7(1) Explanation (b).

The Court further held that Section 8 of the Family Courts Act excludes the jurisdiction of ordinary civil courts in respect of matters falling within Section 7. Further, Section 20 gives overriding effect to the Family Courts Act over any inconsistent law, reinforcing the exclusive jurisdiction of the Family Court.

Accordingly, the Supreme Court held that the High Court erred in holding that a negative declaration was outside the jurisdiction of the Family Court, set aside the High Court's judgment, and remitted the matter to the High Court for decision on merits.

❖ ***Renubala Moharana v. Mina Mohanty; (2004) 4 SCC 215 : 2004 SCC OnLine SC 371***

Q**. Whether the Family Court has jurisdiction under Section 7(1)(e) of the Family Courts Act, 1984 to grant a declaration that a child born out of an alleged extra-marital relationship is the child of a person who was never married to the mother?**

The Supreme Court held that the Family Court has no jurisdiction to grant a declaration regarding the legitimacy or illegitimacy of a child where there is no claim arising out of a marital relationship.

The Court observed that Section 7(1) Explanation (e) of the Family Courts Act empowers the Family Court to entertain proceedings for a declaration as to the legitimacy of a person only in matters connected with a marital relationship. Where the claim is founded on an alleged extra-marital relationship between persons who were never married to each other, the Family Court cannot grant a declaration that the child is the offspring of such a person. Accepting such a plea would not amount to declaring the child legitimate, but rather to declaring the child illegitimate, which is outside the scope of Section 7(1)(e).

❖ ***Ivan Rathinam v. Milan Joseph, 2025 SCC OnLine SC 175***

Q. Whether the Family Court has exclusive jurisdiction under Sections 7 and 8 of the Family Courts Act, 1984 to decide a dispute relating to paternity and legitimacy, thereby excluding the jurisdiction of the Civil Court?

The Supreme Court held that although the Family Court has exclusive jurisdiction to entertain suits or proceedings for a declaration as to the legitimacy of a person under Section 7(1)(e) of the Family Courts Act, such jurisdiction is confined to disputes arising out of a marital relationship. Where the dispute is founded on an alleged extra-marital relationship and there is no claim concerning the marital relationship between the spouses, the matter does not fall within the exclusive jurisdiction of the Family Court.

Relying upon *Renubala Moharana v. Mina Mohanty*, (2004) 4 SCC 215 : 2004 SCC OnLine SC 371, the Court reiterated that the Family Court cannot entertain proceedings seeking a declaration of legitimacy or paternity in the absence of a claim arising from a marital relationship. The jurisdiction of the Family Court is intended for the settlement of matrimonial causes and disputes flowing from the rights and obligations of marriage.

Accordingly, the Court held that since the dispute concerned an alleged extra-marital relationship between the appellant and the respondent's mother, and not the marital relationship between the respondent's mother and her husband, the Original Suit was rightly entertained by the Munsiff Court and the Civil Court's jurisdiction was not barred by Sections 7 and 8 of the Family Courts Act.

❖ ***C. Raja v. M. Sridevi, 2023 SCC OnLine Mad 8732***

Q. Whether a Family Court has jurisdiction under Section 7 of the Family Courts Act, 1984 to entertain a suit filed by a wife seeking a permanent injunction restraining her husband from alienating his residential property, merely on the ground that it is her matrimonial home; and whether a revision under Article 227 is maintainable to strike off such a plaint for want of jurisdiction.

The Madras High Court held that the Family Court has no inherent jurisdiction under Section 7 of the Family Courts Act to entertain a standalone suit by a wife seeking a perpetual injunction restraining the husband from alienating his exclusively owned residential property, where the wife neither claims any proprietary interest in the property nor seeks the relief as ancillary to any matrimonial or statutory relief. Consequently, a revision petition under Article 227 of the Constitution is maintainable to strike off such a plaint for lack of jurisdiction.

1. Family Courts are courts of limited and statutory jurisdiction. Their jurisdiction is confined to the categories of disputes expressly enumerated in the Explanation to Section 7(1).

2. Explanation (c) covers disputes between spouses regarding the property of the parties or either of them, but contemplates disputes where some legal claim or right regarding the property exists.

3. Explanation (d) covers suits for injunction only when the injunction arises out of a marital relationship and falls within the statutory jurisdiction conferred by Section 7.

4. A mere injunction restraining alienation of the husband's property, without any declaration of rights, claim of ownership, maintenance, or other matrimonial relief, does not fall within either Explanation (c) or (d).

5. The wife's assertion that the property is her matrimonial residence does not, by itself, confer jurisdiction on the Family Court to restrain the husband from dealing with his property.

The Court examined Sections 17, 18, 19, 20, 21, 22 and 26 of the Protection of Women from Domestic Violence Act, 2005 and held:

- Section 26 permits reliefs under Sections 18–22 of the DV Act to be sought before a Civil Court, Family Court or Criminal Court only in a pending legal proceeding.

- Section 7(2)(b) of the Family Courts Act does not independently enlarge the Family Court's jurisdiction. It merely enables the Family Court to exercise jurisdiction conferred by another enactment where such jurisdiction already exists.

- Therefore, an independent civil suit before the Family Court solely seeking relief analogous to Section 19 of the DV Act is not maintainable.

The Court extensively examined earlier authorities on Section 7:

- K.A. Abdul Jaleel v. T.A. Shahida, (2003) 4 SCC 166 — recognised that Section 7 should receive a liberal interpretation in disputes concerning property between spouses arising from matrimonial relationships.

- N.R. Gopal v. K.G. Banumathi, (2000) 2 LW 711 — upheld Family Court jurisdiction where injunction related to matrimonial property rights asserted by the wife.

- Shyni v. George, AIR 1997 Ker 231 — held that impleading relatives of a spouse does not oust Family Court jurisdiction where the substantive dispute is between spouses regarding matrimonial property.

- Avneet Kaur v. Sadhu Singh (Delhi High Court) — interpreted the expression “arising out of a marital relationship” broadly while dealing with injunction proceedings.

- Smt. Payal Sancheti v. Harshardhan Sancheti (Rajasthan High Court) and B. Gajendran v. Adhilakshmi (Madras High Court) — held that Family Courts lack jurisdiction where the wife seeks only to restrain alienation of property belonging exclusively to the husband or his family without asserting any legal proprietary right.

After analysing these authorities, the Division Bench approved the view in *B. Gajendran v. Adhilakshmi in CRP.[PD]. No. 142/2013 dated 03.04.2013 (-reported at (2013) 2 LW 969)* and declined to adopt the broader interpretation suggested in some other decisions.

The Court noted that:

- Section 7 of the Family Courts Act does not confer unlimited jurisdiction over every dispute between spouses.
- Jurisdiction exists only where the dispute falls within the specific classes of proceedings enumerated in the Explanation to Section 7.
- A bare suit for permanent injunction restraining the husband from alienating his property, without any independent legal right in the property or any connected matrimonial relief, is outside the jurisdiction of the Family Court.
- Where the Family Court inherently lacks jurisdiction, the plaint is liable to be struck off, and a petition under Article 227 is maintainable for that purpose.

❖ ***Kishorekumar Mohan Kale v. Kashmira Kale*, 2026 SCC OnLine SC 448.**

Q. Under what circumstances will a foreign decree of divorce relating to a marriage governed by the Hindu Marriage Act, 1955 be recognised by Indian courts?

The Court reiterated that recognition of a foreign decree of divorce is governed by Section 13 of the Code of Civil Procedure, 1908, as interpreted in *Y. Narasimha Rao v. Y. Venkata Lakshmi*. A foreign matrimonial decree will ordinarily be recognised in India only if: (i) the relief has been granted on a ground recognised by the matrimonial law governing the parties; (ii) the respondent voluntarily and effectively submitted to the jurisdiction of the foreign court and contested the proceedings; or (iii) the respondent expressly consented to the grant of such relief. In addition, the proceedings must satisfy the requirements of natural justice by affording the respondent a meaningful opportunity to contest the case.

The Supreme Court held that mere service of summons or filing of a written statement objecting to the jurisdiction of the foreign court does not amount to voluntary submission to that jurisdiction. Likewise, where the foreign court grants divorce on a ground unavailable under the Hindu Marriage Act, such as irretrievable breakdown of marriage, the decree cannot be recognised as conclusive in India. The judgment thus reaffirms that matrimonial disputes involving Indian citizens married under the Hindu Marriage Act continue to be governed by Indian matrimonial law, and foreign decrees will be recognised only when they satisfy the statutory and judicially evolved requirements governing recognition of foreign judgments.

MARRIAGE

❖ ***Ann Saurabh Dutt v. Lieutenant Colonel Saurabh Iqbal Bahadur Dutt*, 2026 SCC OnLine SC 850**

Q. Whether marriage under the Hindu Marriage Act, 1955 obliges a wife to subordinate her professional aspirations and personal autonomy to the wishes or place of posting of her husband?

The Supreme Court answered this question in the negative in ***Ann Saurabh Dutt v. Lieutenant Colonel Saurabh Iqbal Bahadur Dutt*, 2026 SCC OnLine SC 850**. The Court held that marriage does not extinguish a woman's individuality, professional identity or constitutional autonomy. A wife cannot be expected to sacrifice her education, career or independent aspirations merely because her husband desires that she reside with him or because his employment requires frequent transfers. Matrimonial life must be founded on mutual respect, equality and accommodation rather than unilateral expectations of obedience or subordination.

The Supreme Court emphatically rejected the view that it is the "bounden duty" of a wife to reside wherever her husband chooses to reside or that pursuing an independent profession amounts to disregard of matrimonial obligations. It observed that such reasoning reflects an archaic, ultra-conservative and feudalistic mindset incompatible with the constitutional guarantees of dignity, equality and equal participation of women in all spheres of life. The Court further held that a professionally qualified woman cannot be treated merely as an appendage to her husband's household, nor can the pursuit of her chosen profession be viewed as an act detrimental to the marriage.

Emphasising the need to balance matrimonial responsibilities with individual aspirations, the Court observed that both spouses bear a corresponding obligation to respect each other's career choices and personal development. Marriage is a partnership of equals and cannot be interpreted as conferring an implied veto upon one spouse over the professional or personal choices of the other. The judgment thus reinforces the constitutional vision of equality within marriage by recognising that the pursuit of a lawful profession and the exercise of personal autonomy are consistent with, and not antithetical to, the institution of marriage.

❖ ***Ritu Taneja v. Government of NCT of Delhi*, 2026 SCC OnLine Del 3199**

Q. Whether a daughter-in-law can claim an absolute right to reside in a shared household under the Protection of Women from Domestic Violence Act, 2005 so as to defeat the right of senior citizen in-laws to peacefully enjoy their property under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007?

The Delhi High Court answered this question in the negative in ***Ritu Taneja v. Government of NCT of Delhi*, 2026 SCC OnLine Del 3199**. The Court held that although a daughter-in-law has a statutory right to reside in a shared household under Sections 17 and 19 of the Protection of Women from Domestic Violence Act, 2005, such right is protective in nature and does not confer any proprietary or ownership interest in the property of her in-laws. Consequently, the right of residence cannot be asserted as an absolute or indefeasible right so as to defeat the statutory protection afforded to senior citizens under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

Relying upon *S. Vanitha v. Deputy Commissioner, Bengaluru Urban District*, AIR OnLine 2020 SC 897 and *Satish Chander Ahuja v. Sneha Ahuja*, AIR OnLine 2020 SC 784, the Court observed that where the rights of a daughter-in-law under the Domestic Violence Act intersect with the rights of senior citizens under the 2007 Act, the two enactments must be harmoniously construed. The authorities under the Senior Citizens Act are empowered to protect the peaceful residence and dignity of senior citizens, while the rights of an aggrieved woman under the Domestic Violence Act must also receive due consideration. Neither statute overrides the other; rather, courts are required to balance the competing rights based on the facts of each case.

The Court further clarified that proceedings under the Senior Citizens Act are summary in nature and are intended to secure the welfare and peaceful residence of senior citizens. Accordingly, such proceedings cannot be converted into a forum for adjudicating disputed questions relating to inheritance, ownership, ancestral property, succession or other proprietary claims raised by a daughter-in-law or legal heirs. Those issues must be decided independently by the competent civil court and cannot constitute a defence to eviction proceedings under the 2007 Act.

On the facts of the case, the Court found that the petitioner was a financially independent Government employee, alternative accommodation was available, and the dispute primarily concerned competing property claims rather than protection from domestic violence or lack of shelter. In these circumstances, the balance of convenience lay in favour of protecting the senior citizens' right to peacefully enjoy their self-acquired property. The eviction order was therefore upheld, while preserving the petitioner's liberty to pursue her civil remedies in accordance with law.

