Rinku Baheti vs Sandesh Sharda on 19 December, 2024

Author: Pankaj Mithal

Bench: Pankaj Mithal

2024 INSC 1014

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO.278 OF 2023

RINKU BAHETI … PETITIONER

VERSUS

SANDESH SHARDA … RESPONDENT

JUDGMENT

NAGARATHNA, J.

This transfer petition has been filed by the petitioner-wife under Section 25 of the Code of Civil Procedure, 1908 (for short "CPC"), seeking the following reliefs:

> "a) Grant transfer of Divorce Petition case filed under section 13 (1) of Hindu Marriage Act, 1955 bearing RCS(HM) No. 1379 of 2022 titled as Sandesh Sharda Versus Rinku Baheti pending in the Hon'ble Court of Ld. Principal Judge, Family Courts District Bhopal, Madhya Pradesh to the Court of Ld. Principal Judge, Family Courts, District Pune, Maharashtra; and
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> b) Pass such other order(s) or directions as this Hon'ble Court may deem fit and proper in the circumstances Date: 2024.12.19 16:47:02 IST Reason:
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> of the case, to meet the ends of the justice."

2. The question for consideration before us is not just whether the petitioner is entitled to the aforesaid relief, but also whether this Court, upon the application filed by the respondent-husband, can exercise its powers under Article 142(1) of the Constitution of India to grant a decree of divorce to the parties herein on the ground of irretrievable breakdown of marriage. If yes, then on what terms. In the above backdrop, we have heard the application in the first instance.

Factual background:

3. Briefly stated, the facts of the case as narrated in the application filed by the respondent/applicant are that the petitioner-wife and the respondent-husband got married on 31.07.2021 as per Hindu rites and rituals at Pune. It was a second marriage for both the parties. The respondent had obtained a decree of divorce from his first wife on 09.11.2020. The said marriage had subsisted for almost two decades and he has two children from his first marriage. The respondent is a citizen of the United States of America (USA) and is engaged in the business of Information Technology consultancy services in USA. The petitioner is a post-graduate who has a degree in Finance and further has studied Naturopathy and Yogic Sciences. The parties met through a matrimonial portal in May 2020 and decided to tie the knot after a few months.

3.1 The petitioner and the respondent started having marital discord, largely over the issue of respondent's continued involvement with his children, ex-wife and ailing father. The respondent husband is stated to have mooted the idea of separation by mutual consent, which was not acceptable to the petitioner. The respondent even submitted a complaint at Police Station Habibganj and filed a complaint dated 22.07.2022 before the Judicial Magistrate First Class, Bhopal under Section 200 of the Code of Criminal Procedure, 1973 (hereinafter "CrPC), alleging that as a result of constant fights between the parties, the petitioner has been subjecting the respondent to mental cruelty by threatening him with dire consequences like taking her own life and filing false criminal cases against the respondent and his family. Thus, the respondent had sought appropriate action against the petitioner and an impartial investigation in future if the petitioner took any untoward step.

3.2 Thereafter, on 01.08.2022, the respondent filed a divorce petition bearing RCS(HM) No.1146/2022 before the Family Court, Bhopal, under Section 13(1) of the Hindu Marriage Act, 1955 (hereinafter "HMA"). But the same was dismissed as withdrawn by order dated 16.08.2022. Just before withdrawing the said divorce petition, the parties filed a second petition for divorce by mutual consent under Section 13B(1) of HMA, bearing RCS(HM) No. 1215/2022, on 13.08.2022 before the Family Court at Bhopal, Madhya Pradesh. The petitioner has alleged that the respondent had fraudulently obtained her signatures on this second divorce petition. Be that as it may, the said petition was also dismissed vide order dated 29.08.2022, on the ground that the parties had not completed the statutorily mandated period of separation of one year as per Section 13B(1) of the HMA.

3.3 Subsequently, on 14.09.2022, the respondent filed a third divorce petition bearing RCS(HM) No. 1379 of 2022 under Section 13(1)(ia) of the HMA before the Principal Judge, Family Court, Bhopal, Madhya Pradesh, seeking divorce from the petitioner on the ground of cruelty. The said petition has been contested by the petitioner and is also the subject matter of the present transfer petition before this Court.

3.4 Subsequently, the petitioner also filed two criminal cases–

(i) FIR No.586 of 2022 dated 12.12.2022 before the Police Station Yerwada, District Pune, for offences punishable under Sections 360, 427, 452, 454 and 457 of the Indian Penal Code, 1860 (for short, "IPC") which was filed against an employee of respondent's company;

(ii) FIR No. 588 of 2022 dated 15.12.2022 before the Police Station Yerwada, District Pune, for offences punishable under Sections 354, 376, 377, 420, 498A, 503, 506, 509 of the IPC and Sections 66 and 67 of the Information Technology Act, 2000 ("IT Act, 2000", for short) which was filed against the respondent and the respondent's father.

Interestingly, the second FIR dated 15.12.2022 was filed by the petitioner on the same day when she was scheduled to appear before the Family Court in the divorce case filed by the respondent-husband. Pursuant to the second FIR, a Look Out Circular (LOC) dated 19.12.2022 was issued from the Bureau of Investigation against the respondent and consequently, the respondent was arrested on 25.12.2022 from the international airport at Mumbai while he was leaving for USA. He was finally released on regular bail by the Additional Sessions Judge, Pune by order dated 21.01.2023, resulting in the respondent spending almost a month in custody. 3.5 Just a few days later, the chain of litigation between the parties reached the doors of this Court, when the petitioner filed the present transfer petition before this Court, seeking the transfer of divorce petition bearing No.RCS(HM) No.1379 of 2022, titled "Sandesh Sharda versus Rinku Baheti", pending before the Court of Principal Judge, Family Court, Bhopal, Madhya Pradesh, to the Court of the Principal Judge, Family Court, District Pune, Maharashtra. This court, vide order dated 09.02.2023, issued notice in the matter and granted interim stay on the aforesaid divorce proceedings pending before the Family Court. 3.6 During the pendency of the present transfer petition, the respondent has filed the interlocutory application bearing IA No. 149439/2023 before this Court under Article 142(1) of the Constitution of India, seeking dissolution of marriage between the parties on the ground of irretrievable breakdown of marriage amidst the multiple litigations pending between the parties. The relief sought by the respondent is as follows:

> "a. Allow the present application thereby exercising the powers conferred by Article 142(1) of the Constitution of India thereby dissolving the marriage of the parties and granting a decree of divorce; and/or b. Pass any such other and further order(s) that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case." 3.7 It is averred in the said application by the respondent that he had every intention to spend a good future with the petitioner but he has not been able to meet the illicit demands of the petitioner, both monetary and non-monetary. It is alleged that soon after the marriage, the petitioner had started demanding unrealistic sums of money from the respondent without providing any reasons for the same. The petitioner would misbehave with the respondent, his family, his staff, and not cooperate with the fact that the respondent had to take care of his octogenarian father and his children from his first marriage. It was also stated by the respondent that he had proposed the idea of an amicable separation to the petitioner but she created an even more hostile environment and threatened to implicate the respondent and his family in false criminal cases. Thus, the parties allegedly started living separately from February-March of 2022. It is stated that the petitioner asked

> for a sum of Rs.8 crores in lieu of filing for divorce by mutual consent, but upon the dismissal of the petition by the Trial Court, the petitioner's demand increased to Rs.25 crores, along with threats of criminal complaints. This was all followed by the FIRs filed by the petitioner and the arrest of the respondent, thereby fracturing the relations between the parties beyond repair.

Therefore, the respondent has prayed for a decree of divorce before this Court to be passed in this transfer petition by exercising jurisdiction under Article 142(1) of the Constitution. 3.8 The petitioner herein filed her reply to the application filed by the respondent under Article 142(1) of the Constitution and opposed the relief prayed by the respondent. The petitioner stated that there is no irretrievable breakdown of marriage between the parties and the respondent is seeking to abuse the extraordinary power of this Court under Article 142(1) of the Constitution to escape the process of law under the HMA. The petitioner further stated that she had been constantly discriminated against by her husband and in-laws since the time she got married to the respondent, and it was under the pressure of the respondent's ex- wife and children that he was attempting to seek divorce. The respondent had constantly tried to stall the process of taking the petitioner to USA with him, thus trying to systematically remove her from his life.

3.9 The father-in-law of the petitioner had also filed a complaint being Case No.838/B-121/2022-23 under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the SDM, Kolar, Bhopal, for eviction of the petitioner from the matrimonial home at Pune where she was residing. Thus, the petitioner sought the dismissal of the application filed by the respondent on the aforesaid grounds.

