

**Jatinder Kumar Sapra**

v.

**Anupama Sapra**

(Civil Appeal No. 6088 of 2024)

06 May 2024

**[Vikram Nath and Satish Chandra Sharma,\* JJ.]**

#### **Issue for Consideration**

Whether in the facts and circumstances of the case, was it a fit case for exercising jurisdiction under Article 142(1) of the Constitution of India and pass a decree of divorce on the ground of irretrievable breakdown of marriage?

#### **Headnotes<sup>†</sup>**

**Factors to be considered by the Supreme Court while exercising jurisdiction under Article 142(1) of the Constitution of India and pass a decree for divorce on the ground of irretrievable breakdown of marriage – Explained:**

**Held:** Both the Family Court and the High Court of Punjab and Haryana had dismissed the petition instituted by the Appellant under Section 13(1)(ia) of the Hindu Marriage Act, 1955, seeking dissolution of marriage by way of a decree of divorce. For passing a decree of divorce on the ground of irretrievable breakdown of marriage under Article 142(1) of the Constitution of India, the Supreme Court must be fully satisfied and convinced that the marriage is totally unworkable and beyond salvation. For this, the Supreme Court must consider the period of time the parties 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 legal proceedings from time to time; cumulative impact on the personal relationship; whether attempts were made to settle the disputes by intervention of court or through mediation, and when was the last attempt made. But these factors are not exhaustive but are rather illustrative. Reliance placed on *Shilpa Sailesh v. Varun Sreenivasan*, 2023 SCC OnLine SC 544. [Paras 2 and 5]

**Case for exercising jurisdiction under Article 142(1) of the Constitution of India and passing a decree of divorce on the**

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### **ground of irretrievable breakdown of marriage – Whether made out?**

**Held:** In the instant case, there was no possibility of the parties residing together and/or arrive at an amicable settlement. The parties married on 14.10.1991 and last cohabited in January 2002. Out of the wedlock, two children were born in 1993 and 1996 respectively. The Appellant alleged that the Respondent ill – treated the Appellant and constantly acted against him. The Respondent alleged cruelty and torture at the hands of the Appellant. Both their children are majors now and are gainfully employed. Thus, the facts on record establish beyond doubt that the marriage between the parties has broken down and that there is no possibility of the parties cohabiting ever in the future. Therefore, the Supreme Court considered it to be a fit case for exercising its jurisdiction under Article 142(1) of the Constitution and passed a decree of divorce on the ground of irretrievable breakdown of marriage. [Paras 3, 4, 6, 7 and 8]

### **Permanent Alimony payable when decree of divorce passed in exercise of jurisdiction under Article 142(1) of the Constitution:**

**Held:** The Appellant has been gainfully employed by various multinational corporations previously and is presently endowed with a respectable estate. Accordingly, the Supreme Court deemed it fit and proper that the Appellant pays an amount of Rs. 50,00,000/- to the wife as permanent alimony in five monthly instalments. [Para 9]

#### **Case Law Cited**

*Shilpa Sailesh v. Varun Sreenivasan* [\[2023\] 5 SCR 165 : 2023 SCC OnLine SC 544](#) – followed.

#### **List of Acts**

Constitution of India; Hindu Marriage Act, 1955.

#### **List of Keywords**

Divorce, Irretrievable Breakdown, Cruelty, Permanent Alimony, Cohabit, Decree of Divorce.

#### **Case Arising From**

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 6088 of 2024  
From the Judgment and Order dated 26.07.2019 of the High Court of Punjab & Haryana at Chandigarh in FAO No. 146 of 2005

**Jatinder Kumar Sapra v. Anupama Sapra****Appearances for Parties**

Tapan Bijoy Deb Choudhury, Tapan Choudhury, Advs. for the Appellant.

Md. Shahid Anwar, Mohd Shahzeb Khan, Mayank Kaushik, Amir Naseem, Ajay Amritraj, Hareesh Ahmad Minhaj, Vipul Singhal, Advs. for the Respondent.