❖ ***Dolly Rani v. Manish Kumar Chanchal, (2025) 2 SCC 587 : 2024 SCC OnLine SC 754***

Q. Whether registration of a marriage under Section 8 of the Hindu Marriage Act, 1955 can confer validity upon a marriage where the mandatory ceremonies prescribed under Section 7 were never performed?

The Supreme Court answered this question in the negative in ***Dolly Rani v. Manish Kumar Chanchal, (2025) 2 SCC 587 : 2024 SCC OnLine SC 754***. The Court held that registration of a marriage under Section 8 of the Hindu Marriage Act merely facilitates proof of an already validly solemnised marriage and does not itself create, validate or legitimise a marriage. A valid Hindu marriage comes into existence only when it is solemnised in accordance with the customary rites and ceremonies contemplated under Section 7 of the Act. Where such ceremonies, including *saptapadi* wherever applicable, have not been performed, there is no Hindu marriage in the eye of law, irrespective of the issuance of any marriage certificate or registration by the Marriage Registration Officer.

The Supreme Court observed that the expression "solemnised" under Section 7 necessarily implies the performance of the prescribed religious or customary ceremonies in due form. A certificate issued by a private organisation or registration under the State Marriage Registration Rules cannot substitute the statutory requirement of solemnisation. Registration under Section 8 serves only as evidence of a valid marriage already performed and cannot confer the legal status of husband and wife where no marriage ceremony has taken place. Consequently, any registration founded upon a false or non-existent solemnisation is of no legal consequence and does not validate an otherwise invalid marriage.

The Court strongly deprecated the growing practice of couples obtaining marriage registration merely for practical conveniences, such as visa applications or future matrimonial planning, before actually solemnising the marriage according to law. It observed that such practices undermine the statutory scheme of the Hindu Marriage Act and create avoidable legal complications regarding matrimonial status and the rights flowing therefrom. Reiterating that a Hindu marriage is a sacrament and a foundational social institution, the Court emphasised that the prescribed rites and ceremonies must be faithfully observed and cannot be reduced to a mere formality capable of being replaced by documentary registration.

Exercising its powers under Article 142 of the Constitution, the Supreme Court declared that no valid Hindu marriage had ever come into existence between the parties, set aside the certificate issued by the private organisation as well as the marriage registration certificate issued under the Uttar Pradesh Marriage Registration Rules, declared that the parties had never acquired the legal status of husband and wife, and, in view of their settlement, quashed the pending divorce proceedings, maintenance proceedings and criminal case to secure complete justice between them.

❖ ***Ravish Singh Rana v. State of Uttarakhand*, 2025 SCC OnLine SC 1055** **(Live-in Relationships)**

Q. Whether a long-standing live-in relationship between two consenting adults gives rise to a presumption of valid consent to sexual relations, thereby excluding a prosecution for rape solely on the ground that the relationship did not culminate in marriage?

The Supreme Court answered this question in the affirmative in ***Ravish Singh Rana v. State of Uttarakhand*, 2025 SCC OnLine SC 1055**. The Court held that where two competent adults voluntarily enter into a live-in relationship, reside together as a couple for a considerable period and maintain a consensual physical relationship, a presumption ordinarily arises that such relationship is founded on free and informed consent. In such circumstances, the subsequent refusal to marry, by itself, does not justify prosecution for rape on the allegation that consent for sexual intercourse was obtained on a false promise of marriage.

The Court observed that the parties had known each other since February 2021, had cohabited in a rented accommodation as a live-in couple for more than two years and had maintained a consensual physical relationship throughout that period. The First Information Report itself did not allege that the physical relationship was established solely because of a promise of marriage or that the informant would have refused to enter into such a relationship in the absence of that promise. Rather, the relationship had continued voluntarily over a prolonged period without any complaint until differences arose between the parties.

Relying upon *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 SCC 608, *Deepak Gulati v. State of Haryana*, (2013) 7 SCC 675 and *Sonu @ Subash Kumar v. State of Uttar Pradesh*, (2021) 18 SCC 517 the Supreme Court reiterated that a distinction must be maintained between a false promise to marry made with no intention of being fulfilled from the very inception and a mere subsequent failure or refusal to marry. Consent is vitiated only where it is established that the promise to marry was false at its inception and was made solely to deceive the woman into entering into a sexual relationship. A mere breach of a promise or a subsequent change in circumstances does not amount to rape.

The Court further observed that changing social realities require courts to adopt a pragmatic approach while dealing with long-standing live-in relationships. With increasing financial independence and personal autonomy, many adults consciously choose to reside together without immediately formalising their relationship through marriage. Consequently, where parties voluntarily cohabit for a substantial period and conduct themselves as partners, the court may legitimately infer that the relationship was entered into with full awareness of its nature and consequences. The mere expression of a desire to subsequently solemnise the relationship through marriage does not establish that the entire relationship originated solely on a promise to marry.

In the present case, the parties had also executed a settlement agreement acknowledging that they had been living together, loved each other and intended to formalise their relationship through marriage. The Supreme Court held that this contemporaneous document substantially weakened the allegation that the appellant had forcibly established physical relations immediately before its execution. Considering the prolonged consensual relationship, the absence of material indicating that the promise of marriage was false from its inception, and the lack of supporting evidence for the allegations of assault and coercion, the Court held that continuation of the criminal proceedings would amount to an abuse of the process of law. Accordingly, the FIR and all consequential proceedings were quashed

DIVORCE

❖ ***George Raju Singh v. Nisha Nidhi, 2026 SCC OnLine Jhar 570***

Q. Whether a decree of divorce granted under Section 10(x) of the Divorce Act, 1869 can be interfered with when the husband claims that he is willing to resume matrimonial life and that the Family Court's findings of cruelty are perverse?

The High Court of Jharkhand answered this question in the negative in ***George Raju Singh v. Nisha Nidhi, 2026 SCC OnLine Jhar 570.*** The Court held that where the evidence on record clearly establishes sustained acts of cruelty causing a reasonable apprehension in the mind of the wife that it would be harmful or injurious for her to continue living with her husband, a decree of divorce under Section 10(x) of the Divorce Act does not warrant appellate interference. The husband's subsequent willingness to resume cohabitation cannot erase years of cruelty proved through reliable oral and documentary evidence.

The Court found that the evidence of the wife, corroborated by her daughter and supported by documentary material, established that the husband repeatedly demanded money from her, forced her to raise loans, obtained her signatures on blank cheques and withdrew money from her bank account, and attempted to gain financial benefit from properties acquired through her earnings. The wife further proved that the husband illegally inducted a tenant into the company quarter allotted to her without her knowledge, compelling her to refund the advance amount and surrender the quarter to avoid disciplinary consequences from her employer. The Court observed that these acts reflected persistent financial exploitation and complete disregard for the wife's security and dignity.

The High Court also attached considerable significance to the incident of 30 October 2013, when the husband allegedly assaulted the wife, demanded ₹2,00,000, took away cash and her gold chain, and threatened her in the presence of her mother. It noted that since that incident the parties had been living separately, and the matrimonial relationship had irretrievably deteriorated. The Court further found that the husband had misused the parties' daughter by inducing her to institute a false criminal complaint against the wife and her maternal grandparents. The daughter's testimony before the Family Court that she had been deceived into signing documents on the assurance that her parents would reconcile, only to later discover that a false case had been instituted, was accepted as credible evidence of the husband's conduct.

The Court also took note of the husband's admitted involvement in several criminal cases and observed that, although he claimed acquittal in some matters, his overall conduct and behaviour, viewed cumulatively, supported the wife's case that she could no longer feel mentally or physically secure in his company. An additional circumstance weighing against the husband was the photographic evidence produced by the wife suggesting that during the pendency of the matrimonial proceedings he had attempted to marry another woman. The Court found the explanations offered by the husband and his brother regarding those photographs to be inconsistent and unreliable, observing that their conduct indicated an attempt to conceal the true facts and strengthened the wife's case.

Rejecting the husband's contention that the Family Court's findings were perverse, the High Court reiterated that a finding can be termed "perverse" only when it is unsupported by evidence, ignores relevant material, relies on irrelevant material, or is wholly contrary to the weight of evidence. Since the Family Court had meticulously appreciated the oral testimony of both parties, the evidence of their daughter, and the documentary exhibits before concluding that cruelty stood proved, its findings could not be characterised as perverse merely because another view was possible.

Referring to Section 10(x) of the Divorce Act and the decisions of the Supreme Court in *Dr. N.G. Dastane v. Mrs. S. Dastane, Shobha Rani v. Madhukar Reddi, Vijay Kumar Ramchandra Bhate v. Neela Vijay Kumar Bhate, Joydeep Majumdar v. Bharti Jaiswal Majumdar, and Vidhya Viswanathan v. Kartik Balakrishnan,* the Court reiterated that cruelty has no rigid or exhaustive definition and includes both physical and mental cruelty. It emphasised that the test is whether the conduct of one spouse creates a reasonable apprehension that it would be harmful or injurious for the other spouse to continue living in the matrimonial relationship. Acts such as false accusations, humiliation, sustained harassment, misuse of legal proceedings, and conduct causing continuous mental agony are sufficient to constitute matrimonial cruelty.

Holding that the wife's evidence clearly established such cruelty and that the marriage had been reduced to a "mere legal fiction, subsisting only by virtue of a formal tie," the High Court affirmed the decree of divorce granted by the Family Court under Section 10(x) of the Divorce Act and dismissed the husband's appeal.

❖ ***Sukhdev Singh v. Sukhbir Kaur*, 2025 SCC OnLine SC 299 : AIR 2025 SC 951**

Q. Whether a spouse to a marriage declared void under Section 11 of the Hindu Marriage Act, 1955 on the grounds of bigamy, prohibited degrees of relationship or sapinda relationship is entitled to claim maintenance under Sections 24 and 25 of the Act?

The Supreme Court answered this question in the affirmative in ***Sukhdev Singh v. Sukhbir Kaur*, 2025 SCC OnLine SC 299 : AIR 2025 SC 951**. The Court held that a marriage declared void under Section 11 of the Hindu Marriage Act, 1955 on the grounds specified in Section 5 of the Act, namely, bigamy, prohibited degrees of relationship or sapinda relationship, does not disentitle a spouse from seeking maintenance under Sections 24 and 25 of the Act. Although such marriages are void ab initio and confer no marital status in the eyes of law, the legislature has consciously conferred upon the matrimonial court the jurisdiction to grant interim maintenance and permanent alimony even in proceedings culminating in a decree of nullity.

The Supreme Court rejected the contention that a void marriage, being legally non-existent, necessarily excludes the operation of Sections 24 and 25. It held that the expression "any decree" employed in Section 25(1) is comprehensive enough to include a decree declaring a marriage null and void under Section 11. Similarly, Section 24 applies to all proceedings under the Hindu Marriage Act, including proceedings seeking a declaration of nullity. Therefore, a spouse to a void marriage is not precluded from invoking these statutory remedies merely because the marriage has been declared void.

The Court further clarified that the grant of maintenance under Sections 24 and 25 is not automatic but discretionary. While exercising such jurisdiction, the court must consider the income and financial resources of the parties, their conduct, and all other relevant circumstances of the case. Consequently, even in cases involving bigamous marriages or marriages prohibited under Section 5 of the Act, the matrimonial court retains the discretion to award interim maintenance or permanent alimony where the facts and equities of the case so warrant.

Accordingly, the Supreme Court held that although a marriage declared void under Section 11 is legally non-existent, the statutory remedies of maintenance pendente lite under Section 24 and permanent alimony under Section 25 remain available to the parties, subject to the judicial discretion of the matrimonial court.

❖ ***Vishal Shah v. Monalisha Gupta*, 2025 SCC OnLine SC 383**

Q. Whether the Supreme Court can dissolve a marriage under Article 142 of the Constitution on the ground of irretrievable breakdown of marriage, and what factors govern the exercise of such power?

The Supreme Court answered this question in the affirmative in ***Vishal Shah v. Monalisha Gupta*, 2025 SCC OnLine SC 383**. The Court held that the Supreme Court, in exercise of its extraordinary jurisdiction under Article 142(1) of the Constitution of India, possesses the power to dissolve a marriage on the ground of irretrievable breakdown of marriage, notwithstanding the absence of such a statutory ground under the Hindu Marriage Act, 1955. Reiterating the principles laid down by the Constitution Bench in *Shilpa Sailesh v. Varun Sreenivasan*, 2023 SCC OnLine SC 544, the Court observed that the power under Article 142 is intended to do complete justice between the parties and may be invoked where the marriage has completely failed and there exists no possibility of the parties resuming matrimonial life.