3.10 By order dated 12.09.2023, this Court observed that it was just and necessary that the application under Article 142(1) filed by the respondent has to be considered in a larger canvas and not just on the question of whether there is an irretrievable breakdown of marriage in the instant case. Thus, it was directed that the case being RCS (HM) No.1379/2022 titled as "Sandesh Sharda vs. Rinku Baheti" pending on the file of the Court of Principal Judge, Family Courts, District Bhopal, Madhya Pradesh be transferred to the Principal Judge, Family Court, District Pune, Maharashtra, only for the limited purpose of determining the quantum of alimony or maintenance as well as other rights which the petitioner-wife would be entitled to, in the event the application filed by the respondent-husband for divorce in the main transfer petition is to be allowed. The Transferee Court at Pune was directed to consider the case of the respective parties and record the evidence, if any, and submit a report in the form of an order to this Court for the purpose of considering the application filed by the respondent under Article 142(1) of the Constitution.

3.11 In compliance with the aforesaid order of this Court, both the parties appeared before the Transferee Court, i.e., Family Court, Pune. The petitioner-wife filed an application before that court for fixation of alimony commensurate to the assets of the respondent-husband and further sought monthly maintenance and residence rights in the matrimonial house at Pune. The petitioner averred before the Family Court, Pune that the respondent divorced his first wife and gave her 50% of his net worth, which was around Rs.500 crores, in addition to a house in USA, and therefore, the petitioner may be paid permanent alimony in the same manner as was given to the first wife and as

per the status of the respondent.

3.12 The respondent denied the claims made by the petitioner in her application for fixation of alimony and stated that the present marriage between the parties was for a short duration of only three months, during which no marital assets were created, unlike his previous marriage where his ex-wife had contributed to building the assets of the respondent and thus she was entitled to a stake in those assets. He stated that on the contrary, the criminal cases filed by the petitioner herein have led to a further loss of his business. Thus, the respondent prayed for the permanent alimony to be fixed in the range of Rs.20 lakhs to 40 lakhs. 3.13 The Family Court, Pune, after a detailed analysis of the material on record, submitted its report dated 22.03.2024 to this Court. The learned Judge of the Family Court at Pune concluded that after taking into consideration the status and standard of living of the respondent-husband; the income and expenditure of the petitioner-wife; as well as the fact that the petitioner-wife has her own house where she can live, permanent alimony of Rs.2 lakhs per month was just and reasonable and if a lumpsum amount is to be granted, an amount of Rs.10 crores would be just and proper.

Mediation Proceedings:

4. Pending consideration of the application filed under Article 142(1) of the Constitution, this Court made further attempts to encourage the parties to reach an amicable settlement inter se. By order dated 22.04.2024, the matter was referred to the Supreme Court Mediation Centre. But after a few mediation sessions, the respondent submitted through Video Conferencing Facility (VC) before us that he was not interested in pursuing a mediated settlement before the Supreme Court Mediation Centre and the same was recorded in the order dated 13.05.2024. However, the parties agreed to attempt a mediated settlement of the dispute between them before a retired Judge of this Court. Consequently, Mr. Justice S. Ravindra Bhat, Retired Judge, Supreme Court of India, was appointed as a mediator in the matter by the aforesaid order. The Hon'ble mediator held multiple meetings with the parties, in their presence and through VC, and submitted a Confidential Report dated 19.07.2024, by which he reported that the parties have not been able to reach a mutually agreeable settlement. The same has been perused by this Court. Upon further interaction with the petitioner and the respondent by this Court on 10.09.2024, it was categorically stated by the respondent while appearing through VC before us that he does not intend to engage in any further discussion with the petitioner. 4.1 In light of the above facts and circumstances, this Court heard learned senior counsel for the respective parties on IA No. 149439/2023 filed by the respondent-husband under Article 142(1) of the Constitution of India, seeking a decree of divorce from the petitioner-wife on the grounds of irretrievable breakdown of marriage. Depending upon the fate of the said application, this Court shall consider the original prayer made in the transfer petition by the petitioner-wife before this Court, i.e., whether the present transfer petition ought to be allowed or not. Submissions:

5. On the averments made by the parties against each other in the captioned transfer petition, the application under Article 142(1), the application for fixation of alimony and the corresponding replies filed to those pleadings, learned counsel for the petitioner and respondent made detailed submissions at the bar.

5.1 The crux of the submissions made by the learned senior counsel Ms. Meenakshi Arora on behalf of the respondent-husband was that in light of the numerous litigations pending between the parties, including the criminal complaints filed by the petitioner that went to the extent of Look Out Circular (LOC) being issued against the respondent herein and he also being arrested and being in custody for almost a month, the relationship between the parties has fractured beyond repair. The petitioner has gone to the extent of alleging falsely not just against the respondent, but his ailing father and his son who resides in USA as well as the employees of the respondent's company in the present dispute. It was submitted that the petitioner's unwarranted criminal complaints and actions have made a serious dent on the reputation of the respondent which has adversely affected both his personal life as well as his business.

5.2 It was further submitted that even though the parties resided together only for a brief period of three months and the petitioner is financially equipped and educated enough to maintain herself, the respondent is not shying away from his responsibility to reasonably provide for the future of the petitioner in case of a separation but the petitioner has been making unreasonable monetary demands that cannot be accepted by the respondent. The petitioner is also said to have usurped the flat belonging to the respondent and his father, despite herself having sufficient educational qualifications, various fixed deposits, a property worth Rs.90 lakhs and rental income from that property. 5.3 Thus, the learned counsel for the respondent contended that the cumulative impact of the ill-intended acts of the petitioner has been that the relationship between the parties has irretrievably broken down that cannot be cemented together again and therefore respondent intends to put an end to the mental, physical, emotional and financial harassment caused to him by the petitioner and consequently requests this Court to exercise its power under Article 142(1) of the Constitution and grant a decree of divorce and a reasonable permanent alimony to the petitioner. 5.4 Per contra, learned senior counsel for the petitioner Sri N.K. Modi contended that the application of the respondent under Article 142(1) of the Constitution is wholly misconceived. That the exercise of power under Article 142(1) of the Constitution is extraordinary and wide and ought not be used in cases where the underlying facts are in dispute and have to be factually determined after a fair trial. It was submitted that the parties have happily lived together after marriage. Contrary to what is being averred by the respondent, it was submitted that the parties have remained in touch and lived together after marriage for a period of almost thirteen months, i.e., from 31.07.2021 to 31.08.2022, when the petitioner left for Kota. Thus, the petitioner contends that the respondent was in touch with the petitioner throughout and was maintaining cordial relations and is seeking a divorce only on paper so as to satisfy his son and his father. It was further submitted that the petitioner is opposed to a decree of divorce, as that would leave her with societal stigma of being divorced twice. Learned senior counsel for the petitioner submitted that there is still a fair chance of reconciliation between the parties as she wants to remain married. Therefore, he prayed for the dismissal of the application filed by the respondent herein.

5.5 It was also submitted that in case this Court decides to grant a decree of divorce by exercising jurisdiction under Article 142(1), then the petitioner may be permitted to continue her residence in the matrimonial home at Pune, which is in the name of the father of the respondent and be further granted a permanent alimony equitable to the amount given to the first wife of the respondent. The petitioner's prayer is based on the contention that the respondent is a powerful man of means and

position, who is not having any other financial burdens since he has divorced his first wife, his two children are settled in USA and his 85-year old father is a wealthy person with multiple sources of income, on the other hand, the petitioner is a lady with limited resources available for her survival, who is running from pillar to post for justice and has been abandoned by her own parents because of the ongoing marital dispute. Therefore, the interest and welfare of the petitioner may be borne in mind by this Court was the submission of learned senior counsel for the petitioner.

Article 142(1) of the Constitution of India:

6. Before considering the facts and issues involved in the case, it is pertinent to refer to Article 142 of the Constitution of India, which reads as follows:

> "142. Enforcement of decrees and orders of the Supreme Court and orders as to discovery, etc.—(1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.
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> (2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself." (underlining by us) 6.1 The aforesaid Article empowers the Supreme Court to exercise its jurisdiction to pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and until provision in that behalf is so made, in such manner as the President may by order prescribe. The expression "such order as is necessary for doing complete justice" has a wide amplitude and scope and empowers the Supreme Court to make any order as may be necessary for doing complete justice in a case before it. Thus, the object of exercising such power is ultimately to do complete justice between the parties. Usually, when the Supreme Court moulds the relief while ensuring that no injustice is caused, power is exercised under Article 142(1) for doing complete justice in the matter. Sometimes, while laying down the law in a matter, a direction could be issued by granting relief in a particular way in that particular case so as to safeguard the interest of the parties.

The Supreme Court would also look into equitable consideration while passing such orders given the facts and circumstances of a case, so as to further the cause of justice.

