

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

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

Civil Proceeding No. 109 of 2012

Saumya Prakash Rath, aged about 50 years,
S/o- Sudarsan Rath,
At present resident of Prakash Kutir, P.S.-Badambadi,
P.O.-Madhupatna, Dist-Cuttack.

... Petitioner

... Versus...

Madhumita Rath, aged about 45 years,
W/o-Saumya Prakash Rath,
D/o- Anirudha Rath,
Resident of Plot No.-1470, Sastrinagar, P.S.-Kharavelanagar,
P.O.-Bhubaneswar, Dist-Khurda.

... Respondent

Date of argument : 27.08.2014

Date of order : 09.09.2014

O R D E R

This order arises out of a petition u/s. 13 (1) (i-a) of the Hindu Marriage Act, 1955 read with Section 7 of Family Courts, Act (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 on 18.02.1991 and out of their wedlock one male child namely Saurav Suman Rath was born on 02.09.1992. He being an Engineer has been posted as such in Coal India Limited in different places outside Cuttack. The respondent was then a lecturer in History at Nigamanda Mahila Mahavidyalaya, Charichhawk, Puri and getting consolidated of Rs.

500/- per month. The respondent was not performing her marital obligation towards the petitioner and his family members. When they both were staying at Bhubaneswar in a rented accommodation, the respondent did not cook food and did not perform household works. The respondent was very adamant and dominating character and disobeyed the petitioner in every manner. The respondent did not take care of the male child Saurav while he was admitted into DAV School, Rajabagicha, Cuttack. According to him, when he was staying at Burla, the respondent during holidays remained at Burla and she suspected the character of the petitioner. However, the petitioner was transferred to Bhubaneswar and stayed with the respondent in a rented house at Bhubaneswar but the respondent without any rhyme or reason misbehaved the petitioner and due to such misunderstanding, their marital relationship has been broken down irreparably. She always abused the petitioner in vulgar languages for which the petitioner started living separately from the respondent since February, 2010. In spite of repeated attempts for reunion, the respondent and her family members did not take any positive thoughts. Since the respondent without any rhyme or reason tortured the petitioner, he has filed this proceeding seeking a decree of divorce.

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?

5. The petitioner in order to prove his case he, himself, has been examined P.W. 1.

6. The petitioner sought divorce on the ground of respondent cruelty. He has deposed about the maltreatment of the respondent towards him as well as at his parents. His 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. Since it has been the duty of the petitioner to establish the ground i.e. cruelty set out in the petition

seeking divorce against the respondent, the evidence of P.W. 1 is examined in ferreted eyes and on such examination I am satisfied that the petitioner could able to establish the same. Making aspersion by suspecting the character of the petitioner and humiliating him in his office in presence of staff by visiting the office of the petitioner, not cooking food in the house and non-cooperation for cohabitation 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. Hence, it is ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. 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. As the respondent is a lecturer in Govt. aided College having handsome salary, neither permanent nor monthly alimony is allowed to her. However, the petitioner is directed to bear the educational and marriage expenditure of the son.

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Dictated, corrected by me and is pronounced on this the 9th day of September, 2014.

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Witnesses examined for the petitioner:

P.W.1 Saumya Prakash Rath

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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