The Court emphasised that the determination of irretrievable breakdown is a question of fact to be decided on the peculiar circumstances of each case. Relevant considerations include the period of cohabitation after marriage, the duration of separation, the nature and gravity of allegations levelled by the parties against each other, the multiplicity of litigations, the cumulative impact of prolonged matrimonial discord, the success or failure of mediation efforts, and the possibility of reconciliation. No single factor is determinative; rather, the Court must evaluate the overall circumstances to ascertain whether continuation of the marital relationship would serve any meaningful purpose.

In the present case, the parties had cohabited for only eighty days after their marriage and had been living separately since May 2018. No child had been born from the wedlock. Numerous civil and criminal proceedings had been instituted by both sides against each other and their respective family members, resulting in prolonged hostility and complete erosion of mutual trust. Despite repeated attempts at mediation, no settlement could be arrived at. The Court observed that the marriage had never developed into a meaningful matrimonial relationship and that the prolonged separation, coupled with the multiplicity of litigations and the parties' unwillingness to reconcile, clearly established that the marriage had broken down beyond repair.

Holding that continuation of such a formal legal relationship would serve no practical or emotional purpose, the Supreme Court exercised its powers under Article 142 and dissolved the marriage on the ground of irretrievable breakdown. Simultaneously, the Court directed the husband to pay ₹25 lakhs as one-time permanent alimony, considering the principles governing determination of permanent alimony laid down in *Rajnesh v. Neha*, (2021) 2 SCC 324, *Pravin Kumar Jain v. Anju Jain*, 2024 SCC OnLine SC 3678 and *Kiran Jyot Maini v. Anish Pramod Patel*, 2024 SCC OnLine SC 1724, including the financial status of the parties, their standard of living, earning capacity and the overall circumstances of the case. The Court stated:

"*39. ... This Court, in the cases of Rajnesh v. Neha, Kiran Jyot Maini, and Parvin Kumar Jain v. Anju Jain, provided a comprehensive criterion and a list of factors to be looked into while deciding the question of permanent alimony, which are as follows:—*

- *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 party.*
- *v. Standard of life enjoyed by the wife in the matrimonial home.*
- *vi. Any employment sacrifices made for family responsibilities.*
- *vii. Reasonable litigation costs for a non-working wife.*
- *viii. Financial capacity of the husband, his income, maintenance obligations, and liabilities.*"

To bring complete quietus to the matrimonial dispute, the Court further directed that all pending civil, criminal and domestic violence proceedings between the parties and their family members should stand closed. The judgment reaffirms that Article 142 is an extraordinary constitutional power to be exercised sparingly, but where a marriage has irretrievably collapsed and all possibilities of reconciliation stand exhausted, the Supreme Court may dissolve the marriage to do complete justice between the parties.

❖ ***XXX v. YYY*, 2026 SCC OnLine SC 544**

Q. Whether the Supreme Court can exercise its powers under Article 142 of the Constitution to dissolve a marriage on the ground of irretrievable breakdown and grant comprehensive reliefs to bring an end to all matrimonial disputes between the parties?

The Supreme Court answered this question in the affirmative in ***XXX v. YYY*, 2026 SCC OnLine SC 544**. The Court held that where a marriage has irretrievably broken down and there remains no possibility of reconciliation, the Supreme Court may invoke its extraordinary jurisdiction under Article 142 of the Constitution to dissolve the marriage and pass such consequential directions as are necessary to do complete justice between the parties.

The Court observed that the parties had been living separately for more than nine years and were embroiled in over eighty civil, criminal and miscellaneous proceedings. The respondent-husband had repeatedly failed to comply with maintenance orders, initiated numerous vexatious litigations against the wife, her relatives and even her advocates, and had adopted a vindictive course of conduct which rendered any possibility of restoration of the matrimonial relationship impossible. The Court concluded that the marriage was "dead for all practical purposes" and that continuing the legal relationship would only perpetuate injustice and harassment.

Recognising that fragmented adjudication of multiple proceedings would only prolong the agony of the parties and adversely affect their minor children, the Court exercised its powers under Article 142 to dissolve the marriage and bring about a complete quietus to the dispute. Accordingly, the Court quashed all pending civil, criminal and miscellaneous proceedings between the parties, including proceedings against their relatives and advocates; granted permanent custody of the children to the wife with specified visitation rights to the husband; directed the husband to extend necessary cooperation for the children's welfare; and awarded a consolidated amount of ₹5 crores towards permanent alimony, maintenance, child support and litigation expenses. The Court further directed both parties to furnish undertakings to ensure compliance with the final settlement and to prevent further litigation arising out of the matrimonial dispute.

The judgment reiterates that Article 142 empowers the Supreme Court to transcend procedural limitations and grant comprehensive relief where such exercise is necessary to secure complete justice and finally resolve an irretrievably broken matrimonial relationship.

❖ ***Dhananjay Rathi v. Ruchika Rathi*, 2026 SCC OnLine SC 587**

Q. Whether the Supreme Court can dissolve a marriage under Article 142 of the Constitution despite withdrawal of consent for divorce by mutual consent, where the marriage has irretrievably broken down?

The Supreme Court answered this question in the affirmative in ***Dhananjay Rathi v. Ruchika Rathi,* 2026 SCC OnLine SC 587**. The Court held that the withdrawal of consent before the second motion under Section 13-B of the Hindu Marriage Act does not fetter the Supreme Court's power under Article 142 of the Constitution to dissolve a marriage where it is satisfied that the marriage has irretrievably broken down. Reiterating the principles laid down in *Shilpa Sailesh v. Varun Sreenivasan*, (2023) 14 SCC 231, the Court observed that prolonged separation, repeated failed attempts at reconciliation, multiplicity of litigations and complete erosion of the matrimonial relationship are relevant factors for exercising the constitutional power to do complete justice.

In the facts of the case, despite a mediation settlement, the parties remained unwilling to resume matrimonial life and the dispute had generated multiple proceedings. Holding that continuation of the marriage would serve no useful purpose, the Supreme Court dissolved the marriage under Article 142 and issued consequential directions to bring a complete and final resolution to all matrimonial disputes between the parties.

❖ ***Kishorekumar Mohan Kale v. Kashmira Kale*, 2026 SCC OnLine SC 448**

Q. Whether a foreign decree of divorce granted on the ground of irretrievable breakdown of marriage is conclusive and binding where the marriage is governed by the Hindu Marriage Act, 1955?

The Supreme Court answered this question in the negative in ***Kishorekumar Mohan Kale v. Kashmira Kale*, 2026 SCC OnLine SC 448**.

The Court held that a foreign decree of divorce is not automatically conclusive or binding merely because it has been passed by a competent foreign court. Where the marriage is governed by the Hindu Marriage Act, 1955, the foreign decree must satisfy the requirements laid down under Section 13 of the Code of Civil Procedure, 1908 and the principles enunciated in *Y. Narasimha Rao v. Y. Venkata Lakshmi*, (1991) 3 SCC 451. A decree granted on a ground not recognised under the Hindu Marriage Act cannot be recognised as a valid decree dissolving the marriage in India.

In the present case, the parties had solemnised their marriage according to Hindu rites in India. The respondent-wife obtained a decree of divorce from a court in the United States on the ground of irretrievable breakdown of marriage, which is not a statutory ground for divorce under the Hindu Marriage Act. The Supreme Court further found that the appellant-husband had merely filed a written statement objecting to the jurisdiction of the foreign court and had not voluntarily or effectively submitted to its jurisdiction. Consequently, the foreign decree failed to satisfy the conditions prescribed under Section 13 of the Code of Civil Procedure and was held not to be conclusive or enforceable in India.

Nevertheless, considering that the parties had remained separated for nearly eighteen years and there was no possibility of reconciliation, the Supreme Court exercised its powers under Article 142 of the Constitution and dissolved the marriage on the ground of irretrievable breakdown so as to do complete justice between the parties. The decision reaffirms that while foreign matrimonial decrees inconsistent with the Hindu Marriage Act may not be recognised in India, the Supreme Court retains the constitutional power to dissolve a marriage where the facts disclose its complete and irreversible breakdown.

❖ ***Ann Saurabh Dutt v. Lieutenant Colonel Saurabh Iqbal Bahadur Dutt*, 2026 SCC OnLine SC 850**

Q. Whether a wife's decision to pursue her professional career, reside separately for better medical care of the minor child, or decline to accompany her husband to every place of posting amounts to cruelty or desertion under Sections 13(1)(i-a) and 13(1)(i-b) of the Hindu Marriage Act, 1955?

The Supreme Court answered this question in the negative in ***Ann Saurabh Dutt v. Lieutenant Colonel Saurabh Iqbal Bahadur Dutt*, 2026 SCC OnLine SC 850**. The Court held that a wife's decision to pursue her professional career, establish an independent practice, or reside separately to secure better medical facilities and a stable environment for the upbringing of the minor child does not, by itself, constitute either cruelty or desertion under Sections 13(1)(i-a) and 13(1)(i-b) of the Hindu Marriage Act, 1955. Such decisions are legitimate exercises of personal autonomy and cannot be characterised as matrimonial misconduct merely because they do not conform to traditional expectations of cohabitation.

The Supreme Court strongly disapproved of the findings recorded by the Family Court and affirmed by the High Court that the wife's decision to establish a dental clinic without informing her husband, her desire to pursue her profession, and her decision to reside separately for the welfare of the child constituted cruelty and desertion. The Court held that these findings were founded upon patriarchal, regressive and legally unsustainable assumptions, which treated the wife's professional aspirations as subordinate to the husband's career and postings.

The Court observed that matrimonial obligations must be harmonised with the constitutional values of dignity, autonomy and equality. The mere fact that the husband was serving in the Armed Forces and was posted at a remote location did not impose an absolute obligation upon the wife to abandon her profession and accompany him irrespective of the welfare of the child or her own career. The Court accordingly expunged the findings of cruelty and desertion recorded by the courts below. However, considering the prolonged separation, the complete breakdown of the matrimonial relationship and the fact that the respondent had remarried, the decree of divorce was sustained by treating it as one based on the irretrievable breakdown of marriage rather than on cruelty or desertion.

❖ ***Shilpa Sailesh v. Varun Sreenivasan*, (2023) 14 SCC 231**

72. *Lastly, we must express our opinion on whether a party can directly canvass before this Court the ground of irretrievable breakdown by filing a writ petition under Article 32 of the Constitution. In Poonam v. Sumit Tanwar [Poonam v. Sumit Tanwar, (2010) 4 SCC 460 : (2010) 2 SCC (Civ) 177] , a two-Judge Bench of this Court has rightly held that any* ***such attempt must be spurned and not accepted,*** *as the parties should not be permitted to file a writ petition under Article 32 of the Constitution of India, or for that matter under Article 226 of the Constitution of India before the High Court, and seek divorce on the ground of irretrievable breakdown of marriage. The reason is that the remedy of a person aggrieved by the decision of the competent judicial forum is to approach the superior tribunal/forum for redressal of his/her grievance. The parties should not be permitted to circumvent the procedure by resorting to the writ jurisdiction under Article 32 or 226 of the Constitution of India, as the case may be.*

Secondly, and more importantly, relief under Article 32 of the Constitution of India can be sought to enforce the rights conferred by Part III of the Constitution of India, and on the proof of infringement thereof. Judicial orders passed by the court in, or in relation to, the proceedings pending before it, are not amenable to correction under Article 32 of the Constitution of India. [See Mohd. Amirabbas Abbasi v. State of M.B., 1960 SCC OnLine SC 11 : AIR 1960 SC 768; Ujjam Bai v. State of U.P., 1962 SCC OnLine SC 8 : AIR 1962 SC 1621; and Naresh Shridhar Mirajkar v. State of Maharashtra, 1966 SCC OnLine SC 10 : AIR 1967 SC 1.] Therefore, a party cannot file a writ petition under Article 32 of the Constitution of India and seek relief of dissolution of marriage directly from this Court. While we accept the said view, we also clarify that reference in Poonam [Poonam v. Sumit Tanwar, (2010) 4 SCC 460 : (2010) 2 SCC (Civ) 177] to Manish Goel [Manish Goel v. Rohini Goel, (2010) 4 SCC 393 : (2010) 2 SCC (Civ) 162] and the observation that it is questionable whether the period of six months for moving the second motion can be waived has not been approved by us.