6.2 In Shilpa Sailesh vs. Varun Sreenivasan, (2023) 5 SCR 165 ("Shilpa Sailesh"), a Constitution Bench of this Court speaking through Sanjiv Khanna, J. (as the present Chief Justice of India then was) observed in paragraph 19 as under:

> "19. Exercise of jurisdiction under Article 142(1) of the Constitution of India by this Court in such cases is clearly permissible to do 'complete justice' to a 'cause or matter'. We should accept that this Court can pass an order or decree which a family court, trial court or High Court can pass. As per Article 142(1) of the Constitution of India, a decree passed or an order made by this Court is executable throughout the territory of India. Power of this Court under Articles 136 and 142(1) of the Constitution of India will certainly embrace and enswathe this power to do 'complete justice', even when the main case/proceeding is pending before the family court, the trial court or another judicial forum. A question or issue of lack of subject- matter jurisdiction does not arise. Settlements in matrimonial matters invariably end multiple legal proceedings, including criminal proceedings in different courts and at diverse locations. Necessarily, in such cases, the parties have to move separate applications in multiple courts, including the jurisdictional High Court, for appropriate relief and closure, and disposal and/or dismissal of cases. This puts burden on the courts in the form of listing, paper work, compliance with formalities, verification etc. Parallelly, parties have to bear the cost, appear before several forums/courts and the final orders get delayed causing anxiety and apprehension. In this sense, when this Court exercises the power under Article 142(1) of the Constitution of India, it assists and aids the cause of justice." Shilpa Sailesh:
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> 7. The issue regarding invocation of the extraordinary powers of this Court under Article 142(1) of the Constitution of India in cases of marital disputes is no more res-integra and has been settled by a Constitution Bench of this Court in the case of Shilpa Sailesh.

The power to grant a decree of divorce under Article 142(1) of the Constitution is exercisable by the Courts when, in the opinion of this Court there is complete and irretrievable breakdown of marriage, in spite of the other spouse opposing such prayer. Three substantial questions of law were formulated for consideration in Shilpa Sailesh. The third question was:

> "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?" Learned senior counsel for both the parties have placed reliance on the said judgment of this Court, although citing different parts and paragraphs.
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> 7.1 Learned senior counsel for the respondent has drawn our attention to the following paragraph of the judgment in Shilpa Sailesh:

"33. Having said so, we wish to clearly state that grant of divorce on the ground of irretrievable breakdown of marriage by this Court is not a matter of right, but a discretion which is to be exercised with great care and caution, keeping in mind several factors ensuring that 'complete justice' is done to both parties. It is obvious that this Court should be fully convinced and satisfied that the marriage is totally unworkable, emotionally dead and beyond salvation and, therefore, dissolution of marriage is the right solution and the only way forward. That the marriage has irretrievably broken down is to be factually determined and firmly established. For this, several factors are to be considered such as the period of time the parties had cohabited after marriage; when the parties had last cohabited; the nature of allegations made by the parties against each other and their family members; the orders passed in the legal proceedings from time to time, cumulative impact on the personal relationship; whether, and how many attempts were made to settle the disputes by intervention of the court or through mediation, and when the last attempt was made, etc. The period of separation should be sufficiently long, and anything above six years or more will be a relevant factor. But these facts have to be evaluated keeping in view the economic and social status of the parties, including their educational qualifications, whether the parties have any children, their age, educational qualification, and whether the other spouse and children are dependent, in which event how and in what manner the party seeking divorce intends to take care and provide for the spouse or the children. Question of custody and welfare of minor children, provision for fair and adequate alimony for the wife, and economic rights of the children and other pending matters, if any, are relevant considerations. We would not like to codify the factors so as to curtail exercise of jurisdiction under Article 142(1) of the Constitution of India, which is situation specific. Some of the factors mentioned can be taken as illustrative, and worthy of consideration." (underlining by us) 7.2 On the contrary, learned senior counsel for the petitioner has placed reliance on the following paragraph of the judgment, wherein the Court answered the question, 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 spouse opposing the prayer:

"42. ...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." (underlining by us) 7.3 The petitioner has further relied on the following part from the Shilpa Sailesh judgment to bring our attention to the caution that needs to be exercised in granting a decree of divorce without undergoing trial:

"41. 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, a two judges' 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..." 7.4 Our attention was further drawn to the following part of the aforesaid judgment to highlight the relevance of the facts of the case while exercising the power under Article 142(1):

"20. However, there is a difference between existence of a power, and exercise of that power in a given case. Existence of power is generally a matter of law, whereas exercise of power is a mixed question of law and facts. Even when the power to pass a decree of divorce by mutual consent exists and can be exercised by this Court under Article 142(1) of the Constitution of India, when and in which of the cases the power should be exercised to do 'complete justice' in a 'cause or matter' is an issue that has to be determined independent of existence of the power. This discretion has to be exercised on the basis of the factual matrix in the particular case, evaluated on objective criteria and factors, without ignoring the objective of the statutory provisions." Other orders/judgments on irretrievable breakdown of marriage:

8. Learned senior counsel for the petitioner has further placed reliance on a few recent judgments of this Court, wherein the exercise of the power under Article 142(1) of the Constitution for granting a decree of divorce on the grounds of irretrievable breakdown of marriage was denied by this Court. Reliance is placed on a recent judgment of this Court in Delma Lubna Coelho vs. Edmond Clint Fernandes, (2023) 4 SCR 473, wherein the decree of divorce was denied by observing that the parties had stayed together for only forty days and it takes time to settle down in a marriage. Further reliance is placed on Nirmal Singh Panesar vs. Paramjit Kaur Panesar @ Ajinder Kaur Panesar, (2023) 13 SCR 832, wherein the exercise of power under Article 142(1) was refused by this Court to dissolve the marriage of an octogenarian couple, on the ground that the 82-year old wife is still ready and willing to take care of her husband and does not wish to leave him alone at this stage of his life and does not want to die with the stigma of being a divorcee. There have been other similar judgments cited by the learned counsel for the petitioner, but the same are not being mentioned here because those rulings were prior to the final settlement of the law on irretrievable breakdown of marriage by the Constitution Bench of this Court in Shilpa Sailesh.

8.1 The exercise of power by this Court under Article 142(1) to grant a decree of divorce and the factors to be considered while doing so have varied with facts and circumstances of each case. In the case of Rakesh Raman vs. Kavita, (2023) 3 SCR 552, it was observed as follows:

"15. The multiple Court battles between them and the repeated failures in mediation and conciliation is at least testimony of this fact that no bond now survive between the couple, it is indeed a marriage which has broken down irretrievably.

x x x x

16. ... Irretrievable breakdown of a marriage may not be a ground for dissolution of marriage, under the Hindu Marriage Act, but cruelty is. A marriage can be dissolved by a decree of divorce, inter alia, on the ground when the other party "has, after the solemnization of the marriage treated the petitioner with cruelty". In our considered opinion, a marital relationship which has only become more bitter and acrimonious over the years, does nothing but inflicts cruelty on both the sides. To keep the façade of this broken marriage alive would be doing injustice to both the parties. A marriage which has broken down irretrievably, in our opinion spells cruelty to both the parties, as in such a relationship each party is treating the other with cruelty. It is therefore a ground for dissolution of marriage under Section 13 (1) (ia) of the Act." In light of the above observations, this Court had granted a decree of divorce and dissolved the marriage between the parties in that case.

8.2 The aforementioned position has since then been followed by this Court in several cases while exercising power under Article 142(1) of the Constitution. For instance, in a recent judgment delivered by a co-ordinate bench of this Court in Vikas Kanaujia vs. Sarita, (2024) 7 SCR 933, this Court granted the decree of divorce on account of irretrievable breakdown of marriage in light of the overall facts and circumstances of the case, even though the wife therein had submitted that she was willing to live with the husband believing in the sanctity of marriage.

8.3 Similarly, in the case of Prakashchandra Joshi vs. Kuntal Prakashchandra Joshi @ Kuntal Visanji Shah, (2024) 1 SCR 697, a co-ordinate bench of this Court observed that it was a case of irretrievable breakdown of marriage as there was no possibility of the couple staying together and used the powers under Article 142(1) to dissolve the marriage between the parties, despite the fact that the wife in that case chose not to appear in the proceedings before this court and was proceeded ex-parte.

8.4 Another co-ordinate bench of this Court in the case of Vineet Taneja vs. Ritu Johari, vide order dated 22.07.2024 passed in M.A. No.2009 of 2023 in SLP (C) No.3667 of 2023, MANU/SCOR/93862/2024, granted a decree of dissolution of marriage taking into consideration the irretrievable breakdown of the marriage between the parties, on the miscellaneous application filed by the wife seeking

> dissolution of the marriage in exercise of powers under Article 142(1) of the Constitution of India and the husband had vehemently opposed the application.
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> 8.5 The aforesaid decisions have followed the proposition of law confirmed by the constitution bench in the case of Shilpa Sailesh.

