



2026 INSC 577

**REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. _____ OF 2026
(Arising out of SLP (C) No.971 of 2025)**

SALIL DHAWAN **...APPELLANT(S)**

VERSUS

PRIYANSHI GHAI **...RESPONDENT(S)**

J U D G M E N T

VIKRAM NATH, J.

1. Leave granted.
2. The present appeal arises out of the judgment and order dated 3rd October 2024 passed by the High Court of Allahabad in First Appeal No. 930/2024, whereby the High Court dismissed the husband's appeal and upheld the order of the Family Court dismissing the divorce petition.
3. The facts giving rise to the present appeal are as follows:
 - 3.1. The marriage between the appellant-husband and the respondent-wife was solemnised on 19th April 2017, in accordance with Hindu rites and ceremonies.

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3.2. The appellant-husband is an officer in the Indian Army, and the respondent-wife is a qualified doctor (B.D.S.)¹.

3.3. Owing to marital discord, the respondent-wife moved out of the matrimonial home. She attributed the breakdown of the marriage to the appellant-husband's alleged adultery.

3.4. On 30th April 2018, the respondent-wife made an application before the Army Authorities seeking monthly maintenance under Section 90(i) of the Army Act, 1950. An order was accordingly passed, and deductions were made at source from the appellant-husband's salary until September 2019.

3.5. On 1st October 2018, alleging mental and physical harassment and domestic violence, the respondent-wife filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005².

3.6. On 24th November 2018, the respondent-wife filed a criminal complaint with the Mahila Thana, P.S. Noida.

3.7. On 29th November 2019, the respondent-wife instituted proceedings under Section 125 Code of

¹ Bachelor of Dental Surgery.

² Hereinafter, "DV Act".

Criminal Procedure,1973³, seeking maintenance, registered as Miscellaneous Case No. 447/2018 before the Family Court, Gautam Budha Nagar, Noida.

3.8. The parties were called for mediation by the Mahila Thana and they entered into a Settlement Agreement dated 21st February 2019. Under the agreement, both parties agreed to file for divorce by mutual consent upon the respondent-wife receiving a total sum of Rs. 31,00,000/- (Rupees Thirty-One Lakhs only), and the respondent-wife agreed to withdraw her domestic violence and maintenance proceedings. At that stage, the appellant-husband paid Rs. 10,00,000/- (Rupees Ten Lakhs only) to the respondent-wife. Claims pertaining to jewellery and other articles were also settled, and the said items were returned to the respondent-wife.

3.9. The Family Court passed an ex-parte order dated 26th October 2019, directing the appellant-husband to pay Rs. 30,000/- (Rupees Thirty Thousand only) per month as maintenance under Section 125 CrPC. Upon becoming aware of this order, the appellant-husband filed an application under Section 126 CrPC seeking its recall.

³ Hereinafter, "CrPC".

3.10. The appellant-husband states that around December 2019, the respondent-wife verbally renegotiated the settlement terms, seeking an additional Rs. 1,00,000/- (Rupees One Lakh only), which was agreed upon, thereby revising the total permanent alimony to Rs. 32,00,000/- (Rupees Thirty-Two Lakhs only).

3.11. On 2nd January 2020, the first motion petition for divorce by mutual consent was filed. At this stage, the appellant-husband paid a second instalment of Rs. 10,00,000/- (Rupees Ten Lakhs only).

3.12. Thereafter, the respondent-wife neither signed nor filed the second motion petition and ceased appearing before the Court.

3.13. Consequently, the Family Court vide order dated 1st July 2023, disposed of the mutual consent divorce proceedings owing to the expiry of the statutory period of eighteen months.

3.14. Aggrieved by the said order, the appellant-husband preferred an appeal before the High Court.

3.15. The High Court, vide the impugned order, recorded, after interacting with the parties, that the respondent-wife wished to dissolve the marriage by mutual consent. The Court held that the Family Court had correctly rejected the divorce petition, since the respondent-wife had not maintained her

consent at the stage of the second motion. With regard to the sum of Rs. 20,00,000/- (Rupees Twenty Lakhs only) already received by the respondent-wife, the High Court directed that this amount be adjusted against the maintenance arrears due to her under the Army Act from October 2019 onwards. In view of her entitlement to maintenance under the Army Rules, the High Court further directed that the respondent-wife seek recall of the Section 125 CrPC proceedings. The appeal was disposed of accordingly.

3.16. Aggrieved by the said order, the appellant-husband is now before this Court.

4. We have heard learned counsel for the parties.
5. Learned counsel for the appellant-husband submits that this is a fit case for the exercise of jurisdiction under Article 142 of the Constitution of India. It is submitted that both parties are agreed that they do not wish to cohabit as husband and wife. It is further submitted that even before this Court, the respondent-wife appeared in person and stated that she wished to be divorced from the appellant-husband, albeit through a contested petition on the ground of adultery. There is, therefore, no scope for reconciliation between the parties. The appellant-husband has consistently expressed his willingness to pay Rs. 32,00,000/- (Rupees Thirty-Two Lakhs

only) as permanent alimony, which, it is submitted, is commensurate with his financial capacity and the respondent-wife's needs. In view of the foregoing, the appellant-husband prays for a decree of divorce and closure of all pending litigation between the parties.