(i) The scope and ambit of power and jurisdiction of this Court under Article 142(1) of the Constitution of India

74. *This question as to the power and jurisdiction of this Court under Article 142(1) of the Constitution of India is answered in terms of paras 9 to 21, inter alia, holding that this Court can depart from the procedure as well as the substantive laws, as long as the decision is exercised based on considerations of fundamental general and specific public policy. While deciding whether to exercise discretion, this Court must consider the substantive provisions as enacted and not ignore the same, albeit this Court acts as a problem solver by balancing out equities between the conflicting claims. This power is to be exercised in a "cause or matter".*

(ii) In view of, and depending upon the findings of this Bench on the first question, whether this Court, while hearing a transfer petition, or in any other proceedings, can exercise power under Article 142(1) of the Constitution, in view of the settlement between the parties, and grant a decree of divorce by mutual consent dispensing with the period and the procedure prescribed under Section 13-B of the Hindu Marriage Act, and also quash and dispose of other/connected proceedings under the Domestic Violence Act, Section 125CrPC, or criminal prosecution primarily under Section 498-A and other provisions of IPC. If the answer to this question is in the affirmative, in which cases and under what circumstances should this Court exercise jurisdiction under Article 142 of the Constitution of India is an ancillary issue to be decided.

75. In view of our findings on the first question, this question has to be answered in the affirmative, inter alia, holding that this Court, in view of settlement between the parties, has the discretion to dissolve the marriage by passing a decree of divorce by mutual consent, without being bound by the procedural requirement to move the second motion. This power should be exercised with care and caution, keeping in mind the factors stated in Amardeep Singh [Amardeep Singh v. Harveen Kaur, (2017) 8 SCC 746 : (2017) 4 SCC (Civ) 804 : (2017) 3 SCC (Cri) 505] and Amit Kumar [Amit Kumar v. Suman Beniwal, (2023) 17 SCC 648] . This Court can also, in exercise of power under Article 142(1) of the Constitution of India, quash and set aside other proceedings and orders, including criminal proceedings.

(iii) Whether this Court can grant divorce in exercise of power under Article 142(1) of the Constitution of India when there is complete and irretrievable breakdown of marriage in spite of the other spouses opposing the prayer?

76. This question is also answered in the affirmative, inter alia, holding that this Court, in exercise of power under Article 142(1) of the Constitution of India, has the discretion to dissolve the marriage on the ground of its irretrievable breakdown. This discretionary power is to be exercised to do "complete justice" to the parties, wherein this Court is satisfied that the facts established show that the marriage has completely failed and there is no possibility that the parties will cohabit together, and continuation of the formal legal relationship is unjustified. The Court, as a court of equity, is required to also balance the circumstances and the background in which the party opposing the dissolution is placed.

❖ ***Rahul Kumar v. Deepika Gupta*, 2026 SCC OnLine Jhar 609**

Q. Whether persistent physical and mental cruelty, coupled with dowry demands, repeated assaults and continued harassment despite a compromise between the parties, constitutes cruelty warranting dissolution of marriage under Section 13(1)(i-a) of the Hindu Marriage Act, 1955?

The Jharkhand High Court answered this question in the affirmative in ***Rahul Kumar v. Deepika Gupta*, 2026 SCC OnLine Jhar 609**. The Court held that cruelty under Section 13(1)(i-a) of the Hindu Marriage Act is to be assessed on the cumulative effect of the conduct of the parties and not on isolated incidents. Physical violence, persistent mental harassment, dowry demands, abusive conduct and acts that render cohabitation unsafe or unreasonable constitute matrimonial cruelty sufficient to justify dissolution of marriage.

Relying upon the principles laid down by the Supreme Court in *Dr. N.G. Dastane v. S. Dastane*, (1975) 2 SCC 326, *Shobha Rani v. Madhukar Reddi*, (1988) 1 SCC 105, *V. Bhagat v. D. Bhagat*, (1994) 1 SCC 337, *Vijaykumar Ramchandra Bhate v. Neela Vijay Kumar Bhate*, (2003) 6 SCC 334 and *Joydeep Majumdar v. Bharti Jaiswal Majumdar*, (2021) 3 SCC 742, the Court reiterated that cruelty has no rigid or exhaustive definition and must be determined on the facts and circumstances of each case. The decisive test is whether the conduct complained of is sufficiently grave and sustained so as to make it unreasonable for the aggrieved spouse to continue the matrimonial relationship.

In the present case, the wife consistently established that she was subjected to dowry demands, physical assaults, confinement, mental harassment and repeated acts of cruelty. The Court also took note of the fact that, despite an earlier compromise in criminal proceedings, the husband resumed his abusive conduct, demonstrating that reconciliation had failed to restore the matrimonial relationship. Finding the wife's testimony to be consistent and adequately corroborated by the surrounding circumstances, the Court affirmed the decree of divorce granted by the Family Court on the ground of cruelty.

❖ ***Debleena Dutta v. Suman Kumar Ruj*, 2026 SCC OnLine Jhar 24**

Q. Whether a spouse's act of blackmailing the other spouse with private or objectionable photographs, threatening to upload them on social media, and exposing them to family members constitutes mental cruelty under Section 13(1)(i-a) of the Hindu Marriage Act, 1955?

The Jharkhand High Court answered this question in the affirmative in ***Debleena Dutta v. Suman Kumar Ruj*, 2026 SCC OnLine Jhar 24**. The Court held that blackmailing a spouse by using private or objectionable photographs, threatening to circulate them on social media, exposing such photographs to family members, and thereby subjecting the spouse to humiliation, intimidation and psychological distress constitutes mental cruelty within the meaning of Section 13(1)(i-a) of the Hindu Marriage Act, 1955.

The Court observed that matrimonial cruelty is not confined to physical violence. Mental cruelty encompasses conduct which causes deep emotional trauma, destroys mutual trust, impairs the dignity and reputation of a spouse, and renders continuation of the matrimonial relationship impossible. Reiterating the principles laid down by the Supreme Court in *Dr. N.G. Dastane v. S. Dastane*, (1975) 2 SCC 326, *Shobha Rani v. Madhukar Reddi*, (1988) 1 SCC 105, *V. Bhagat v. D. Bhagat*, (1994) 1 SCC 337, *Joydeep Majumdar v. Bharti Jaiswal Majumdar*, (2021) 3 SCC 742, *Vinita Saxena v. Pankaj Pandit*, (2006) 3 SCC 778, *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226 and *Vishwanath Agrawal v. Sarla Vishwanath Agrawal*, (2012) 7 SCC 288, the Court held that harm to a spouse's dignity, reputation and emotional well-being is a significant indicator of mental cruelty.

In the present case, the husband clandestinely obtained the wife's private photographs from her mobile phone, repeatedly threatened to publish them on social media, used them to blackmail and intimidate her, disclosed them to his family members, and thereby subjected her to continuous humiliation and character assassination. The Court held that such conduct irreparably destroyed the foundation of mutual trust upon which marriage rests and made it unreasonable to expect the wife to continue the matrimonial relationship.

Accordingly, the High Court held that the Family Court had failed to properly appreciate the evidence relating to mental cruelty, set aside the judgment dismissing the divorce petition, and granted a decree of divorce in favour of the wife.

MAINTENANCE

❖ ***Rina Kumari @ Rina Devi @ Reena v. Dinesh Kumar Mahto @ Dinesh Kumar Mahato*, (2025) 3 SCC 33**

Q. Will a husband, who secures a decree for restitution of conjugal rights, stand absolved of paying maintenance to his wife by virtue of Section 125(4) of the Code of Criminal Procedure, 1973, if his wife refuses to abide by the said decree and return to the matrimonial home?

A husband who has obtained a decree for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955, does not automatically stand absolved of his obligation to pay maintenance under Section 125 of the Code of Criminal Procedure, 1973, merely because his wife has failed or refused to comply with the decree. The Supreme Court authoritatively settled this position in ***Rina Kumari @ Rina Devi @ Reena v. Dinesh Kumar Mahto @ Dinesh Kumar Mahato*, (2025) 3 SCC 33**

The Court held that Section 125 CrPC is a measure of social justice intended to prevent destitution and vagrancy. Consequently, the disqualification contained in Section 125(4) CrPC cannot be invoked solely on the basis that a husband has obtained a decree for restitution of conjugal rights. The mere existence of such a decree is not conclusive proof that the wife is "refusing to live with her husband without sufficient reason." Rather, the Court must independently examine whether the wife had sufficient cause for living separately.

The Supreme Court observed that proceedings for restitution of conjugal rights and proceedings for maintenance operate in distinct legal spheres. A decree for restitution may constitute a relevant circumstance, but it is not determinative of a wife's entitlement to maintenance. The maintenance court is required to undertake an independent assessment of the surrounding facts, including allegations of cruelty, dowry harassment, neglect, lack of basic amenities, or any other circumstances that render cohabitation unsafe or unreasonable for the wife.

The Court further emphasized that a mechanical application of Section 125(4) would defeat the beneficial object of Section 125 CrPC. Accordingly, where the wife establishes that her refusal to return to the matrimonial home is supported by sufficient reason, the husband cannot evade his statutory obligation to maintain her merely by relying upon a decree for restitution of conjugal rights. In the facts of the case, the Supreme Court found that the wife had justified reasons for residing separately and restored the Family Court's order granting maintenance, setting aside the contrary view taken by the High Court.

Thus, the legal position is that a decree for restitution of conjugal rights does not, by itself, attract the bar under Section 125(4) CrPC. The husband's liability to pay maintenance continues unless it is established, on an independent assessment of the evidence, that the wife has refused to live with him without any sufficient cause.

❖ ***N. Usha Rani v. Moodudula Srinivas*, 2025 SCC OnLine SC 225.**

Q. Whether a woman whose first marriage has not been formally dissolved by a decree of divorce is entitled to claim maintenance under Section 125 of the Code of Criminal Procedure, 1973 from her second husband, where both parties knowingly entered into the marriage and were living as husband and wife?

The Supreme Court answered this question in the affirmative in ***N. Usha Rani v. Moodudula Srinivas*, 2025 SCC OnLine SC 225.** The Court held that Section 125 of the Code of Criminal Procedure, 1973 is a measure of social justice enacted to prevent vagrancy and destitution and, therefore, deserves a purposive and beneficial interpretation. While the expression "wife" under Section 125 CrPC ordinarily refers to a legally wedded wife, the provision cannot be interpreted in a manner that defeats its underlying object of providing financial security to women who are otherwise left without support.

In the present case, the appellant and her first husband had separated through a Memorandum of Understanding and had been living separately for a considerable period, although no formal decree of divorce had been obtained from a competent court. Thereafter, the appellant married the respondent, who was fully aware of her previous marriage and voluntarily entered into the matrimonial relationship with her not once, but twice. During the subsistence of this relationship, they lived together as husband and wife and were blessed with a daughter. Subsequently, the respondent sought to avoid his obligation to maintain the appellant by contending that the second marriage was void on account of the subsistence of the appellant's first marriage.

Rejecting this contention, the Supreme Court held that the respondent could not be permitted to take advantage of a technical legal defect when he had knowingly entered into the marriage and enjoyed its privileges while seeking to evade its corresponding obligations. The Court observed that denying maintenance in such circumstances would frustrate the social welfare objective of Section 125 CrPC and would expose the appellant to destitution, contrary to the legislative intent underlying the provision.

The Court distinguished earlier decisions such as *Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav*, (1988) 1 SCC 530, *Bakulabai v. Gangaram* and *Savitaben Somabhai Bhatiya v. State of Gujarat*, (1988) 1 SCC 537, wherein maintenance had been denied to a second wife during the subsistence of the first marriage. It held that those cases were factually distinguishable as the plea of de facto separation from the first marriage was absent therein. In the present case, the appellant had already severed her matrimonial ties in fact, was not deriving any maintenance or other matrimonial benefits from her first husband, and there was no possibility of claiming dual maintenance.

The Supreme Court further relied upon the principles laid down in *Captain Ramesh Chander Kaushal v. Veena Kaushal*, (1978) 4 SCC 70, *Vimala (K) v. Veeraswamy (K)*, (1991) 2 SCC 375, *Dwarika Prasad Satpathy v. Bidyut Prava Dixit*, (1999) 7 SCC 675, *Chanmuniya v. Virendra Kumar Singh Kushwaha*, (2011) 1 SCC 141, *Badshah v. Urmila Badshah Godse,* (2014) 1 SCC 188 and *Mohd. Abdul Samad v. State of Telangana,* 2024 SCC OnLine SC 1686, to reiterate that courts must adopt an expansive and purposive interpretation of maintenance provisions so as to advance social justice and prevent women from being rendered destitute through technical objections relating to the validity of marriage.

Accordingly, the Supreme Court restored the maintenance awarded by the Family Court and held that, in the peculiar facts of the case, the appellant was entitled to maintenance from the respondent despite the absence of a formal decree dissolving her first marriage. The Court emphasised that the obligation to maintain a wife under Section 125 CrPC is not merely a statutory liability but also a legal and moral duty, which cannot be defeated by a spouse who knowingly enters into a marital relationship and thereafter seeks to escape its obligations on technical grounds.