However, even before the said judgment, this Court had not hesitated from dissolving the marriage on the ground of irretrievable breakdown where the relationship between the parties had deteriorated to a level that no reconciliation appeared possible and where such a dissolution was necessary to do complete justice between the parties in exercise of power under Article 142(1) of the Constitution of India, even though one of the spouses had opposed such a prayer or had shown interest in continuing with the marital bond.

8.6 Earlier, a two-judge bench of this Court, in the case of R. Srinivas Kumar vs. R. Shametha, (2019) 12 SCR 873, dealt with the submission of the wife that unless there is a consent by both the parties, even in exercise of powers under Article 142(1) of the Constitution of India, the marriage cannot be dissolved on the ground of irretrievable breakdown of marriage, by making the following observations:

> "6. Now so far as submission on behalf of the respondent wife that unless there is a consent by both the parties, even in exercise of powers under Article 142 of the Constitution of India the marriage cannot be dissolved on the ground of irretrievable breakdown of marriage is concerned, the aforesaid has no substance. If both the parties to the marriage agree for separation permanently and/or consent for divorce, in that case, certainly both the parties can move the competent court for a decree of divorce by mutual consent. Only in a case where one of the parties do not agree and give consent, only then the powers under Article 142 of the Constitution of India are required to be invoked to do the substantial justice between the parties, considering the facts and circumstances of the case. However, at the same time, the interest of the wife is also required to be protected financially so that she may not have to suffer financially in future and she may not have to depend upon others." (underlining by us) 8.7 Another observation of this court on the same issue, in Munish Kakkar vs. Nidhi Kakkar, (2019) 15 SCR 169, reads as under:
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> "18. No doubt there is no consent of the respondent. But there is also, in real terms, no willingness of the parties, including of the respondent to live together. There are only bitter memories and angst against each other. This angst has got extended in the case of the respondent to somehow not permit the appellant to get a decree of divorce and "live his life", forgetting that both parties would be able to live their lives in a better manner, separately, as both parties suffer from an obsession with legal proceedings, as reflected from the submissions before us." 8.8 The aforesaid judgments and observations were also followed by this court in the case of N. Rajendran vs. S. Valli, (2022) 16 SCR 498, and it was held that it would be in the interest of justice and to do complete justice to the parties that an order should be

> passed dissolving the marriage between the parties. 8.9 In the case of K. Srinivas Rao vs. D.A. Deepa, (2013) 2 SCR 126, the wife had made scurrilous, vulgar and defamatory statements against the husband in her complaint to the women's cell of the police. This Court speaking through Ranjana Desai, J.

held that such statements cannot be explained away by stating that it was made because the wife was anxious to go back to the husband as the same is not the way to win the husband back. It was held that the wife had caused mental cruelty to the husband and the marriage had irretrievably broken down. In light of the fact that the husband was not willing to reside with the wife, even if the court refuses a decree of divorce to the husband, there are hardly any chances of the wife leading a happy life with the husband because a lot of bitterness had been created by the conduct of the wife. Thus, this Court accordingly granted a decree of divorce. 8.10 In the case of Anil Kumar Jain vs. Maya Jain, (2009) 14 SCR 90, this court held that the stand of the wife that she wants to live separately from her husband but is not agreeable to a mutual divorce was not acceptable and found it a fit case for exercise of the powers vested in the court under Article 142(1) of the Constitution. Thus, the court accepted the petition for grant of mutual divorce under Section 13B of the HMA.

8.11 Therefore, there now remains no doubt that this Court has the power to grant a decree of divorce on the grounds of irretrievable breakdown of marriage by invoking its powers under Article 142(1) of the Constitution. But what constitutes an irretrievable breakdown has to be determined in each case by undertaking a factual analysis of the case and using judicial discretion in light of several non-exhaustive factors laid down by this Court in the judgment of Shilpa Sailesh. This Court has to reach the conclusion that the marriage has "completely failed" and there is no possibility of the parties cohabiting together as husband and wife, and that the continuation of the formal legal relationship of marriage is unjustified lacking in substance and content. 8.12 Unlike a divorce proceeding before the Family Court, where the Court is bound by the fault-divorce provisions contained in the HMA and other allied legislations and thus has to necessarily appreciate the evidence to give a finding about whether a party had indeed committed the alleged matrimonial offence or not, this Court while dealing with an application seeking divorce under Article 142(1) of the Constitution can depart from the said procedure as well as the substantive laws by acting as a problem solver and balancing out the equities between the conflicting claims. This Court is therefore not required to look deep into the veracity of the detailed allegations made by the parties against each other to find as to who is at fault, but is required to take a holistic view on the relationship between the parties and conclude if there is an irretrievable breakdown of the marriage and the parties have no scope of reconciliation. Thus, the thrust of considering an application under Article 142(1) of the Constitution is in order to ascertain whether there is an irretrievable breakdown of marriage between the parties and as a result, it is in their interest that they should part ways by passing a decree of divorce by exercising jurisdiction under Article 142(1) of the Constitution and thereby doing complete justice between the parties.

8.13 Divorce being sought by one of the spouses on the basis of fault committed on the part of the other spouse is dependant on proof of the matrimonial offence as delineated under Section 13 of the HMA. By contrast under Section 13B(1) of the HMA, a petition for dissolution of marriage by a decree of divorce could be presented by both the parties together on the ground that they have been

living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved. If the aforesaid three ingredients are established, then on the basis of sub-section (2) of Section 13B of HMA, after hearing the parties and after making such inquiry as the Court thinks fit, a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree could be passed by the Court and on compliance of the conditions mentioned therein. In our view, if the ingredients of sub-section (1) of Section 13B of HMA are established by both spouses, it has to be construed as an instance of irretrievable breakdown of marriage inasmuch as the parties in unison state that there has been an actual separation between them for a period of one year or more and they have not been able to live together and they have mutually agreed that the marriage should be dissolved. Sub-section (1) of Section 13B of HMA has to be contrasted with Section 13 of the HMA, inasmuch as the parties to the marriage would neither have to allege anything against each other nor would have to prove fault on the part of the other spouse before seeking divorce and that is why, it is called divorce by mutual consent. The only aspect on which the Court has to be satisfied is that the marriage had been solemnised between the parties and the averments in the petitions are true and the Court is satisfied that the consent has been arrived at out of free volition of the parties and without any coercion or undue influence exercised by any of them on the other.

8.14 Having perused the dicta of this Court particularly in Shilpa Sailesh, we find that the grant of divorce on the ground of irretrievable breakdown of marriage is on the basis of exercise of discretion by this Court for doing complete justice between the parties. Thus, on the basis of the application filed by one of the parties to the marriage, he or she cannot seek such divorce as a matter of right. It is only when this Court is satisfied and convinced that there is a deadlock in the marriage which cannot be saved and the only solution for the parties is to move on independently by putting an end to their marital ties that the decree for divorce on the ground of irretrievable breakdown of marriage can be granted. In Shilpa Sailesh as well as other judgments, several factors have been adumbrated which could be considered for the purpose of exercising discretion one way or the other, such as the nature of allegations against each other by the parties and their family members; the orders passed in the legal proceedings from time to time; the period of time that parties have spent together; the cumulative impact on the personal relationship; the attempts made for settlement of disputes; the period of separation between the parties being illustrative factors. The socio-economic status of the parties, their educational qualifications; their age; whether there are children born out of the wedlock and as to how the parties would have to be provided for in the event of separation and such other considerations have been particularised in the said judgment.

8.15 Most importantly, we find that the exercise of discretion under Article 142(1) of the Constitution of India to do complete justice to the parties is because there is no possibility of the parties cohabiting together and continuing their marital relationship. It is also apparent that in the usual course one of the parties would have sought for dissolution of marriage on the basis of one of the grounds mentioned in the law such as Section 13 of the HMA. Alternatively, the parties can jointly seek for dissolution of their marriage by a decree of divorce by mutual consent. However, the ground of divorce on the premise that there is irretrievable breakdown of marriage and in order to do complete justice to the parties on the anvil of Article 142(1) of the Constitution of India is an avenue for dissolution of marriage by a decree of divorce granted by this Court by exercising its

powers under Article 142(1) of the Constitution.

8.16 Hence, in the instant case, we need to consider the factual basis before arriving at a decision one way or the other on the application filed by the respondent herein.

8.17 In the instant case, since earlier, the petitions said to have been filed under Section 13(1)(ia) by the respondent herein and sub-section (1) of Section 13B of HMA filed by both parties were unsuccessful inasmuch as the same came to be closed for their respective reasons and the premise that there had not been separation between the parties for one year or more, the present application filed by the respondent under Article 142(1) of the Constitution seeking a decree of divorce on the ground of irretrievable breakdown of marriage would have to be considered on its merits.

