

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

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

Civil Proceeding No. 204 of 2014

Smt. Nibedita Sahoo, aged about 34 years,
W/o-Sri Narayan Sahoo,
D/o-Sri Sudarshan Sahoo,
At-Suryanagar, Patana, P.O.-Kantapada,
Via-Banamalipur, P.S.-Niali,
Dist-Cuttack, Odisha.
Present residing at Bikash Nagar,
P.O./P.S.-Jatni, Dist-Khurda,
Odisha, PIN-752050.

... Petitioner

... Versus...

Sri Narayan Sahoo, aged about 40 years,
S/o-Bandhu Sahoo,
At-Suryanagar, Patana, P.O.-Kantapada,
Via-Banamalipur, P.S.-Niali,
Dist-Cuttack, Odisha, PIN-752103.

... Respondent

Date of Argument : 31.03.2015

Date of Judgment : 15.04.2015

J U D G M E N T

The petitioner has filed a petition U/s. 7 of Family Courts Act, 1984 read with Section 13 of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of her marriage 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 27.01.2012. According to the petitioner her father had fulfilled all the demand of the respondent and his family members at the time of marriage. It is the further case of the petitioner that prior to the marriage and after negotiation her father had spent nearly

about Rs. 2,00,000/- for construction of pucca house of the respondent for better marital living of his daughter as because the condition of the house of the respondent was not in a good condition. After five days of marriage, the respondent, his parents, his younger brother and his married sister demanded further dowry of a T.V., a refrigerator, a Hero Honda Motor Cycle, gold ornaments and cash of Rs. 10,00,000/- and instructed her to bring the above demand at the time of returning to their house after completion of 10th day (Dasamangala) ceremony failing which they would kill her or ready to work like a bonded labour till her death. When she and her parents were unable to fulfill their demand, the respondent, his parents, his married sister and younger brother started torturing her both physically and mentally. She has further averred that she has also forced to do all the household work just like a bonded labourer. All the family members of the respondent many times tried to kill her but due to intervention of the neighbours she was rescued. When the torture became unbearable on her part, finding no other alternative she prayed before the respondent to send her to her parental home and accordingly, on 22.01.2013 the respondent hired a auto rickshaw and dropped her in front of her parental home and also threatened her unless and until her family members will fulfill his demand he would not accept her. The respondent had also taken Rs. 50,000/- from her father on different occasions. Since 22.01.2013 she has been residing in her parental home. Thereafter several attempts have been made from her side to settle the dispute but all were in vain. Since the torture and cruelty by the respondent became intolerable the petitioner has filed this proceeding seeking a decree of divorce on the grounds of cruelty and also claims refund of Rs. 2,50,000/- and permanent alimony of Rs. 5,00,000/- from the respondent.

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 for permanent alimony of Rs. 5,00,000/- and refund of money of Rs. 2,50,000/- from the respondent?

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

6. The petitioner sought divorce on the ground of respondent's cruelty. She has deposed about the maltreatment of the respondent and his family members 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. Admittedly, there has been torture on the petitioner for non fulfillment of the additional demand of the respondent and his family members. Dowry tortures are proliferating now a days in the present day of society. Therefore, the allegation of dowry torture attributing cruelty on the petitioner by the respondent and his family members is accepted as true. Had it not been so, the petitioner who is a newly married bride would not have left her matrimonial home. Therefore, the petitioner could establish the ground of cruelty which is one of the grounds of divorce. Accordingly, the relief sought by the petitioner yet to be allowed.

7. The next point for consideration is that whether the petitioner is entitled for permanent alimony of Rs. 5,00,000/- and refund of money of Rs. 2,50,000/- from the respondent. The petitioner has stated that her father had spent Rs. 2,00,000/- for the construction of the house of the respondent and Rs. 50,000/- was given to the respondent as hand loan. The father of the petitioner spent Rs. 2,00,000/- for the better housing of her daughter in her matrimonial home. He spent the said money out of own volition. It was not demanded by the respondent. Therefore, the petitioner is not entitled to refund of that amount. As regards to the hand loan of Rs. 50,000/-, the evidence of P.W. 1 has not been demolished. Therefore, she is entitled to refund of that amount. As regards to the permanent alimony of Rs. 5,00,000/- as claimed by the petitioner, the petitioner has singularly failed to lead any evidence from this point. Be that as it may, the respondent is a strong and stout man, is cable of earning money by doing daily labourer. Therefore, it would be just and

proper to grant permanent alimony of Rs. 3,00,000/- (Rupees Three Lakhs) only to the petitioner. 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 respondent is directed to pay permanent alimony of Rs. 3,00,000/- (Rupees Three Lakhs) only and refund Rs. 50,000/- (Rupees Fifty Thousands) only which he had taken as hand loan from the father of the petitioner to the petitioner.

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Dictated, corrected by me and is pronounced on this the 15th day of April, 2015.

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Witnesses examined for the petitioner:

P.W.1 Smt. Nibedita Sahoo

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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