❖ ***Rakhi Sadhukhan v. Raja Sadhukhan*, 2025 SCC OnLine SC 1259**

Q. What are the governing principles for determining the quantum of permanent alimony, and whether the amount should secure the wife's financial stability and standard of living after divorce?

The Supreme Court addressed this issue in ***Rakhi Sadhukhan v. Raja Sadhukhan*, 2025 SCC OnLine SC 1259.** The Court held that the determination of permanent alimony must be guided by the principles of fairness, reasonableness and financial security. The amount awarded should not be merely symbolic or sufficient for bare subsistence but must enable the divorced wife to maintain a standard of living reasonably comparable to that which she enjoyed during the subsistence of the marriage. While assessing the quantum of permanent alimony, the Court is required to consider the husband's present earning capacity, financial disclosures, assets, past earnings, liabilities, the wife's financial dependence, her future needs, and the prevailing cost of living.

In the present case, the High Court had awarded permanent alimony of ₹20,000 per month, which was originally fixed as interim maintenance during the pendency of the matrimonial proceedings. The Supreme Court found that the amount had not been reassessed in light of the respondent-husband's financial position and was no longer commensurate with his earning capacity or the appellant-wife's needs. The material placed on record demonstrated that the respondent possessed sufficient financial means to provide a higher amount of maintenance.

The Court further observed that the appellant-wife had remained unmarried after the dissolution of marriage and continued to depend upon maintenance as her sole source of financial support. It emphasised that permanent alimony should ensure long-term financial stability and protect the economic security of the spouse who lacks an independent source of livelihood. Inflation and the rising cost of living are also relevant considerations while determining a just and equitable amount of maintenance.

Applying these principles, the Supreme Court enhanced the permanent alimony payable to the appellant-wife from ₹20,000 per month to ₹50,000 per month, with a further enhancement of 5% every two years, holding that such an amount would more appropriately secure her financial future and maintain a reasonable standard of living. The Court also declined to grant any mandatory maintenance for the son, as he had attained the age of twenty-six years and was no longer financially dependent, while clarifying that his rights of inheritance remained unaffected and could be enforced in accordance with law.

❖ ***Shahjahan v. State of Uttar Pradesh*, 2025 SCC OnLine SC 1342**

Q. Whether maintenance under Section 125 of the Code of Criminal Procedure, 1973 can be denied to a wife on conjectural findings that she was living separately without sufficient reason?

The Supreme Court answered this question in the negative in ***Shahjahan v. State of Uttar Pradesh*, 2025 SCC OnLine SC 1342.** The Court held that a wife cannot be denied maintenance under Section 125 of the Code of Criminal Procedure, 1973 on the basis of speculative assumptions or perverse findings unsupported by the evidence on record. Since Section 125 is a beneficial piece of legislation intended to prevent destitution and vagrancy, courts must adopt a purposive approach while adjudicating claims for maintenance and must carefully examine whether the wife had sufficient cause for living separately.

In the present case, the appellant-wife alleged that she had been subjected to cruelty, physical assault and dowry demands, and was ultimately driven out of the matrimonial home. However, the Family Court rejected her claim for maintenance by observing that, as it was the second marriage of both parties, there could be no possibility of any dowry demand. The Supreme Court held that such reasoning was wholly unsustainable, being based on conjectures and stereotypes rather than legal evidence. The Court observed that there is no legal presumption that a second marriage excludes the possibility of dowry harassment or matrimonial cruelty.

The Family Court had also relied upon an earlier compromise entered into between the parties to conclude that the appellant herself was responsible for the matrimonial discord. The Supreme Court found this conclusion to be factually incorrect, as the compromise deed contained no admission of wrongdoing by the appellant. On the contrary, the compromise merely recorded that both parties had agreed to resume cohabitation and avoid future disputes. The High Court, instead of independently appreciating the evidence, merely affirmed these erroneous findings.

The Supreme Court held that the appellant, an illiterate woman with no independent source of income, could not be deprived of maintenance on the basis of legally unsustainable findings. Accordingly, it set aside the judgments of the Family Court and the High Court and awarded maintenance to the appellant-wife, reiterating that Section 125 CrPC is a measure of social justice and must receive a liberal and beneficial interpretation in favour of neglected wives and children.

Q. Whether maintenance under Section 125 of the Code of Criminal Procedure, 1973 should ordinarily be awarded from the date of the application or from the date of the order?

The Supreme Court held that, as a general rule, maintenance under Section 125 of the Code of Criminal Procedure, 1973 should be awarded from the date of filing of the application, unless the facts of the case justify a different course. The Court reaffirmed the principles laid down in *Rajnesh v. Neha*, (2021) 2 SCC 324, that although Section 125(2) CrPC confers discretion upon the court to grant maintenance either from the date of the application or from the date of the order, such discretion must be exercised in a manner that advances the object of the provision and does not prejudice the claimant.

The Court observed that Section 125 is a beneficial legislation enacted to protect wives, children and parents from destitution and vagrancy. Delays in the disposal of maintenance proceedings are ordinarily attributable to the judicial process and are beyond the control of the applicant. Therefore, denying maintenance for the intervening period would unfairly penalise the claimant and defeat the social welfare objective underlying the provision.

Applying these principles, the Supreme Court directed that the maintenance awarded to the appellant-wife, as well as the maintenance payable to the children, should be reckoned from the date of filing of the maintenance petition before the Family Court and not from the date of the Family Court's order. The Court further clarified that the daughter's entitlement to maintenance would continue only until she attained majority, in accordance with the statutory scheme of Section 125 CrPC.

❖ ***Sukhdev Singh v. Sukhbir Kaur*, 2025 SCC OnLine SC 299**

Q. Whether a spouse to a marriage declared void under Section 11 of the Hindu Marriage Act, 1955 is entitled to claim permanent alimony and maintenance under Section 25 of the Act?

The Supreme Court answered this question in the affirmative in ***Sukhdev Singh v. Sukhbir Kaur*, 2025 SCC OnLine SC 299**. The Court held that a spouse to a marriage declared void under Section 11 of the Hindu Marriage Act, 1955 is not disentitled from seeking permanent alimony and maintenance under Section 25 of the Act merely because the marriage is void ab initio. The expression "any decree" occurring in Section 25 is of wide amplitude and includes a decree declaring a marriage to be null and void under Section 11. Consequently, the jurisdiction of the matrimonial court to award permanent alimony extends to all decrees passed under Sections 9 to 13 of the Act, including a decree of nullity.

The Court observed that Section 25 does not distinguish between a decree of divorce, judicial separation, restitution of conjugal rights, annulment of a voidable marriage or a decree declaring a marriage void. Since the legislature has consciously employed the expression "any decree", courts cannot exclude decrees of nullity from its ambit by judicial interpretation. A decree under Section 11, though it declares the marriage void from its inception, nevertheless constitutes a decree passed by a court exercising jurisdiction under the Hindu Marriage Act and therefore attracts the jurisdiction under Section 25.

Affirming the principles laid down in Chand Dhawan v. Jawaharlal Dhawan, (1993) 3 SCC 406 and Rameshchandra Rampratapji Daga v. Rameshwari Rameshchandra Daga, (2005) 2 SCC 33, the Supreme Court held that the object of Section 25 is to prevent a financially dependent spouse from being rendered destitute upon disruption or alteration of the marital status. The entitlement to seek permanent alimony arises because of the decree passed under the Hindu Marriage Act and not because the marriage is ultimately found to be valid or void.

The Court further clarified that the remedy under Section 25 of the Hindu Marriage Act is fundamentally different from the summary remedy available under Section 125 of the Code of Criminal Procedure, 1973 (now Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023). While proceedings under Section 125 CrPC are confined to persons falling within the statutory definition of "wife", Section 25 creates an independent statutory right available to either spouse whenever a decree under the Hindu Marriage Act is passed. Consequently, decisions such as

Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav and Savitaben Somabhai Bhatiya v. State of Gujarat, rendered in the context of Section 125 CrPC, have no application while interpreting Section 25 of the Hindu Marriage Act.

Rejecting the contrary view adopted by certain High Courts, the Supreme Court also deprecated the use of expressions such as "illegitimate wife" or "faithful mistress" to describe a woman whose marriage has been declared void. The Court held that such terminology is inconsistent with the constitutional guarantee of dignity under Article 21 and reflects a misogynistic approach which has no place in judicial discourse.

The Court, however, emphasised that the grant of permanent alimony under Section 25 is discretionary and not automatic. While considering an application for permanent alimony, the matrimonial court must take into account the income and property of the parties, their conduct and the overall circumstances of the case. Thus, although a spouse to a void marriage is entitled to invoke Section 25, the actual grant and quantum of maintenance will depend upon the facts of each case and equitable considerations governing the exercise of judicial discretion.

Q. Whether maintenance pendente lite under Section 24 of the Hindu Marriage Act, 1955 can be granted even where the matrimonial court prima facie finds the marriage to be void or voidable?

The Supreme Court held that the power of the matrimonial court to grant maintenance pendente lite under Section 24 of the Hindu Marriage Act is not excluded merely because the marriage appears to be void or voidable. So long as proceedings under the Act are pending and the applicant satisfies the statutory requirement of having no independent income sufficient for support and litigation expenses, the court may grant interim maintenance. The Court reiterated that the power under Section 24 is discretionary and must be exercised after considering the financial circumstances and the conduct of the parties. Accordingly, even in proceedings seeking a declaration of nullity under Section 11, the matrimonial court remains competent to award interim maintenance pending adjudication of the dispute.

❖ ***Kanchana Rai v. Geeta Sharma*, 2026 SCC OnLine SC 59**

Q. Whether a daughter-in-law who becomes a widow after the death of her father-in-law is entitled to claim maintenance from the estate of the deceased father-in-law under Sections 21 and 22 of the Hindu Adoptions and Maintenance Act, 1956?

The Supreme Court answered this question in the affirmative in Kanchana Rai v. Geeta Sharma, 2026 SCC OnLine SC 59. The Court held that a widowed daughter-in-law is entitled to claim maintenance from the estate of her deceased father-in-law under Sections 21(vii) and 22 of the Hindu Adoptions and Maintenance Act, 1956, irrespective of whether she became a widow before or after the death of her father-in-law. The expression "any widow of his son" occurring in Section 21(vii) is plain and unambiguous and cannot be judicially restricted to mean only the widow of a predeceased son.

The Court observed that Section 21 merely identifies the category of persons who are "dependants" for the purposes of the Act and expressly includes "any widow of his son", subject to fulfilment of the statutory conditions regarding her inability to maintain herself from her husband's estate or from her children. Since the legislature deliberately omitted the expression "predeceased son", the Court held that it was impermissible to insert such words through judicial interpretation. Reiterating the settled principle of statutory interpretation, the Court held that where the language of a statute is clear and unambiguous, courts cannot rewrite legislation under the guise of purposive construction.

The Supreme Court further explained that Sections 19 and 22 of the Act operate in distinct fields. While Section 19 imposes an obligation upon a living father-in-law to maintain his widowed daughter-in-law during his lifetime, Section 22 creates an independent statutory obligation upon every heir inheriting the estate of a deceased Hindu to maintain the deceased's dependants out of the inherited estate. Consequently, the right under Section 22 is not dependent upon the existence of liability under Section 19.

The Court also rejected the interpretation adopted by the Family Court that only the widow of a son who had predeceased the father-in-law could seek maintenance from the estate. It held that such a distinction would create an irrational classification based solely upon the fortuitous timing of the husband's death, bearing no rational nexus to the object of the legislation, namely, protection of financially dependent family members. Such an interpretation would offend the constitutional guarantee of equality under Article 14 and undermine the right to live with dignity protected under Article 21 of the Constitution.

Emphasising the social welfare character of the Hindu Adoptions and Maintenance Act, the Court observed that the statutory scheme seeks to prevent dependants from being rendered destitute merely because the estate has devolved upon the heirs. Accordingly, every heir inheriting the estate of a deceased Hindu remains under a statutory obligation to maintain a widowed daughter-in-law who satisfies the conditions prescribed under the Act, irrespective of the point of time at which she became a widow. The High Court was therefore justified in holding the maintenance petition to be maintainable and directing the Family Court to adjudicate the claim on its merits.

❖ ***Vandana Kumari v. Greesh Babu Mathur*, 2025 SCC OnLine Jhar 3141**

Q. Whether permanent alimony awarded upon dissolution of marriage can be directed exclusively for the welfare, education and future financial security of the children, and what principles govern the determination of such alimony?