Analysis of the facts of this case:

9. In the instant case, the petitioner as well as the respondent had registered on Jeevansathi.com and after conclusion of divorce proceedings with his first wife, the respondent and the petitioner herein had a roka ceremony on 18.11.2020 at Pune. Thereafter, the engagement ceremony was performed at Pune on 30.07.2021 and the wedding took place on 31.07.2021. Thereafter, from 01.08.2021 onwards, the parties resided together at a hotel in Pune, at the matrimonial home in Pune, Indore, Bhopal and at Kota where parents of the petitioner reside. On 30.08.021, the parties left Mumbai for Maldives and on return they lived at their matrimonial home at Pune and thereafter visited Nasik, Jalgaon, Indore and Bhopal. Later, the parties returned to Pune. On 10.11.2021, the respondent flew from Mumbai to USA and the petitioner remained in Pune and thereafter returned to Bhopal. On 23.01.2022, the petitioner returned to Pune as the respondent came to Pune from USA on 25.01.2022. They lived at Pune and visited Jaipur, Kota, Pushkar and returned to Bhopal. On 08.03.2022, respondent left for USA. On 12.06.2022, respondent returned from USA to Bhopal and on 17.06.2022, the birthday of the petitioner was celebrated by the respondent and they lived together at Bhopal.

9.1 It is an undisputed fact that the respondent-husband in the instant case has already filed three divorce petitions before the Family Court, out of which, the first was dismissed as withdrawn; the second filed by both parties was dismissed for being pre-mature and the third is presently pending adjudication which is sought to be transferred to the Family Court, Pune by the petitioner. Presently, the application filed under Article 142(1) of the Constitution is under consideration. The details of these cases, along with the other cases filed by the parties, inter se, are as under:

S. No. Particulars Cases Filed by Petitioner-Wife

1. FIR No. 586/2022, under Section 506 of IPC against an employee of the respondent husband for changing the locks of the matrimonial home and theft of the car in possession of the petitioner wife.

S. No. Particulars

2. FIR No.588/2022, under Sections 354, 376, 377, 420, 498A, 503, 506, 509 of IPC and Sections 66 and 67 of the IT Act, 2000 against the respondent-husband and the father-in-law.

3. Non-cognizable report under Sections 499 and 500 of IPC, against father-in-law of petitioner.

4. Present Transfer Petition before this Court.

Cases Filed by Respondent-Husband

5. Criminal Complaint No.3070/2022 before Judicial Magistrate First Class, Bhopal under Section 200 CrPC for offences under Sections 327, 506, 509, 511 of IPC dated 22.07.2022.

6. 1st Divorce Petition bearing RCS(HM) No.1146/2022 which was dismissed as withdrawn

7. 2nd Divorce Petition by mutual consent bearing RCS(HM) No.1215/2022 which was dismissed

8. 3rd Divorce Petition bearing RCS(HM) No.1379/2022, which is subject matter of present proceedings

9. Application for Regular Bail before the Sessions Court, Pune [Criminal Bail Application No.144/2023]

10. Application under Section 340 CrPC before this Court in the present case, alleging perjury.

11. Application under Article 142(1) of the Constitution of India before this Court for seeking divorce on the ground of irretrievable breakdown of marriage which is under consideration.

Cases Filed by Father-in-Law of Petitioner

12. Complaint, bearing Case No.838/B-121/2022-23 by father-in-law under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 for eviction of the petitioner from the matrimonial home.

S. No. Particulars

13. Criminal Writ Petition No.918/2023 before the High Court of Judicature at Bombay, seeking to quash the FIR No.588 of 2022 and consequential criminal proceedings.

9.2 As can be observed from the above table, the parties and their family members have been involved in numerous litigations during the brief period of their marital relationship. The petitioner-wife filed FIR No.586/2022 against the respondent-husband and her father-in-law, detailing incidents of physical, sexual, mental and emotional abuse that she was subjected to during the period of her marriage and thus alleging commission of grave offences like cheating, cruelty, rape and unnatural offences under the IPC. Though the son of the respondent-husband from his first

marriage was not made an accused in the said FIR, allegations of conspiracy were made against him as well. In addition to the said FIR, the petitioner has registered another case for criminal intimidation vide FIR No.586/2022 against one Mr. Paresh Somani, who is not just an employee in the respondent's company but also the grandson of the respondent's aunt. Apart from these two FIRs, the petitioner had admittedly also filed a non-cognizable report against her father-in-law for the offence of defamation. The filing of the complaints by the petitioner reflects her negative feelings towards the respondent and his family and the unfortunate state of the marital relationship between the parties is quite evident irrespective of the fate of her criminal complaints and her allegations.

9.3 On the other hand, the respondent filed a criminal complaint against the petitioner before the Magistrate, alleging criminal intimidation and cruelty on the part of the petitioner and detailing as to how the petitioner has threatened to kill herself and falsely implicate the respondent and his family for the same. The respondent thereafter has filed three divorce petitions before the Family Court seeking dissolution of his marriage with the petitioner. The fate of those petitions has been already discussed hereinabove. There is also an application under Section 340 of the CrPC filed in the present case by the respondent, being IA No.52377 of 2024, seeking the prosecution of the petitioner for the offence of perjury.

9.4 The respondent was also arrested pursuant to an FIR filed by the petitioner and had to file a bail application before the Sessions Court and spent almost a month in custody before he was released on bail. The filing of cases by the respondent also unambiguously reflects the bitterness that has seeped into the marital relationship.

9.5 In addition, the octogenarian father-in-law of the petitioner had also filed a complaint under the relevant provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, seeking the eviction of the petitioner from the matrimonial house. The order for eviction was granted in favour of the father-in-law of the petitioner, but it was submitted that the matter is still pending adjudication in the appellate forum. The father-in-law, being one of the accused in the FIR filed by the petitioner, was also constrained to approach the Bombay High Court through a criminal writ petition seeking to quash the FIR filed by the petitioner. Thus, the aged father-in-law has also been put under considerable difficulty due to the marital dispute between the petitioner and the respondent, which also has an obvious impact on the mind of the respondent in how he perceives the acts of the petitioner and his relationship with her.

9.6 Be that as it may, on 29.06.2022, respondent had consulted his advocate to draft a divorce petition and also a private complaint. This is less than one year from the date of their marriage and after living together only for a few months. Thereafter, after visiting Indore and Bhopal, respondent left for USA on 10.07.2022. Respondent returned from USA to India on 25.07.2022. 31.07.2022 was their first wedding anniversary and on the very next day, i.e., on 01.08.2022, divorce petition bearing No.1146/2022 was filed before the Family Court at Bhopal by the respondent. On 08.08.2022, petitioner received the summons in the aforesaid case. On 13.08.2022, the said divorce petition was withdrawn and a second divorce petition bearing No.1215/2022 was filed under Section 13B of HMA. Even while respondent was in India, second divorce petition bearing No.1215/2022 was dismissed and the petitioner left for her parental home at Kota on 31.08.2022. This was because

the statutory period of separation for a year had not been complied. Shortly thereafter, on 03.09.2022, a third divorce petition was filed by the respondent before the Family Court at Bhopal. Respondent also sought revocation of the USA visa which had been applied for the petitioner.

9.7 The aforesaid facts would indicate that on very next day after year of marriage, the respondent filed the first divorce petition which was dismissed and simultaneously, a second joint petition was filed which was also dismissed due to non-compliance with Section 13B(1) of HMA. It was followed by a third divorce petition. Thus, within a span of 34 days, the respondent filed three divorce petitions.

9.8 The aforesaid events would clearly indicate that there was no meaningful relationship between the parties inasmuch as the respondent was making endeavours to put an end to his marriage with the petitioner by filing successive divorce petitions. Hence, the intention of the respondent was not to continue his marital relationship with the petitioner.

9.9 Further, the petitioner herein filed her first complaint against the employee of the respondent's company and also respondent's aunt's grandson under Section 506 of the IPC which was converted into the FIR bearing No.586/2022 dated 12.12.2022. She filed a complaint against her father-in-law on 25.11.2022 and a complaint against the respondent on 15.12.2022 which was converted as FIR No.588/2022 under Sections 420, 354, 503, 506, 509, 376, 377 and 498A of the IPC. On the said complaint, the respondent was arrested from the Mumbai Airport on the basis of a look out Circular and was in custody for a month. It is only after seeking bail that he could manage to leave the shores of India for USA.

9.10 Thus, what emerges from the aforesaid facts are that:

> i) the marriage between the parties did not really take off at all;
>
> ii) there was no continuous cohabitation between the parties at a place. They were in fact moving from place to place and from hotel to hotel and the respondent was akin to a "visiting spouse";
>
> iii) It appears that in a short duration of time that parties were with each other, neither was there any cordiality, nor was there any mutual love and affection or respect for each other.

