

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

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

Civil Proceeding No. 201 of 2014

Pradip Kumar Mishra, aged about 35 years,
S/o-Sri Pravakar Mishra,
At/P.O.-Kantapada Sasan,
P.S.-Niali, Dist-Cuttack,
Pin-752103.
At present Plot No. 194/B,
Canal Road, At/P.O.-Bomikhal,
P.S.-Laxmisagar, Bhubaneswar-10,
Dist-Khurda.

... Petitioner

... Versus...

Suman Sarangi, aged about 39 years,
W/o-Pradip Kumar Mishra,
D/o-Sri Bansidhar Sarangi,
At-Balara (Bilasuni),
P.S.-Niali, Dist-Cuttack,
Pin-754004.

... Respondent

Date of Argument: 29.01.2015

Date of Judgment: 11.03.2015

J U D G M E N T

The petitioner has filed 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 Balana (Bilasuni) under police station of Niali in the

district of Cuttack on 07.07.2004 and out of their wedlock one female child namely Anaya Mishra was born in a private Maternity Home at Niali in the district of Cuttack on 17.11.2009. According to the petitioner, on the first day of marriage, the respondent did not allow him for co-habitation with her and subsequently thereto for which he was mentally shocked. Soon after some days of marriage, the respondent regularly goes outside of his house without informing him and his parents. When he objected for the same, the respondent threatened with dire consequence. He has further averred that the respondent is older than him and by suppressing it her parents had given her marriage with him. The respondent during her stay in his house did not cook food, did not do any household work, even she did not wash her clothes and clean the bed room for which his old and ailing mother had to cook, washed her clothes and cleaned the bed room. Further, the respondent during her stay used to frequently visit to her parental home with plea that she is unable to adjust in a lower middle class, uncultured and uncivilized family and always compared her family is more affluent than his family and after much persuasion she returned to her matrimonial home but repeated previous activities some days thereafter. Several attempts have been from his side to change the behavior and attitude of the respondent towards him and his family members but the respondent made allegations that she could not adjust herself with his scanty income as well as in his uncultured family. It is further averred that while the respondent was pregnant in the month of March, 2009, the parents of the respondent wanted to take to her parental home and when he and his family members refused for the same, the parents of the respondent told them that they were beggars to provide nutrition food to a pregnant lady. The respondent without listening them left his house with her parents and relations to her parental home on 27.04.2009. He has further averred that he regularly visited to the parental home of the respondent while she was staying there and provided her as per his capacity but each time he was insulted by the respondent and his family members. The family members of the respondent without consulting him admitted the respondent in a Private Maternity Home at Niali in the district of Cuttack but on the date of delivery he and his mother reached there and incurred all the expenses of

delivery. When he requested the respondent after discharge from the Maternity Home to come to his house, the respondent did not listen to him and went to her parental home alleging him that he could not give a healthy life to her and her child with his scanty income. Thereafter several attempts have been made from his side to bring her back but all were in vain. On 16.01.2012 he along with some local gentries went to the parental home of the respondent to bring her back along with her child but the respondent refused to join with his company. Finding no other alternative, he has filed Civil Proceeding No. 212 of 2012 before this court for restitution of conjugal rights with the respondent but the respondent did not appear for a single day for which this Hon'ble Court has been pleased to dispose of the said proceeding ex-parte dated 15.05.2013 in his favour. Thereafter also several attempts have been made from his side to bring her back along with her child but all were in vain. Since the torture and cruelty by the respondent became in-tolerable the petitioner 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?

5. The petitioner in order to prove his case he, himself, has been examined P.W. 1 but did not chose to file any document on his behalf.

6. The petitioner sought divorce on the ground of respondent's cruelty. He has deposed about the maltreatment of the respondent towards him and his family members. His statement is facsimile to the allegations 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. Going outside of the house

without informing him and his family members, ill-treating the petitioner and his family members while residing in her matrimonial home, not doing any household work in the matrimonial home, frequently visiting to her parental home, taunting beggars the petitioner as baggers, 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. The petitioner is directed to pay permanent alimony of Rs. 5,00,000/-to the respondent and also directed to bear all the educational, medical and marriage expenses of the minor daughter.

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Dictated, corrected by me and is pronounced on this the 11th day of March, 2015.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Pradip Kumar Mishra

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.