

IN THE COURT OF THE JUDGE, FAMILY COURT,
BHUBANESWAR.

Present : Shri Pravakar Mishra, OSJS (SB),
Judge, Family Court, Bhubaneswar.

Civil Proceeding No. 263 of 2013

Mrs. Preeti Jhunjhunwala, aged about 27 years,
W/o-Mragendra Kant Manglik,
Resident of Duplex No.-6, Gayatri Nagar,
Behind Ekamara Talkies,
Bomikhal, Bhubaneswar, Odisha.

... Petitioner

... Versus...

Mr. Mragendra Kant Manglik, aged about 29 years,
S/o-Mr. Piyush Kant Manglik,
resident of Brahmakunj,
Mul road, Sastrinagar,
P.S./Dist-Chandrapur,
Maharashtra.

... Respondent

Date of Argument : 06.01.2015

Date of Judgment : 20.01.2015

J U D G M E N T

This order arises out of a petition u/s. 13 (1) (i-a) of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of marriage of the petitioner with the respondent on the ground of cruelty.

2. The facts of the case of the petitioner are as follows:-

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites in Nayak Breach Resort, Puri on 19.01.2013. According to the petitioner, her father had fulfilled all the demand of respondent at the time of the marriage and one day after the marriage, she along with the respondent and his family members while proceeding to their

native place from Puri, due to additional demand of dowry they threw her from a running train to the Platform and leaving her at Puri Platform and proceeded to their native place but she was very fortunate to ventilate her grievance in every sphere and the respondent and his family members were arrested immediately at Bhubaneswar Railway Station and forwarded to the Court of S.D.J.M, Bhubaneswar and after rejection of their bail application by learned S.D.J.M. Bhubaneswar, they were sent to jail custody. Thereafter, due to intervention of Marwari Samaja, the matter was settled between them and basing upon the affidavit of her and her family members, the respondent and his family members were released on bail from Sessions Court. After releasing on bail, she accompanied towards the native place of the respondent but before reaching to the native place at Chandrapur, the respondent and his family members intentionally and deliberately changed their mind and adjusted her in a rented house at Nagpur. According to the petitioner, during her short stay at Nagpur, the respondent and his parents did not provide proper food, medicine, clothing and resident and she was subjected to mental torture. When the torture became unbearable, she was forced to leave her matrimonial home for her parental home at Bhubaneswar. It is the further case of the petitioner that during her stay at her parental home at Bhubaneswar when she contacted the respondent, the respondent intentionally and deliberately avoided her. On 15.04.2013 she got a pleader notice containing false allegations made by the respondent against her. The aforesaid letter/ notice clearly indicated how the respondent and his family members were rude towards her and what was their behaviour towards her. The respondent and his family members are well vigilant to save their skin for which they are not hesitating by accusing her to create some false evidence in their favour. She has also replied the pleader notice of the respondent. She has further stated that the respondent and his family members by giving false Bio-Data before marriage, indicating therein the monthly income of the respondent as Rs. 80,000/- and has vast landed property at Chandrapur and periphery of Chandrapur and hails from a rich family. On this back ground he

married her and was able to succeed to keep relationship as husband and wife. Since the torture and cruelty by the respondent became in-tolerable she has filed this proceeding seeking a decree of divorce on the ground of cruelty.

3. The respondent did not enter contest the petition and therefore, is set ex-parte.

4. The question that requires to be adjudicated is whether, there exists any cruelty on the part of the respondent to allow the petition for divorce and whether the petitioner is entitled to any permanent alimony?

5. The petitioner in order to prove her case she, herself, has been examined P.W. 1.

6. The petitioner sought divorce on the ground of respondent's cruelty. She has deposed about the maltreatment of the respondent towards her. Her statement is facsimile to the allegation made in petition which have gone unchallenged as there has been no cross examination since the respondent has been set ex-parte. Law is well settled that when a statement of a witness gone unchallenged, the same must be accepted as true. Therefore, the statement of P.W. 1 is accepted as true. Examining the evidence of P.W. 1 in ferreted eyes. I am satisfied that the petitioner could able to establish the same. Throwing the petitioner from running a train at Puri Platform due to additional demand of dowry one day after marriage, giving false Bio-data married to the petitioner and non providing food, clothes, medicines and resident during petitioner's stay at Nagpur which are emerged out from the evidence P.W. 1 are circumstances of the cruelty and therefore, the petition of the petitioner deserves merit to be allowed.

7. As regards to the permanent alimony, the petitioner is in the prime period of her youth and there exists a chance of her remarriage. Therefore, if permanent alimony is allowed to the respondent it would amounts to an unjust enrichment and therefore, I decline to grant any permanent alimony. From the record, I found that the petitioner has been allowed interim monthly maintenance of Rs. 15,000/-. Therefore, I think, it would be just and proper to direct the respondent to pay an amount of Rs. 25,000/- as monthly

permanent alimony to the petitioner. It is made clear that the monthly alimony shall be paid from the date of the filing of the petition till the petitioner gets remarried or otherwise disqualified to get maintenance under the statute. The interim maintenance allowed shall be adjusted. The respondent is directed to return all the dowry articles to the petitioner given at the time of marriage on identification by the petitioner. Hence, it is ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner without cost. A decree of divorce is passed and the marriage between the petitioner and the respondent is hereby declared dissolved with effect from the date of decree. The respondent is directed to pay monthly permanent alimony of Rs. 25,000/- to the petitioner from the date of filing of the petition till the petitioner gets remarried or otherwise disqualified to get maintenance under the statute. The interim maintenance allowed shall be adjusted. The respondent is directed to return all the dowry articles to the petitioner given at the time of marriage on identification by the petitioner. The order shall be carried within three months hitherto failing which the petitioner is at liberty to levy execution through due process of law.

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Dictated, corrected by me and is pronounced on this the 20th day of January, 2015.

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Witnesses examined for the petitioner:

P.W.1 Mrs. Preeti Jhunhunwala

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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