The first year of the marriage lapsed owing to the respondent travelling to USA and returning thereafter and the petitioner remaining either at Bhopal or at Pune without there being a continuous cohabitation.

iv) That soon thereafter, there were petitions for divorce filed by the respondent and a petition for divorce by mutual consent filed by both parties, as well as complaints filed by the petitioner against the respondent and his father The aforesaid facts would give us an impression that there was hardly any cordiality or meaningful marital relationship which emerged from the marriage of the parties.

9.11 In light of the above, it is the respondent who has filed the present application under Article 142(1) seeking a decree of divorce. Thus, the intention of the respondent is clear inasmuch as he does not wish to continue his marital ties with the petitioner. This is further crystallised by the categorical submission of the respondent before us that he does not want to engage in any more discussions with the petitioner, after having gone through multiple rounds of court directed mediations in an attempt to reach a mutually agreeable settlement.

9.12 The petitioner seems to think that while on one hand, she can continue to make allegations against the respondent and in the same breath intend to continue her marital relationship with the respondent. If the petitioner had difficulties with respondent in the short time that she has lived with him, then it is strange that the petitioner also wants to continue her relationship with the respondent.

9.13 We therefore do not find any substance in contention of learned senior counsel appearing for the petitioner that the petitioner intends to continue her marital relationship with the respondent. At the same time, having filed criminal complaints against him and his father and having gotten him arrested at the Mumbai Airport and he, being on bail, the petitioner intends to remain married with the respondent! The aforesaid events have definitely deterred the respondent from continuing with his marital relationship with the petitioner. It is noted that even within a year of his marriage with the petitioner, he had consulted an advocate and had sought divorce.

9.14 The petitioner, on the other hand, has taken contradictory positions with respect to her intentions about her marriage. On one hand, she has stated that she has been a dutiful wife and has happily resided with the respondent-husband, but simultaneously she has filed a criminal complaint against the respondent- husband, alleging serious offences like cruelty, outraging of modesty, rape, cheating, etc., vide FIR No.588 of 2022 dated 15.12.2022 before the Police Station Yerwada, District Pune. There was a 'Look Out Circular' issued against the respondent and he was in fact arrested at the Mumbai Airport on 25.12.2022 just while departing for USA. This was at the instance of the petitioner herein. Respondent was taken into custody and had to seek bail after over a month of police custody. It is difficult to fathom as to how the petitioner can reasonably expect her spouse to continue in a cordial marital relationship with her, when she has filed a criminal case against him, got a "Look Out Ciruclar" issued against him, and even got him arrested.

9.15 Further, on one hand, petitioner has sought the dismissal of the respondent's application for divorce under Article 142(1) on the ground that she wishes to continue the marriage, while in the same breath, she has demanded a huge sum of money as permanent alimony equalling the share received by the respondent's ex-wife.

9.16 In the present case, it is evident from the averments and submissions as well as our interactions with the parties that the petitioner's criminal complaint, among other things, has left an incurable scar on the relationship between the parties. The parties have had a brief period of relationship, which can be deciphered even without getting into the contrasting allegations of how many months they have exactly resided together. Soon after a year of marriage, the respondent-husband had filed the police complaint and the first petition for divorce, which means that the relationship between

them had deteriorated by then. For almost two years since then, they have been embroiled in disputes before various courts. The parties have gone through multiple rounds of mediation and have not been able to arrive at a mutually agreeable settlement. The respondent-husband has appeared before this Court and has categorially stated that he does not wish to enter into any further discussions with the petitioner-wife. The petitioner has also pursued her application and contention regarding the fixation of permanent alimony and has vehemently argued that the respondent is a man of means and she should be given alimony commensurate to both the status of the respondent and the amount received by the ex-wife of the respondent, all of which has been termed as being an extortion by the respondent-husband. In the said scenario, we do not think that there is any chance for the parties to now reconcile their differences and lead a normal married life hereinafter. Forcing the parties to now move back to the Family Court and pursue their legal remedies, or to compel them to carry on in the present marital bond for the sake of formality, would amount to bestowing unwarranted hardship on the already sparring spouses. Both options, in our view, are unviable and cannot be ordered in the present case.

Criminal proceedings between spouses and their impact on marital ties:

10. The provisions in the criminal law are for the protection and empowerment of women but sometimes are used by certain women more for purposes that they are never meant for. In recent times, the invocation of Sections 498A, 376, 377, 506 of the IPC as a combined package in most of the complaints related to matrimonial disputes is a practice which has been condemned by this Court on several occasions. In certain cases, the wife and her family tend to use a criminal complaint with all the above serious offences as a platform for negotiation and as a mechanism and a tool to get the husband and his family to comply with their demands, which are mostly monetary in nature. Sometimes this is done in a fit of rage after a marital dispute, while at times it is a planned strategy in other cases. Unfortunately, it is not just the parties who are involved in this abuse of the process of law. They are understandably fuelled by the emotions of the situation. But other stakeholders also worsen the situation as they may often devise such crafty strategies for the women to adopt such arm-twisting tactics for their ulterior motives. Further, the police personnel are sometimes quick to jump into action in selective cases and arrest the husband or even their relatives including aged and bedridden parents and grand-parents of the husband. The trial courts are hesitant in granting bail to the accused persons being swayed by the “gravity of the offences” mentioned in the FIR. The collective effect of this chain of events is often overlooked by the actual individual players involved therein, which is that even minor disputes between husband and wife tend to snowball into ugly prodigious battles of ego and reputation and washing dirty linen in public, eventually leading to the relationship turning sour to the extent that there remains no possibility of a reconciliation or cohabitation. The women need to be careful about the fact that these strict provisions of law in their hands are beneficial legislations for their welfare and not means to chastise, threaten, domineer or extort from their husbands.

10.1 Recently, this Court speaking through one of us (Nagarathna, J.) in Dara Lakshmi Narayana vs. State of Telangana, 2024 INSC 953, while considering an appeal against an order dismissing a petition filed under Section 482 CrPC for quashing a complaint filed under Section 498A of the IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961 observed as follows:

> "25. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos.2 to 6, who are the members of the family of appellant No.1 have been living in different cities and have not resided in the matrimonial house of appellant No.1 and respondent No.2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.
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> x x x x
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> 28. The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family.

Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

29. We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498A of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under Section 498A of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case." 10.2 This Court, had highlighted this growing problem of trivial quarrels between spouses turning into criminal complaints, in Achin Gupta vs. State of Haryana & Anr., (2024) 6 SCR 129, wherein it was

observed by Pardiwala, J. as follows:

> "32. Many times, the parents including the close relatives of the wife make a mountain out of a mole. Instead of salvaging the situation and making all possible endeavours to save the marriage, their action either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about complete destruction of marriage on trivial issues. The first thing that comes in the mind of the wife, her parents and her relatives is the Police, as if the Police is the panacea of all evil. No sooner the matter reaches up to the Police, then even if there are fair chances of reconciliation between the spouses, they would get destroyed. The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance to each other's fault to a certain bearable extent has to be inherent in every marriage. Petty quibbles, trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is said to have been made in the heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case, always keeping in view the physical and mental conditions of the parties, their character and social status. A very technical and hyper sensitive approach would prove to be disastrous for the very institution of the marriage. In matrimonial disputes the main sufferers are the children. The spouses fight with such venom in their heart that they do not think even for a second that if the marriage would come to an end, then what will be the effect on their children. Divorce plays a very dubious role so far as the upbringing of the children is concerned. The only reason why we are saying so is that instead of handling the whole issue delicately, the initiation of criminal proceedings would bring about nothing but hatred for each other. There may be cases of genuine ill-treatment and harassment by the husband and his family members towards the wife. The degree of such ill-treatment or harassment may vary. However, the Police machinery should be resorted to as a measure of last resort and that too in a very genuine case of cruelty and harassment. The Police machinery cannot be utilised for the purpose of holding the husband at ransom so that he could be squeezed by the wife at the instigation of her parents or relatives or friends. In all cases, where wife complains of harassment or ill-treatment, Section 498A of the IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323 of the IPC. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty." (underlining by us) 10.3 The effect of such criminal complaints filed on the spur-of-

the-moment on the relationship between the parties, the chances of an amicable settlement and the overall suffering of the parties in the process was highlighted by this Court in the case of Preeti Gupta vs. State of Jharkhand, (2010) 9 SCR 1168 as follows:

> "32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can

lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society…" (underlining by us)

11. In this context we wish to observe that a Hindu marriage is a sacrament and is considered to be a sacred institution as a foundation for a family and not a commercial venture. One of us (Nagarathna, J.) in Dolly Rani vs. Manish Kumar Chanchal, (2024) 5 SCR 510 speaking for the Bench observed therein as under:

"26. The promises made to each by the parties to a Hindu marriage and the oath taken by them to remain friends forever lay the foundation for a life-long commitment between the spouses which should be realized by them. If such commitment to each other is adhered to by the couple, then there would be far fewer cases of breakdown of marriages leading to divorce or separation." 11.1 But unfortunately in the present case, the parties haven't adhered to their marital oath. Which of the two parties was at fault for breaking that sacred marital bond is not

something for this Court to go into, but from the aforementioned facts and circumstances, it would be safe to conclude that their marriage has completely failed. As rightly observed by Dalveer Bhandari, J. in the case of Naveen Kohli vs. Neelu Kohli, (2006) 4 SCC 558, "since there is no acceptable way in which a spouse can be compelled to resume life with the consort, nothing is gained by trying to keep the parties tied for ever to a marriage that in fact has ceased to exist."