The Jharkhand High Court answered this question in the affirmative in ***Vandana Kumari v. Greesh Babu Mathur*, 2025 SCC OnLine Jhar 3141**. The Court held that permanent alimony is not intended to punish either the husband or the wife but to secure the welfare and financial security of the children after dissolution of marriage. Even after divorce, both parents continue to owe a legal obligation to maintain and provide for their children in accordance with their respective financial capacities. Consequently, where permanent alimony is claimed solely for the benefit of the children, the Court is required to assess not merely their present maintenance but also their future educational, medical, residential and matrimonial needs.

In the present case, although the marriage had been dissolved by an ex parte decree, the wife confined her claim before the High Court to permanent alimony for the benefit of the two daughters and expressly waived any claim for her own maintenance, being gainfully employed as a Government teacher. The High Court, therefore, declined to interfere with the decree of divorce and confined its adjudication to the issue of permanent alimony.

Relying upon the principles laid down by the Supreme Court in *Rajnesh v. Neha*, (2021) 2 SCC 324 and *Pravin Kumar Jain v. Anju Jain*, (2021) 15 SCC 801, the Court observed that determination of permanent alimony requires consideration of the financial status of both parties, their income, assets, liabilities, standard of living during the marriage, obligations towards dependent children and the future financial requirements of the family. The Court further emphasised that complete and truthful disclosure of income and assets is indispensable for determining a fair amount of maintenance.

The Court found that the husband, despite being a senior officer in the Indian Railways, had deliberately withheld his salary particulars and failed to comply with the directions requiring disclosure of his actual earnings. Such suppression of material financial information disentitled him from seeking equitable consideration before the Court. It was further noticed that while the mother was maintaining both daughters from her comparatively modest income, the father possessed substantially greater financial resources, owned immovable properties and occupied a higher-paying government post.

Recognising that the daughters would require substantial financial support not merely for their present maintenance but also for higher education, healthcare and future marriage, the High Court held that the father's obligation must reflect his actual earning capacity and cannot be discharged by offering a token amount. Rejecting the husband's proposal to pay ₹5 lakhs to each daughter as wholly inadequate, the Court directed payment of ₹40 lakhs as one-time permanent alimony, comprising ₹20 lakhs for each daughter, to be invested in fixed deposits for their education, marriage and future welfare.

The Court reiterated that the purpose of permanent alimony is not to penalise either spouse but to ensure that the children continue to enjoy financial security and a standard of living commensurate with the economic status of their parents notwithstanding the dissolution of marriage.

❖ ***Urmila Dixit v. Sunil Sharan Dixit*, (2025) 2 SCC 787 : 2025 SCC OnLine SC 2**

Q. Whether a gift deed executed by a senior citizen in favour of a child or relative can be cancelled under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, where the transferee fails to maintain the transferor?

The Supreme Court answered this question in the affirmative in ***Urmila Dixit v. Sunil Sharan Dixit*, (2025) 2 SCC 787 : 2025 SCC OnLine SC 2**. The Court held that a gift deed executed by a senior citizen may be declared void under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 where the transfer of property was made subject to the condition that the transferee would provide the transferor with basic amenities and physical needs, and the transferee subsequently refuses or fails to fulfil that obligation.

The Court observed that the Act is a beneficial social welfare legislation enacted to secure the dignity, welfare and protection of senior citizens. Consequently, its provisions must receive a liberal and purposive interpretation that advances the legislative object rather than a narrow or technical construction. The Court reiterated that, for invoking Section 23(1), two essential conditions must ordinarily be satisfied: first, the transfer must have been made subject to an obligation to maintain the senior citizen; and secondly, the transferee must have failed to discharge that obligation.

In the present case, the mother had executed a registered gift deed in favour of her son. Simultaneously, the son had executed a promissory undertaking agreeing to maintain his mother throughout her lifetime and acknowledging that failure to do so would entitle her to revoke the gift. The evidence further disclosed a complete breakdown of the relationship and failure on the part of the son to fulfil his undertaking. Rejecting the restrictive interpretation adopted by the High Court, the Supreme Court held that the gift deed and the contemporaneously executed undertaking constituted one composite transaction. The conditions attached to the transfer had been breached and, therefore, the Tribunal had rightly exercised its jurisdiction under Section 23 to declare the gift deed void.

The Court further emphasised that Section 23 must be interpreted in light of the Statement of Objects and Reasons of the Act and the constitutional commitment to protect senior citizens under Articles 21, 39 and 41 of the Constitution. Accordingly, where the conditions attached to the transfer for the welfare of the senior citizen are not honoured, the Tribunal is empowered to cancel the transfer and restore the property to the transferor.

Q. Whether the Maintenance Tribunal constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has the jurisdiction to restore possession of property and order eviction while exercising powers under Section 23 of the Act?

The Supreme Court answered this question in the affirmative in ***Urmila Dixit v. Sunil Sharan Dixit***, **(2025) 2 SCC 787 : 2025 SCC OnLine SC 2**. The Court held that the powers of the Maintenance Tribunal under Section 23 are not confined merely to declaring a transfer of property void. The Tribunal is also competent to grant consequential reliefs, including restoration of possession and eviction of the transferee, where such relief is necessary to secure the protection, welfare and effective enforcement of the rights of senior citizens.

The Supreme Court rejected the view that Section 23 is a stand-alone provision conferring only a limited power to annul a transfer. It held that the provision must be read in harmony with the overall scheme and objectives of the Act, which seeks to provide speedy, simple and inexpensive remedies for the protection of elderly persons. A narrow interpretation denying the Tribunal the power to restore possession would frustrate the very purpose of the legislation.

Relying upon ***S. Vanitha v. Deputy Commissioner, Bengaluru Urban District***, the Court reiterated that the Tribunal possesses incidental and consequential powers necessary to make its orders effective. Consequently, once a transfer is declared void under Section 23, the Tribunal may direct eviction of the transferee and restoration of possession to the senior citizen wherever such relief is required to secure the transferor's welfare and peaceful enjoyment of the property.

Accordingly, the Supreme Court restored the orders of the authorities below cancelling the gift deed and directed that possession of the property be restored to the appellant. The judgment reaffirms that the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is a remedial and welfare-oriented legislation whose provisions must receive a liberal interpretation so as to ensure meaningful protection of the rights, dignity and security of senior citizens.

❖ ***Kamalakant Mishra v. Additional Collector & Others*, 2025 SCC OnLine SC 2077**

Q. Whether the Maintenance Tribunal constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has the jurisdiction to direct eviction of a child or relative from the property of a senior citizen, in addition to granting maintenance?

The Supreme Court answered this question in the affirmative in ***Kamalakant Mishra v. Additional Collector & Others*, 2025 SCC OnLine SC 2077**. The Court reaffirmed that the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is a beneficial social welfare legislation enacted to secure the maintenance, protection and welfare of senior citizens. Consequently, its provisions must receive a liberal and purposive interpretation so as to advance the legislative objective and protect elderly persons from neglect and exploitation.

The Court held that the jurisdiction of the Maintenance Tribunal is not confined merely to directing payment of monetary maintenance. Where a child or relative unlawfully occupies the property of a senior citizen or prevents the senior citizen from peacefully residing therein, the Tribunal possesses the authority to direct eviction and restore possession to the senior citizen. Such power is ancillary to the object of the Act and is necessary to ensure the dignity, security and residential rights of senior citizens.

In the present case, the appellant, an eighty-year-old senior citizen, and his wife had been deprived of possession of their own properties by their financially independent son, who refused to permit them to reside therein. The Court observed that such conduct constituted a breach of the statutory obligation owed by the child towards his parents and frustrated the very object of the Act. Accordingly, the eviction order passed by the Maintenance Tribunal was held to be legal and valid.

The Supreme Court further held that the Bombay High Court erred in setting aside the eviction order on the ground that the respondent had become a senior citizen. The relevant date for determining whether a respondent falls within the definition of a senior citizen is the date of institution of proceedings before the Tribunal and not the date on which the matter is adjudicated. Since the respondent had not attained the age of sixty years when the application was filed, the High Court's reasoning was held to be legally unsustainable.

Reiterating the principle laid down in ***S. Vanitha v. Deputy Commissioner, Bengaluru Urban District,* (2021) 15 SCC 730**, the Court held that the Tribunal's powers extend beyond directing payment of maintenance and include the power to order eviction wherever such relief is necessary to effectively secure the welfare, residence and dignity of senior citizens. The appeal was accordingly allowed and the eviction order passed by the Maintenance Tribunal was restored.

Q. Whether a financially independent child who deprives his parents of possession and enjoyment of their own property can be evicted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007?

The Supreme Court held that where a financially independent child occupies the property of his elderly parents and prevents them from residing therein, such conduct amounts to a breach of the statutory obligation imposed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Tribunal is therefore competent to direct eviction and restore possession to the senior citizen so as to effectively protect the right to maintenance, residence and dignified living guaranteed under the Act. The Court emphasised that the legislation is intended not merely to provide financial support but also to secure the physical security and residential rights of senior citizens against neglect and exploitation by their children or relatives.

❖ ***Rahul Kumar v. Deepika Gupta*, 2026 SCC OnLine Jhar 609**

Q. Whether the mere fact that a wife is employed or earning an independent income disentitles her from claiming permanent alimony under Section 25 of the Hindu Marriage Act, 1955?

The Jharkhand High Court answered this question in the negative in ***Rahul Kumar v. Deepika Gupta*, 2026 SCC OnLine Jhar 609**. The Court held that the mere fact that a wife is employed or earns an independent income does not, by itself, disentitle her from receiving permanent alimony under Section 25 of the Hindu Marriage Act. The entitlement to permanent alimony depends not merely upon the existence of income but upon whether such income is sufficient to enable the spouse to maintain a standard of living reasonably comparable to that enjoyed during the subsistence of the marriage.

Referring to Section 25 of the Hindu Marriage Act and the decisions of the Supreme Court in *Vinny Parmvir Parmar v. Parmvir Parmar*, (2011) 13 SCC 112, *Shailja v. Khobbanna*, (2018) 12 SCC 199, *Sunita Kachwaha v. Anil Kachwaha*, (2014) 16 SCC 715, *U. Sree v. U. Srinivas*, (2013) 2 SCC 114, *Kiran Jyot Maini v. Anish Pramod Patel*, (2024) 13 SCC 66 and *Rajnesh v. Neha*, (2021) 2 SCC 324, the Court reiterated that determination of permanent alimony requires consideration of several relevant factors, including the financial capacity and assets of the parties, their social status, reasonable needs, conduct, and other surrounding circumstances. No rigid mathematical formula can be applied for determining the quantum of maintenance.

Rejecting the husband's contention that the wife was employed as a teacher and was therefore disentitled to permanent alimony, the Court held that employment by itself is not decisive. What is material is whether the income earned by the wife is adequate for her maintenance in accordance with the standard of living she enjoyed during the marriage. Since the Family Court had considered the relevant statutory factors and awarded a reasonable sum of ₹6 lakhs as permanent alimony, the High Court found no ground to interfere with the award.

CHILD CUSTODY

❖ ***Sharmila Velamur v. V. Sanjay, 2025 SCC OnLine SC 482***

Q. Whether a court can disregard an expert medical opinion regarding a person's decision-making capacity merely on the basis of its own interaction with that person in a child custody dispute?

No. A court cannot disregard or override a credible expert medical opinion regarding a person's decision-making capacity merely on the basis of its own brief interaction with that person. The Supreme Court authoritatively laid down this principle in **Sharmila Velamur v. V. Sanjay, 2025 SCC OnLine SC 482.**

The Court held that whenever there is any uncertainty regarding a person's capacity to make independent decisions, and a specialist, domain expert, or qualified medical professional has rendered a definitive opinion regarding the person's disability or cognitive limitations, the Court must accord due weight and credence to such expert opinion. If the expert assessment establishes that the person's mental or cognitive age is substantially below the age of majority, no inference of either "express" or "implied" consent can be drawn in respect of decisions having significant legal or personal consequences. Unless there exist compelling reasons to disbelieve the expert assessment, courts must exercise extreme caution before reaching a contrary conclusion.

The Supreme Court further clarified that although courts are not invariably bound by expert opinions and may, in appropriate cases, arrive at a different conclusion, they cannot reject or discard an expert report without cogent reasons. Where the dispute involves highly specialized medical issues concerning cognitive disability, scientific and medical evidence must ordinarily prevail over subjective judicial impressions. If the Court entertains doubts regarding the correctness or reliability of an expert report, the proper course is to direct a fresh evaluation by another reputed medical institution rather than substitute expert evidence with conclusions drawn from a brief interaction with the individual.