**Judgment / Order of the Supreme Court****Judgment**

**Satish Chandra Sharma, J.**

1. Leave granted.
2. The instant appeal assails the correctness of an order dated 26.07.2019 passed by the High Court of Punjab and Haryana (the “**High Court**”) in FAO-146-M-2005 (O&M) (the “**Impugned Order**”). Pertinently, *vide* the Impugned Order, the High Court dismissed the appeal; and accordingly upheld the correctness of an order dated 09.12.2004 passed by the Ld. Additional District Judge (Ad. Hoc), Faridabad (the “**Family Court**”) whereunder the Family Court dismissed a petition instituted by the Appellant herein under Section 13(1)(ia) of the Hindu Marriage Act, 1955 seeking dissolution of marriage by way of a decree of divorce (the “**Underlying Order**”).
3. The Appellant and the Respondent before this Court were married on 14.10.1991 as per *Hindu* rites and rituals, at Faridabad, Haryana. Out of the wedlock two children were born on 25.08.1993 and 02.05.1996.
4. Despite being together for approximately 14 (fourteen) years, bitterness crept into the relationship between the parties. Whilst on one hand, it is alleged that the Respondent ill-treated the Appellant; and constantly acted against the Appellant at the behest of her parents. On the other hand, the Respondent Wife alleged cruelty and torture at the hands of the Appellant Husband.
5. Despite our best effort(s), the parties were adamant on parting ways - citing an irretrievable breakdown of their marriage. Accordingly, it was submitted that the marriage between the parties be dissolved on the aforesaid ground. Reliance in this regard was placed on a decision of this Court in *Shilpa Sailesh v. Varun Sreenivasan*, 2023 SCC Online SC 544 wherein it was observed that a marriage

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may be dissolved on the ground of an irretrievable breakdown in exercise of the jurisdiction of this Court under Article 142(1) of the Constitution of India. This Court in *Shilpa Sailesh (Supra)* delineated various factor(s) to be considered by this Court whilst exercising such jurisdiction. The relevant paragraph is reproduced below:

*"41. 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*

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*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.”*

6. Having *prima-facie* satisfied ourselves that the present dispute met the aforesigned parameters, we requested Shri P.S. Patwalia, Learned Senior Counsel, to assist this Court in putting a quietus to the present *lis*. On 22.03.2024, we were informed by Mr. Patwalia that despite his best efforts, the parties were not willing to arrive at an amicable settlement and that there was no possibility of the parties residing together. At our request, Mr. Patwalia placed on a record a short note outlining the details of his efforts including *inter alia* the deliberations between the parties in respect of the quantum of permanent alimony to be paid by the Appellant towards the Respondent.
7. We have given due consideration to submissions made by the respective counsels and the materials placed on record. The undisputed facts of the case reveal that the parties have separated 22 (twenty-two) years ago i.e., having cohabited last in January 2002. The children are now major and gainfully employed; elder son is an associate in a dental clinic; and younger son is a video/film editor. Thus, keeping in view the totality of circumstances, we are satisfied that the facts on record establish that the marriage between the parties has broken down and that there is no possibility that the parties would cohabit together in the future. Accordingly, we are of the considered opinion that the formal union between the parties is neither justified nor desirable.
8. Thus, without expressing any opinion on the merits of the allegations levelled *inter se* the parties, we deem it appropriate to exercise our discretion under Article 142(1) of the Constitution of India and pass a decree of divorce on the ground of irretrievable breakdown of marriage.
9. However, considering the fact that the Appellant has previously been employed by various multinational corporations in managerial post(s); and the fact that the Appellant is presently endowed with a respectable estate; we deem it fit and proper that the Appellant pays an amount of Rs. 50,00,000/- (Rupees Fifty Lakh Only) to the Respondent Wife as permanent alimony. The aforesaid amount shall be paid to the Respondent Wife as per the following schedule:

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<b>Date</b>	<b>Amount</b>
May 15, 2024	Rs. 10,00,000/- (Rupees Ten Lakh Only)
June 15, 2024	Rs. 10,00,000/- (Rupees Ten Lakh Only)
July 15, 2024	Rs. 10,00,000/- (Rupees Ten Lakh Only)
August 15, 2024	Rs. 10,00,000/- (Rupees Ten Lakh Only)
September 15, 2024	Rs. 10,00,000/- (Rupees Ten Lakh Only)

10. The appeal stands allowed in the aforesaid terms. The Registry is directed to prepare a decree of divorce accordingly. The decree shall be handed over to the parties, only after proof of payment of the full amount as indicated by us above is furnished to the Registry.
11. Before parting, we place on record our gratitude to Shri P.S. Patwalia, Learned Senior Counsel for the assistance rendered to this Court.
12. Pending application(s) (if any), shall stand disposed of.

*Result of the case:* Appeal allowed.

*<sup>t</sup>Headnotes prepared by:* Raghav Bhatia, Hony. Associate Editor  
*(Verified by:* Liz Mathew, Sr. Adv.)