12. Apart from the irreconcilable status of the relationship between the parties, in the present case, another factor that has weighed with this Court in favour of the exercise of the power under Article 142(1) is that there is no child born out of the wedlock and therefore, any direction to allow the parties to part ways would only affect the parties themselves and not any innocent child.

13. Thus, this is a fit case for us to exercise our discretion under Article 142(1) of the Constitution of India to dissolve the marriage between the parties on the ground of irretrievable breakdown of marriage. Hence, the application is liable to be allowed and is allowed.

Maintenance / Permanent Alimony:

14. We have to now consider the question of assessing the alimony for the petitioner upon the dissolution of marriage between the parties. It was for the limited purpose of determining the quantum of alimony or maintenance or other rights of the petitioner-wife that this Court had transferred the case to the Family Court, Pune. The Family Court has considered the pleadings and evidence of the parties in detail, and has sent us its report in the form of an order dated 22.03.2024. In essence, the petitioner-wife has sought permanent alimony commensurate to the assets and income of the respondent-husband and on the same principles on which the alimony was paid to the first wife of the respondent. The respondent-husband has denied the exorbitant claims of the petitioner and submitted that Rs.20 lakhs to Rs.40 lakhs would be an appropriate amount of permanent alimony for the petitioner. Finally, the Family Court, Pune has suggested a permanent alimony of Rs.2 lakhs per month for the petitioner-wife or Rs.10 crores in lumpsum.

14.1 We have perused the application of the petitioner for fixation of alimony, the reply of the respondent to the said application, the order dated 22.03.2024 passed by the Family Court, Pune, and the submissions advanced in this aspect.

14.2 The dispute with respect to the amount of alimony is generally the most contentious point between parties in such marital proceedings, supplemented by a plethora of accusations to remove the cover from the opposite party's income and assets. The judicial dicta in this context could be discussed as under:

14.2.1 In the order passed by a three-Judge Bench of this Court in the case of Shakti vs. Anita, Civil Appeal No. 7427/2023, MANU/SCOR/139017/2023 decided on 02.11.2023, it was observed as under:

"That brings us to the aspect of permanent alimony over which the real dispute is. We looked to the offer of the appellant as also the desire of the respondent. There is undoubtedly a miss match! As often happens the claim of the respondent is based on what is stated to be a large number of properties of the family of the appellant, though nothing is placed on record of anything in his name." 14.2.2 The law with respect to deciding the amount of permanent alimony was summarised by a bench of this Court recently in Kiran Jyot Maini vs. Anish Pramod Patel, (2024) 7 SCR 942, wherein this Court speaking through Vikram Nath, J. has touched upon the question of one-time settlement and the factors that should be taken into consideration while determining fair amount of permanent alimony. It was also observed as under:

"The status of the parties is a significant factor, encompassing their social standing, lifestyle, and financial background. The reasonable needs of the wife and dependent children must be assessed, including costs for food, clothing, shelter, education, and medical expenses. The applicant's educational and professional qualifications, as well as their employment history, play a crucial role in evaluating their potential for self-sufficiency. If the applicant has any independent source of income or owns property, this will also be taken into account to determine if it is sufficient to maintain the same standard of living experienced during the marriage. Additionally, the court considers whether the applicant had to sacrifice employment opportunities for family responsibilities, such as child-rearing or caring for elderly family members, which may have impacted their career prospects." 14.2.3 In Vinny Paramvir Parmar vs. Paramvir Parmar, (2011) 9 SCR 371, this Court held that there cannot be a fixed formula or a straitjacket rubric for fixing the amount of permanent alimony and only broad principles can be laid down. The question of maintenance is subjective to each case and depends on various factors and circumstances as presented in individual cases. This Court in the above judgment stated that the courts shall consider the following broad factors while determining permanent alimony – income and properties of both the parties respectively, conduct of the parties, status, social and financial, of the parties, their respective personal needs, capacity and duty to maintain others dependant on them, husband's own expenses, wife's comfort considering her status and the mode of life she was used to during the subsistence of the marriage, among other supplementary factors.

14.2.4 This was further reiterated by this Court in Vishwanath Agrawal vs. Sarla Vishwanath Agrawal, (2012) 7 SCR 607, while observing that permanent alimony is to be granted after considering largely the social status, conduct of the parties, the parties' lifestyle, and other such ancillary factors. 14.3 Earlier, a two-judge bench of this Court speaking through Indu Malhotra, J. in Rajnesh vs. Neha, (2021) 2 SCC 324 ("Rajnesh"), elaborated upon the broad criteria and the factors to be considered for determining the quantum of maintenance. This court emphasizes that there is

no fixed formula for calculating maintenance amount; instead, it should be based on a balanced consideration of various factors. These factors include and are illustrative but are not limited or exhaustive, they are adumbrated as under:

i. Status of the parties, social and financial.

ii. Reasonable needs of the wife and dependent children.

iii. Qualifications and employment status of the parties.

iv. Independent income or assets owned by the parties.

v. Maintain standard of living as 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 husband, his income, maintenance obligations, and liabilities.

14.4 In the instant case as well, the petitioner-wife has stated that the respondent-husband is a man of means with a net-worth of Rs.5,000 crores with multiple businesses and properties in USA and in India and that he had paid his first wife at least Rs.500 crores upon separation, excluding a house in Virginia, USA. Thus, she claims permanent alimony commensurate to the status of the respondent-husband and on the same principles as was paid to the first wife of the respondent. The respondent-husband on the other hand is willing to pay a reasonable amount to cover the difference in the income and expenditure of the petitioner-wife, which he feels should be in the range of Rs.20 to 40 lakhs as a one-time lump sum payment. Thus, there is a clear and significant divergence or "mismatch" between the offer and the desire.

14.5 We have serious reservations with the tendency of parties seeking maintenance or alimony as an equalisation of wealth with the other party. It is often seen that parties in their application for maintenance or alimony highlight the assets, status and income of their spouse, and then ask for an amount that can equal their wealth to that of the spouse. However, there is an inconsistency in this practice, because the demands of equalisation are made only in cases where the spouse is a person of means or is doing well for himself. But such demands are conspicuously absent in cases where the wealth of the spouse has decreased since the time of separation. There cannot be two different approaches to seeking and granting maintenance or alimony, depending on the status and income of the spouse. The law of maintenance is aimed at empowering the destitute and achieving social justice and dignity of the

> individual. The husband is under a legal obligation to sufficiently provide for his wife. As per settled law, the wife is entitled to be maintained as far as possible in a manner that is similar to what she was accustomed to in her matrimonial home while the parties were together. But once the parties have separated, it cannot be expected of the husband to maintain her as per his present status all his life. If the husband has moved ahead and is fortunately doing better in life post his separation, then to ask him to always maintain the status of the wife as per his own changing status would be putting a burden on his own personal progress. We wonder, would the wife be willing to seek an equalisation of wealth with the husband if due to some unfortunate events post-separation, he has been rendered a pauper?
>
> 14.6 However, the law permits that if there is a continuing obligation on the husband post-separation, he may seek a reduction in the maintenance amount. Equally, a divorced wife, in the context of receiving monthly maintenance from a former husband can seek enhancement of the same owing to inflation or other circumstances which have adversely affected her status and position such as serious illness or loss of income from a particular source, etc. 14.7 But the petitioner-wife in the instant case has sought equalisation of status not just with the respondent-husband but also with the ex-wife of the respondent. In our opinion, this cannot be an acceptable approach. The fixation of alimony depends on various factors and there cannot be any straight-jacket formula for the same. Thus, the petitioner cannot simply claim an amount equal to what the ex-wife of the respondent had received or on the basis of the income of the respondent. The Court has to not just consider the income of the respondent-husband here, but also bear in mind other factors such as the income of the petitioner-wife, her reasonable needs, her residential rights, and other similar factors.