In the present case, the Supreme Court itself directed a comprehensive multidisciplinary assessment of Aadith at NIMHANS, Bengaluru, in addition to considering the earlier evaluation conducted by the Idaho Department of Health and Welfare. Both expert bodies consistently concluded that although Aadith, aged 22 years, was capable of performing routine daily activities, communicating effectively, and expressing preferences in ordinary matters, his cognitive functioning was equivalent to that of an 8 to 10-year-old child. Consequently, he lacked the capacity to independently make complex decisions relating to long-term residence, financial affairs, legal matters, occupational responsibilities, or other decisions requiring higher-order reasoning, appreciation of consequences, and independent judgment. Thus, while he could make simple day-to-day choices, he could not make legally significant decisions affecting his long-term welfare.

The Supreme Court held that the Madras High Court committed a serious error in ignoring the consistent medical assessments, Aadith's medical history, and his educational records, and instead concluding, solely on the basis of its own interaction with him, that he had voluntarily chosen to remain in India with his father. The Court observed that if the High Court had any reservations regarding the reliability of the expert reports, it ought to have ordered a fresh medical evaluation through another reputed institution instead of completely discarding specialized scientific evidence. The Court expressly held that Aadith was incapable of making independent legally binding decisions regarding his residence and welfare, and therefore the High Court's conclusion that he had consciously consented to stay in India was legally unsustainable.

Having concluded that Aadith lacked the capacity to make complex independent decisions, the Supreme Court invoked the doctrine of *parens patriae*, holding that it became the Court's duty to determine the course of action that would best serve his welfare and interests rather than treating his expressed preference as decisive. Considering that Aadith had spent most of his life in the United States, had access to specialised educational and support services there, and shared a close emotional bond with his younger brother, the Court held that his welfare would be best served by restoring his custody to his mother and permitting her to take him back to the United States.

Thus, the Supreme Court established the broader legal principle that whenever there is doubt regarding the decision-making capacity of a person with cognitive disabilities, courts must ordinarily rely upon credible expert medical evidence rather than their own subjective impressions formed during a brief interaction. Judicial assessment cannot substitute specialised medical expertise in determining cognitive capacity, particularly where the decision concerns rights and choices having profound legal or personal consequences.

❖ ***Vivek Kumar Chaturvedi v. State of U.P., (2025) 4 SCC 342***

Q. Whether a natural guardian (father) is entitled to custody of his minor child through a writ of habeas corpus even when the child is residing with the maternal grandparents and expresses a preference to continue living with them?

Yes. The natural guardian's right to custody cannot be denied merely because the child is presently residing with the maternal grandparents or expresses a preference to continue living with them. The Supreme Court reaffirmed this principle in ***Vivek Kumar Chaturvedi v. State of U.P., (2025) 4 SCC 342.***

The Court held that although the welfare of the child remains the paramount consideration in every custody dispute, the father, being the natural guardian, enjoys a superior legal claim to custody unless there exist compelling circumstances demonstrating that such custody would be detrimental to the child's welfare. The mere fact that the father has remarried, or that the child has become accustomed to living with the maternal grandparents, cannot by itself defeat the father's legal entitlement or justify depriving the child of the care and companionship of his natural guardian.

The Supreme Court further clarified that there is no inflexible rule regarding the maintainability of a writ of habeas corpus in child custody matters. Ordinarily, questions of custody are decided under the Guardians and Wards Act, 1890. However, where a natural guardian seeks custody of a minor child from persons who have no superior legal right to retain the child, a petition under Article 226 of the Constitution seeking a writ of habeas corpus is maintainable, though its maintainability ultimately depends upon the facts and circumstances of each case. The Court relied upon its earlier decisions in Tejaswini Gaud v. Shekhar Jagdish Prasad Tewari, Gautam Kumar Das v. State (NCT of Delhi), and distinguished Nirmala v. Kulwant Singh on its peculiar facts.

In the present case, the father challenged the Allahabad High Court's order refusing him custody of his minor son after the death of the child's mother. The High Court had principally relied upon its interaction with the child, who stated that he was comfortably residing with his maternal grandfather and pursuing his education there, and also took into account the father's remarriage before permitting the child to continue with the grandparents while granting the father only visitation rights.

The Supreme Court found the High Court's approach to be erroneous. It observed that while the learned Single Judge interacted with the child, no meaningful attempt was made to ascertain the child's attitude towards his father, with whom he had lived continuously for nearly ten years before his mother's death. The Court noted that the child had been separated from his father only after the mother's demise in 2021 and that the grandparents could not acquire a better legal claim to custody than the natural guardian merely because the child had remained with them for some time.

The Court further found that there was no allegation whatsoever of matrimonial discord between the parents during the mother's lifetime, nor any allegation of cruelty, abuse, neglect, or misconduct against the father. The father was a well-educated officer serving in the State Administrative Service, financially secure, and fully capable of providing for the child's education and overall welfare. The paternal grandfather had also conveyed immovable property in favour of the child, deposited ₹10 lakh in the child's name, and obtained a ₹25 lakh life insurance policy naming the child as beneficiary, demonstrating the family's commitment to the child's future. The Court held that the father's remarriage could not be treated as a disqualification; rather, the willingness of his second wife to accept and care for the child removed any concern regarding the child's upbringing in the father's household.

While concluding that the welfare of the child would ultimately be best served by restoring custody to the father, the Supreme Court also recognised the emotional bond the child had developed with his maternal grandparents during the preceding three years and the importance of ensuring continuity in his education. Accordingly, instead of directing an immediate transfer of custody, the Court permitted the child to complete the ongoing academic session with the grandparents until 30 April 2025. During this transitional period, the father was granted custody of the child on alternate weekends. Thereafter, custody was directed to be handed over to the father on 1 May 2025 in the presence of the jurisdictional Station House Officer. The maternal grandparents were also granted visitation rights by allowing the child to stay with them on every weekend containing the second Saturday of the month for one year, after which future interaction would be governed by the wishes of the child. Consequently, the pending guardianship proceedings before the Family Court were directed to stand closed.

Thus, the Supreme Court reaffirmed that while the welfare of the child is the paramount consideration, a natural guardian cannot ordinarily be denied custody merely because the child has become accustomed to living with relatives or because the father has remarried. Unless there are compelling circumstances showing that the father's custody would be contrary to the child's welfare, the natural guardian's legal right must ordinarily prevail, subject to appropriate transitional and visitation arrangements to safeguard the child's emotional well-being.

❖ ***Ivan Rathinam v. Milan Joseph, 2025 SCC OnLine SC 175***

Q. Whether the presumption of legitimacy under Section 112 of the Indian Evidence Act determines paternity in law, and when can a DNA test be directed?

The Supreme Court held that the presumption of legitimacy under Section 112 of the Indian Evidence Act determines paternity in law unless the statutory presumption is displaced by proving “non-access” between the spouses during the period when the child could have been begotten. The Court rejected the High Court's view that legitimacy and paternity are independent concepts capable of separate adjudication.

The Court observed that although, scientifically, biological paternity and legal legitimacy may differ, Indian law equates legitimacy with paternity through the conclusive presumption contained in Section 112. The burden lies upon the person alleging illegitimacy to rebut this presumption by establishing non-access between the spouses. Mere allegations of adultery or proof of an extra-marital relationship are insufficient to displace the statutory presumption.

Reiterating the principles laid down in *Goutam Kundu* v. *State of W.B.*, (1993) 3 SCC 418., *Sharda* v. *Dharmpal*, (2003) 4 SCC 493. , and *Bhabani Prasad Jena* v. *Orissa State Commission for Women*, (2010) 8 SCC 633., the Court held that DNA testing cannot be ordered as a matter of course. A court may direct a DNA test only where a strong prima facie case of non-access is established by cogent evidence and after carefully considering the consequences of such an order.

Applying these principles, the Court found that the respondent's mother and her husband were admittedly living together throughout the relevant period and several courts had concurrently found that they had access to each other. Consequently, the statutory presumption under Section 112 remained intact, and there existed no legal basis for directing a DNA test.

Q. Whether the child's right to know his biological father justified compelling the appellant to undergo a DNA test?

The Supreme Court answered the question in the negative and held that no eminent need existed for directing a DNA test in the facts of the case.

The Court observed that before directing DNA testing, courts must undertake a careful balancing of competing interests. On one hand lies the child's interest in knowing his biological parentage; on the other stand the privacy, dignity, and reputation of the alleged biological father, the mother, and other stakeholders.

Relying upon *K.S. Puttaswamy (Privacy-9J.)* v. *Union of India*, (2017) 10 SCC 1, the Court reiterated that the right to privacy forms part of Article 21 of the Constitution and includes protection of family life, marriage, procreation, and intimate personal choices. It also relied on *X2* v. *State (NCT of Delhi)*, (2023) 9 SCC 433 to emphasise that privacy and dignity are closely intertwined constitutional values.

The Court held that compelling a person to undergo a DNA test exposes intimate aspects of private life, may irreparably damage reputation, and could subject individuals to social stigma arising from allegations of infidelity. Such an intrusive direction cannot be justified merely on unsubstantiated allegations.

The Court distinguished Nandlal Wasudeo Badwaik v. Lata Nandlal Badwaik, (2014) 2 SCC 576, where all parties had consented to DNA testing, and Dipanwita Roy v. Ronobroto Roy, (2015) 1 SCC 365, where DNA testing was ordered in divorce proceedings to establish adultery rather than to determine legitimacy.

Since the evidence already conclusively established the statutory presumption of legitimacy and there was no insufficiency of evidence, the Court held that there was no eminent necessity warranting DNA testing.

Q. Whether the Civil Court lacked jurisdiction to entertain the suit because the Family Court possessed exclusive jurisdiction under the Family Courts Act, 1984?

The Supreme Court held that the Civil Court (Munsiff Court) possessed jurisdiction to entertain the suit and the Family Court did not enjoy exclusive jurisdiction in the facts of the case.

The Court examined Sections 7 and 8 of the Family Courts Act, 1984 and observed that although Family Courts possess exclusive jurisdiction over suits relating to legitimacy and maintenance, such jurisdiction is intended to resolve disputes arising from matrimonial relationships.

Relying upon Renubala Moharana v. Mina Mohanty, (2004) 4 SCC 215, the Court held that Family Courts cannot entertain proceedings seeking a declaration of legitimacy where no issue concerning the marital relationship itself is involved.

The dispute in the present case arose from an alleged extra-marital relationship between the respondent's mother and the appellant, without any challenge to the marital relationship between the respondent's mother and her husband. Consequently, the Munsiff Court was competent to entertain the original suit, and the findings rendered by the Civil Courts were not without jurisdiction.

Q. Whether the Family Court could revive the maintenance proceedings despite the condition imposed in its earlier order?

The Supreme Court held that the Family Court acted illegally in reviving the maintenance proceedings because the condition imposed in its earlier order had not been fulfilled.

The Court observed that while exercising its inherent powers under Section 151 CPC, the Family Court had merely kept the maintenance proceedings in abeyance pending the outcome of the civil litigation. The revival of the maintenance petition was expressly made conditional upon the respondent succeeding in appeal against the civil court's judgment.

Since the respondent failed before the Munsiff Court, the First Appellate Court, and the High Court, the stipulated condition never materialised. The Court held that the self-imposed condition was neither contrary to law nor prejudicial to any party, but was intended to avoid parallel proceedings and conflicting findings.

Accordingly, the Family Court had no authority to reopen the maintenance proceedings contrary to its own binding order.

Q. Whether the second round of litigation before the Family Court was barred by the principle of res judicata?

The Supreme Court held that the subsequent maintenance proceedings were barred by the doctrine of res judicata.

The Court observed that the High Court's judgment dated 28 October 2011 affirming the respondent's legitimacy had attained finality and conclusively settled the controversy between the parties. Once the issue stood finally adjudicated, it could not be reopened indirectly through maintenance proceedings by characterising the dispute as one concerning biological paternity.

Referring to the statutory principle embodied in Section 11 CPC, the Court reiterated that once a competent court finally decides a matter, neither party can re-agitate the same issue in subsequent proceedings. The doctrine promotes certainty, finality, and judicial discipline by preventing repetitive litigation.

The Court held that permitting the Family Court to revive the maintenance proceedings would amount to reopening issues already conclusively decided, resulting in abuse of the judicial process and wastage of judicial time.

Accordingly, the Court concluded that the revival of the maintenance proceedings was ex facie barred by the principle of res judicata.

The Supreme Court allowed the appeal and held that:

➔ Legitimacy under Section 112 of the Indian Evidence Act determines paternity in law unless the presumption is rebutted by proving non-access.

➔ A DNA test cannot be directed merely on allegations of adultery or extra-marital relations and requires a strong prima facie case together with an eminent necessity.

➔ The appellant's constitutional rights to privacy and dignity outweighed the respondent's request for compulsory DNA testing in the facts of the case.

➔ The Civil Court had jurisdiction to entertain the original suit.