6. Per contra, learned counsel for the respondent-wife submits that the respondent-wife intends to file a petition for divorce under Section 13(1)(i) of the Hindu Marriage Act, 1955⁴ on the ground of adultery, and she vehemently opposes the grant of divorce by this Court under Article 142 of the Constitution. It is submitted that the appellant-husband cannot be permitted to take advantage of his own alleged wrongs. In view of the foregoing, the respondent-wife prays for dismissal of this appeal.
7. We have given our thoughtful consideration to the matter. We are cognisant of the fact that the respondent-wife is not agreeable to the grant of divorce by this Court and intends to pursue a contested petition on the ground of adultery. Nonetheless, what is evident from the record and from our interaction with the parties is that the marriage between the parties has irretrievably broken down and there is no possibility of

⁴ Hereinafter, "HMA".

reconciliation whatsoever. The parties have been living separately for over eight years. The record shows long standing acrimony between the parties and a multiplicity of civil and criminal proceedings initiated by both sides. The ties of matrimony, in every meaningful sense, have long since been severed. In such circumstances, to compel the parties to remain bound in a marriage that exists only on paper would serve no legitimate purpose. We are, therefore, satisfied that this is an appropriate case for the exercise of jurisdiction under Article 142 of the Constitution of India.

8. We also find it appropriate, before dissolving the marriage, to fix a final and comprehensive sum of permanent alimony that shall constitute a full and final settlement of all past and future claims arising out of this matrimonial relationship. Such a determination is necessary to bring genuine finality to the litigation and to ensure that neither party is left with any residual claim against the other.
9. The parties had earlier themselves agreed upon Rs. 32,00,000/- (Rupees Thirty-Two Lakhs only) as the total permanent alimony payable in the event of a mutual consent divorce. Out of the fixed alimony, an amount of Rs. 20,00,000/- (Rupees Twenty Lakh only) has already been paid to the respondent-wife at

the stage of settlement and filing of the first motion for divorce. However, pursuant to that, the second motion was never filed and the settlement failed.

10. In view of this, this Court passed an order dated 18th March 2026, recording the respondent-wife's willingness to return the sum of Rs. 20,00,000/- (Rupees Twenty Lakhs only) received by her pursuant to the earlier settlement. Pursuant to that order, on 6th April 2026, learned counsel for the respondent-wife handed over a demand draft of Rs. 10,00,000/- (Rupees Ten Lakhs only) drawn in favour of the appellant-husband. Subsequently, on 20th April 2026, a demand draft of the balance amount of Rs. 10,00,000/- (Rupees Ten Lakhs only) was handed over by learned counsel for the respondent-wife to learned counsel for the appellant-husband in open Court. The entire sum of Rs. 20,00,000/- (Rupees Twenty Lakhs only) has thus been repaid to the appellant-husband by the respondent-wife.

11. Since the appellant-husband is already agreeable to paying Rs. 32,00,000/- (Rupees Thirty-Two Lakhs only), we have considered whether this amount adequately reflects all the relevant factors. Having regard to the earning capacity of both parties, their respective standards of living, the duration of

the marriage, the years of separation, and the respondent-wife's need for financial security going forward, we are of the view that a sum of Rs. 50,00,000/- (Rupees Fifty Lakhs only) would be a fair, just and adequate amount to fix as permanent alimony. This amount shall constitute a one-time, full and final settlement of all claims, past and future, arising from this marriage. It is made clear that upon payment of this amount, no further claims for maintenance shall survive, whether under Section 125 CrPC or the Army Act and Rules.

12. In view of the above, we exercise our jurisdiction under Article 142 of the Constitution of India and dissolve the marriage between the appellant-husband and the respondent-wife, subject to payment of permanent alimony of Rs. 50,00,000/- (Rupees Fifty Lakhs only), to be paid in two instalments as follows:

- (i) First instalment of Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only) to be paid on or before 15th June 2026.
- (ii) Second instalment of Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only) to be paid on or before 15th September 2026.

13. Accordingly, all cases pending between the parties shall stand closed and disposed of, and no

further steps shall be taken therein by either party. The Registry is directed to communicate this order to the respective Courts for passing formal orders of closure. The non-exhaustive list of pending proceedings is as under:

- (i) Complaint No. 413/2018 with application dated 20.11.2024 seeking amendment, under Section 12 of the Protection of Women from Domestic Violence Act, 2005, pending before the Court of Judicial Magistrate, Gautam Budha Nagar, Noida.
- (ii) Crl. Misc. No. 447/18 titled “Priyanshi Ghai v. Major Salil Dhawan”, filed under Section 125 CrPC, pending before the Family Court, Gautam Budha Nagar, Noida, along with Application No. 718 of 2023 filed under Section 128 CrPC.
- (iii) Case No. 87/2023 in Divorce Petition No. 07/2020, filed under the Contempt of Courts Act, 1971.
- (iv) Case No. 175/2023 in Divorce Petition No. 07/2020, filed under the Contempt of Courts Act, 1971.

14. The Registry is directed to draw up a decree of divorce upon receipt of proof of payment of the aforesaid amount.

15. The present appeal stands disposed of in the above terms.

16. Pending applications, if any, stand disposed of accordingly.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI
MAY 27, 2026