Thus, her entitlement to maintenance has to be decided based on the factors applicable to her and not depend on what the respondent had paid to his ex-wife or solely on his income. 14.8 This Court in Rajnesh, has observed that the duration of the marriage would also be a relevant factor to be taken into consideration while assessing the permanent alimony to be paid to the wife. In the instant case, the parties were married on 31.07.2021. They hardly resided together for about three to four months. The respondent-husband left for USA in the month of November, 2021 and thereafter returned in January, 2021. Between January, 2021 and March, 2021, the parties are said to have stayed together for short intervals at Pune, Kota, Bhopal and Jaipur, and thereafter, the respondent again returned to USA on 08.03.2022. The respondent then came back from USA on 12.06.2022. The differences between the spouses emerged in the month of June-July, 2022, when the respondent is said to have suggested separation and the petitioner refused the same, leading to a criminal complaint also being filed by the respondent against the petitioner in July, 2022. In fact, on 13.08.2022, a petition for divorce by mutual consent was filed by the parties before the Family Court, Bhopal. The said divorce petition was dismissed owing to there being no separation between the parties for one complete year.

14.9 In the present case, the detailed factual exercise for the grant of alimony has been carried out by the Family Court, Pune in compliance of the order of this Court. It was observed by the learned Judge of the Family Court at Pune in paragraphs 48 to 55 as under:

> "48. Considering the aforesaid factors and guidelines and on perusal of the affidavit of assets and liabilities of the petitioner-wife, it is crystal clear that the monthly income of petitioner-wife is Rs.55,000/- and her general monthly expenses are Rs.75,000/-. No child is born out of the wedlock between petitioner-wife and respondent- husband. It is nowhere the case of the petitioner-wife that she was working/doing the job and she has to sacrifice her job. She is highly educated.
>
> 49. Though the petitioner-wife in her application for fixation of permanent alimony, vide Exh.8 at para No.13 contends that she is suffering from many physical elements. She has health issues and she incures costs for her medical treatment and physiotheraphy, in her affidavit of assets and liabilities (Exh.10) at Enclosure-1 D she has mentioned that the columns of medical details are not applicable to her. It means that she doesn't suffer from any elements. She has also not adduced any evidence about her elements, treatments and costs incurred by her for her treatment. So it is crystal clear that she is not suffering from any elements. So there are no medical costs which are required to be taken into consideration while deciding the amount of permanent alimony.
>
> 50. As discussed in aforesaid paras, the petitioner-wife has fixed deposits worth Rs.25,00,000/-, two recurring deposits of worth Rs.24,000/-, National Saving Certificates worth Rs.4,86,500/-, PPF balance Rs.1,64,000/-. As discussed in para No. 13 supra, her balance in the bank accounts is of Rs.67,15,111/-.

According to respondent-husband, he has paid Rs. 12,00,000/- to her after marriage. The petitioner-wife as disclosed her annual income, approximately of Rs.5,00,000/-. The petitioner-wife has not adduced any evidence to prove the exact standard of life that she lived in her matrimonial life.

51. It is significant to note that the duration of the marriage of respondent-husband with his ex-wife was 19 years and two children were born out of the said wedlock. The assets between them were marital assets and those were distributed between them as per the prevailing laws of Virginia, USA. On the contrary, the marriage between the petitioner-wife and respondent-husband lasted for 6 months out of that they hardly lived together for three to four months. No child is born out of the said wedlock. So, while deciding the alimony to the petitioner-wife, the situation and her status cannot be equated with the ex- wife of the respondent-husband.

52. While deciding the amount of permanent alimony, one more aspect is required to be considered. It is not disputed that the petitioner- wife and respondent-husband preferred a petition for divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955, in the Family Court, Bhopal, Madhya Pradesh on 13/08/2022. The petitioner-wife agreed to receive Rs.8,00,00,000/-

(lumpsum) towards permanent alimony by D.D. The said petition came to be dismissed on 29/08/2022 on the ground that the parties were not residing separately for more than one year so, the petition was premature.

53. On the perusal of the affidavit of assets and liabilities of the petitioner-wife it reveals that she has acquired 700.414gm gold and 2kg Silver during or after marriage. But the petitioner-wife has not mentioned it's value. The cost of said gold as on today is Rs.46,85,100/- and of Silver is Rs.1,53,000/-.

Residential Rights

54. The petitioner-wife, in her application vide Exh.8 prays to grand right of resident at her current address i.e. Ivy Glen, Marrygold Co-operative Housing Society, Kalyani Nagar, Pune which is the matrimonial house. According to the respondent it is owned by his old aged father so, it is not her matrimonial home. It is significant to note that the petitioner-wife owns a residentital flat at Cosmos Magarpatta Township, Pune, which she has given it on rent. She receives rent from it. She can live in her own house. If she resides in her own house, she will not get income from rent. So, it can be considered while deciding the quantum of permanent alimony. As she owns her own house it is not necessary to make provision for her separate residence while deciding the permanent alimony.

Amount of Permanent Alimony

55. On perusal of bank statements produced by the petitioner-wife, it reveals that there are monthly debit and credit transactions of approximately Rs.2,50,000/-, respectively. Her monthly income is Rs.55,000/-. If petitioner-wife a resides in her own house she will not get the monthly rental income so this factor is required to be considered while deciding the quantum of permanent alimony. So considering the status and standard of living of her husband it reveals that the permanent alimony of Rs.2,00,000/- per month is just and reasonable and if in a lumpsum amount towards permanent alimony is to be granted, an amount of Rs.10,00,00,000/- would be just and proper.

Hence, the report is submitted with due respects." Thus, the lumpsum amount towards permanent alimony determined by the learned Judge of the Family Court at Pune is Rs.10 crores.

14.10 We find that since the petitioner has let her flat and is receiving monthly rental income from the flat to the tune of Rs.27,000/- (Rupees Twenty-Seven Thousand only) and she also has interest income from fixed deposits, she is not economically impoverished as such. In the petition filed by the parties jointly seeking dissolution of their marriage by a decree of divorce by mutual consent, respondent herein had agreed to pay a sum of Rs.8 crores towards full and final settlement of all claims of the petitioner. The Family Court at Pune has assessed Rs.10 crores as the quantum of permanent alimony that petitioner could be entitled to. We accept the said finding of the Family Court, Pune. An additional amount of Rs.2 crores is liable to be paid to the petitioner so as to enable her to acquire another flat, in case she is interested in doing so, as we are directing the petitioner to vacate her father-in-law's flats which she is presently occupying in Pune as well as in Bhopal, if not already vacated. Thus, a total sum of Rs.12 crores is liable to be paid as permanent alimony to the

petitioner by the respondent as a full and final settlement of all her claims on the respondent and his family. Further, the respondent and his family shall also not demand the return of any amounts that he or his family may have paid to the petitioner or any jewellery or other valuables that he or his family may have gifted to the petitioner.

Conclusion:

15. In the result, we hold as under:

> a. The application filed by the respondent-husband under Article 142(1) of the Constitution of India is allowed and the marriage between the petitioner and the respondent is dissolved on the ground of irretrievable breakdown of marriage.
>
> b. Consequently, the criminal cases and the consequential proceedings pending against respondent-husband, arising out of FIR No. 588 of 2022 dated 15.12.2022 before the Police Station Yerwada, District Pune, for offences punishable under Sections 354, 376, 377, 420, 498A, 503, 506, 509 of the IPC and Sections 66 and 67 of the IT Act, 2000, filed by the petitioner herein, are hereby quashed.
>
> c. Further, the criminal case and the proceedings arising out of FIR No. 586 of 2022 dated 12.12.2022 filed by the petitioner herein against Mr. Paresh Somani before the Police Station Yerwada, District Pune, for offences punishable under Sections 360, 427, 452, 454, and 457 of the IPC, shall also stand quashed.
>
> d. The respondent shall pay the petitioner a sum of Rs.12,00,00,000/- (Rupees Twelve Crores only) which shall be paid within a period of one month from today.
>
> An undertaking to that effect shall be filed before this Court within two weeks from today.
>
> e. Litigation charges for the petitioner is quantified at Rs.3,00,000/- (Rupees Three Lakhs only) which shall be paid along with the payment of permanent alimony.
>
> f. The petitioner shall vacate from the premises belonging to respondent's father at Pune and Bhopal, within two months from the date of receipt of the amount of permanent alimony from the respondent, as detailed hereunder:
>
> (i) Flat No.C-1, Ivy Glen Marigold Complex, Kalyani Nagar, Pune (Maharashtra); and
>
> (ii) E-7/53, Arera SBI Colony, Bhopal (M.P.), if not already vacated.

An undertaking shall be filed by the petitioner to the aforesaid effect within a period of two weeks from today. g. In view of the above, the Transfer Petition stands disposed, along with pending application(s), if any.

. . . . . J.

[B.V. NAGARATHNA] . . . . . J.

[PANKAJ MITHAL] NEW DELHI;

DECEMBER 19, 2024.