- ➔ The Family Court wrongly revived the maintenance proceedings contrary to its own conditional order.
- ➔ The subsequent proceedings were barred by the doctrine of res judicata.
- ➔ The maintenance proceedings stood quashed, and the respondent continued to be presumed in law to be the legitimate son of Mr. Raju Kurian.

❖ ***Shephali Chakraborty v. State of West Bengal*, 2026 SCC OnLine SC 1064**

Q. Whether a court may grant permission under Section 8 of the Hindu Minority and Guardianship Act, 1956 to alienate or develop a minor's immovable property, and what considerations govern the exercise of such jurisdiction?

The Supreme Court answered this question in the affirmative in ***Shephali Chakraborty v. State of West Bengal*, 2026 SCC OnLine SC 1064**. The Court held that Section 8 of the Hindu Minority and Guardianship Act, 1956 embodies an ex ante protective mechanism requiring prior judicial scrutiny before a natural guardian may alienate or otherwise deal with a minor's immovable property. While a natural guardian possesses broad powers to manage the minor's estate, any transfer, development or other disposition of the minor's immovable property requires prior permission of the competent court, which must independently determine whether the proposed transaction is necessary or for the evident advantage of the minor.

The Supreme Court observed that the jurisdiction exercised under Section 8 is rooted in the doctrine of parens patriae, under which the court acts as the ultimate protector of the interests of the minor. Consequently, the court is not bound by the consent of the guardian or the convenience of the adult co-owners, but is under a statutory obligation to undertake an independent assessment of whether the proposed transaction would genuinely advance the welfare of the minor. The paramount consideration is the minor's present and future welfare, and every proposed alienation must be examined from the standpoint of the child's best interests.

The Court further held that the determination under Section 8 is essentially fact-specific. While an undivided share in undeveloped land may, in appropriate cases, continue to serve the minor's interests, it may equally be converted into more valuable and immediately beneficial assets where such conversion demonstrably enhances the minor's welfare. In the present case, the proposed development agreement entitled the minor to a proportionate share in a constructed residential flat together with monetary consideration. The Court found that such a transaction would transform the minor's notional and undivided interest in vacant land into tangible, enforceable and economically beneficial assets, thereby serving the minor's evident advantage.

Accordingly, the Supreme Court set aside the orders of the District Judge, Darjeeling and the Circuit Bench of the High Court at Jalpaiguri and granted permission to implement the development agreement. At the same time, to safeguard the minor's interests, the Court directed that the monetary consideration received on behalf of the minor be invested in a nationalised bank until the minor attained majority, prohibited any alteration of the development agreement without prior judicial approval, and authorised the District Judge to impose such additional safeguards as might be necessary. The judgment reaffirms that while Section 8 does not prohibit alienation of a minor's immovable property, such transactions are permissible only where the court, acting in its parens patriae jurisdiction, is satisfied that they are demonstrably necessary or for the evident advantage of the minor.

ADOPTION

❖ ***Ram Shridhar Chimurkar v. Union of India* (2023) 4 SCC 312 : 2023 SCC OnLine SC 33**

Q. Whether a child adopted by the widow of a deceased government servant after the death of the government servant is entitled to family pension under Rule 54(14)(b) of the Central Civil Services (Pension) Rules, 1972, by virtue of the legal consequences of adoption under the Hindu Adoptions and Maintenance Act, 1956?

The Supreme Court answered this question in the negative in ***Ram Shridhar Chimurkar v. Union of India*, (2023) 4 SCC 312 : 2023 SCC OnLine SC 33**. The Court held that although the Hindu Adoptions and Maintenance Act, 1956 recognises the right of a Hindu widow to adopt a child after the death of her husband and confers upon the adopted child the legal status of a child of the adoptive family for all purposes, such legal consequences do not automatically entitle the adopted child to family pension under the Central Civil Services (Pension) Rules, 1972. The entitlement to family pension is governed exclusively by the statutory provisions contained in the CCS (Pension) Rules and cannot be enlarged by applying the legal fiction created under personal law.

The Court observed that the Hindu Adoptions and Maintenance Act and the CCS (Pension) Rules operate in distinct fields. While the former regulates the validity and legal consequences of adoption under Hindu personal law, the latter governs pensionary benefits payable to the dependants of deceased government servants. Consequently, rights flowing from adoption under personal law cannot, by themselves, modify or expand the scope of statutory service benefits unless the relevant service rules expressly so provide.

Interpreting Rule 54(14)(b) of the CCS (Pension) Rules, the Supreme Court held that the expression "family in relation to a Government servant" contemplates only those persons who had an existing legal and familial relationship with the deceased government servant during his lifetime. The purpose of the family pension scheme is to provide financial assistance to the immediate dependants of the deceased employee who were members of his family during his lifetime. Since a child adopted by the widow after the death of the government servant never acquired such a relationship with the deceased during his lifetime, the child does not fall within the statutory definition of "family" for the purpose of claiming family pension.

The Court also distinguished the status of a posthumous child from that of a child adopted after the death of the government servant. It observed that a posthumous child possesses a biological and legal relationship with the deceased parent from birth and therefore falls within the concept of "family" contemplated under the Rules. On the other hand, a child adopted by the widow after the death of the government servant acquires the status of an adopted child only through the subsequent act of adoption and had no legal relationship with the deceased during his lifetime. The two categories are therefore not similarly situated and cannot be equated for the purpose of extending family pension.

Accordingly, the Supreme Court held that a child adopted by the widow of a deceased government servant after the death of the government servant is not entitled to family pension under Rule 54(14)(b) of the Central Civil Services (Pension) Rules, 1972. The judgment underscores the principle that while adoption under the Hindu Adoptions and Maintenance Act creates a parent-child relationship for purposes governed by personal law, statutory benefits such as family pension are regulated exclusively by the governing service rules and cannot be extended by implication beyond the class of beneficiaries expressly recognised therein.

❖ ***Sri Mahesh v. Sangram*, 2025 SCC OnLine SC 12**

Q. Whether an adopted child can challenge alienations of property made by the adoptive parent after adoption, and what is the effect of Section 12(c) of the Hindu Adoptions and Maintenance Act, 1956 read with the Doctrine of Relation Back?

The Supreme Court considered this issue in ***Sri Mahesh v. Sangram*, 2025 SCC OnLine SC 12**. The Court held that although an adopted child is deemed to be the child of the adoptive parent for all purposes from the date of adoption, such adoption does not divest any estate that had already vested in another person prior to the adoption, as expressly provided under Section 12(c) of the Hindu Adoptions and Maintenance Act, 1956. At the same time, where a widow adopts a son after the death of her husband, the adoption relates back to the date of the husband's death under the settled Doctrine of Relation Back, thereby conferring upon the adopted child the status of a coparcener from that date. However, the doctrine does not invalidate lawful alienations previously made by the person in whom the property had vested.

In the present case, the appellant was adopted by the widow of the deceased owner in 1994 after she had already acquired an absolute interest in certain properties pursuant to a compromise decree. The appellant claimed that, by virtue of his adoption, he became the legal heir of the deceased husband and consequently challenged a sale deed and a gift deed executed by the adoptive mother.

The Supreme Court reiterated that, in view of the **Doctrine of Relation Back**, an adopted child is treated as having acquired rights in the adoptive family from the date of the adoptive father's death. Nevertheless, such rights remain subject to Section 12(c) of the Hindu Adoptions and Maintenance Act, which protects estates that had already vested before the adoption. Consequently, lawful alienations made by the adoptive parent in exercise of powers vested in her prior to the adoption continue to bind the adopted child. The Court relied upon *Shripad Gajanan Suthankar v. Dattaram Kashinath Suthankar,* (1974) 2 SCC 156 and *Kasabai Tukaram Karvar v. Nivruti,* 2022 SCC OnLine SC 918, to reaffirm that an adopted child cannot impeach valid alienations merely by invoking the doctrine of relation back.

Applying these principles, the Supreme Court upheld the validity of the sale deed executed by the adoptive mother in favour of third parties. The Court found that she had acquired absolute ownership over the property much before the adoption and had lawfully exercised her power of alienation. Accordingly, the adopted son was held bound by the sale and was not entitled to seek its cancellation.

However, the Court reached a different conclusion regarding the gift deed executed by the adoptive mother. Referring to Section 122 of the Transfer of Property Act, 1882, the Court observed that a valid gift requires not merely execution and registration but also acceptance by the donee during the lifetime of the donor. On the facts of the case, the evidence disclosed that possession of the gifted properties had never been delivered to the alleged donees, who themselves admitted ignorance regarding possession of the properties and acknowledged that the donor continued to retain possession until her death. The essential requirement of acceptance was therefore absent, rendering the gift invalid.

Accordingly, while affirming the validity of the sale deed, the Supreme Court restored the Trial Court's declaration that the gift deed was null and void. As the adopted son was the sole legal heir of the adoptive mother, he was held entitled to succeed to the properties covered by the invalid gift. The decision thus clarifies that the rights acquired through adoption are governed by the combined operation of the Doctrine of Relation Back and Section 12(c) of the Hindu Adoptions and Maintenance Act, under which valid pre-existing rights and lawful alienations remain protected, whereas invalid transfers may still be successfully challenged by the adopted child.

<u>ADR MECHANISM</u>

❖ ***<u>Vishal Shah v. Monalisha Gupta</u>*<u>, 2025 SCC OnLine SC 383</u>**

Q. Whether the failure of mediation and reconciliation efforts can be taken into consideration by the Supreme Court while deciding matrimonial disputes and exercising its jurisdiction under Article 142 of the Constitution?

The Supreme Court answered this question in the affirmative in ***Vishal Shah v. Monalisha Gupta*, 2025 SCC OnLine SC 383**. The Court held that the success or failure of mediation and reconciliation efforts is an important factor in determining whether a matrimonial relationship has irretrievably broken down and whether continuation of the marriage would serve any meaningful purpose. Reaffirming the principles laid down by the Constitution Bench in *Shilpa Sailesh v. Varun Sreenivasan,* (2023) 14 SCC 231, the Court observed that while exercising its extraordinary jurisdiction under Article 142 of the Constitution, it must undertake a holistic assessment of the matrimonial relationship, including the efforts made to preserve the marriage through mediation and other alternative dispute resolution mechanisms.

The Court observed that matrimonial disputes stand on a different footing from ordinary civil disputes, as they concern the preservation of the marital relationship and the institution of the family. Consequently, sincere attempts at reconciliation and mediation should ordinarily precede the dissolution of marriage. However, where repeated mediation efforts fail and the parties continue to remain estranged despite judicial intervention, such failure becomes a significant indicator that the marriage has completely broken down.

In the present case, the parties had cohabited for only a brief period and had been living separately for several years. Numerous civil, criminal and matrimonial proceedings had been instituted by both sides against each other and their respective family members, resulting in complete bitterness and loss of mutual trust. The Supreme Court noted that despite repeated opportunities and mediation efforts during the pendency of the proceedings, no settlement could be reached, as the parties remained unwilling to reconcile. The continued failure of mediation, coupled with prolonged separation and multiple litigations, convinced the Court that there was no realistic possibility of restoration of matrimonial life.

The Supreme Court therefore held that although mediation remains an indispensable mechanism for resolution of matrimonial disputes, its repeated failure may legitimately be taken into account while determining whether the marriage has irretrievably broken down. The judgment thus underscores that the object of matrimonial mediation is to facilitate genuine reconciliation wherever possible; however, where such efforts are exhausted without success, the courts are not expected to compel parties to continue a marriage that has ceased to exist in substance. Accordingly, the failure of mediation constituted one of the material circumstances that persuaded the Court to dissolve the marriage in exercise of its powers under Article 142 of the Constitution.

❖ ***Dhananjay Rathi v. Ruchika Rathi*, 2026 SCC OnLine SC 587**

Q. Whether a party can unilaterally resile from a settlement arrived at through court-referred mediation in matrimonial proceedings?

The Supreme Court answered this question in the negative in ***Dhananjay Rathi v. Ruchika Rathi*, 2026 SCC OnLine SC 587**. The Court held that a settlement voluntarily arrived at through court-referred mediation carries legal sanctity and cannot ordinarily be repudiated merely because one party subsequently withdraws consent for mutual divorce. A mediated settlement may be avoided only on recognised legal grounds such as fraud, coercion, undue influence or material breach of its terms.

The Court observed that mediation is intended to facilitate amicable and final settlement of matrimonial disputes. Permitting parties to accept benefits under a settlement and thereafter unilaterally resile from its terms would undermine the efficacy and credibility of court-annexed mediation. Accordingly, the Court enforced the settlement while granting appropriate relief under Article 142 and reiterated that mediated settlements must ordinarily be honoured to preserve public confidence in alternative dispute resolution mechanisms.