

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

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

Civil Proceeding No. 22 of 2012

Smt. Tuni Gochhayat, aged about 36 years,  
W/o-Suresh Gochhayat,  
D/o-Naba Nayak,  
of Vill-Noda, P.S.-Gobindapur,  
Dist-Cuttack.  
At present:- C/o-Smt. Swapna Mohapatra,  
J.S-8, Utkal University, Vani Vihar,  
Bhubaneswar-4.

... Petitioner

... Versus...

Suresh Gochhayat, aged about 42 years,  
S/o-Late Charan Gochhayat,  
At/P.O.-Tulasipur, P.S.-Nimapara,  
Dist-Puri  
At present Salia Sahi, Baje Payee Nagar,  
P.O.-R.R.L., Jayadev Vihar,  
P.S.-Nayapalli, Bhubaneswar,  
Dist-Khurda  
At present working as Sweeper, 7<sup>th</sup> O.S.A.P, 7<sup>th</sup> Battalion,  
Bhubaneswar, Dist-Khurda.

... Respondent

Date of Argument : 17.10.2014

Date of Judgment : 25.10.2014

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 that:-

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites in the native village of the petitioner since more than 16 years back and out of their wedlock two sons namely Sunil Gochhayat and Aman Gochhayat were born. According to the petitioner, after marriage ceremony both of them lived together at the service place of the respondent at Salia Sahi, Bajpayee Nagar, Bhubaneswar where they stayed together for fifteen years. The petitioner has averred that after birth of the second son, the respondent tortured her both physically and mentally due to additional demand of dowry. When the petitioner showed her inability to fulfill the additional demand of dowry, the Opp. Party physically assaulted her and did not provide food, clothing and medicines to her. During her stay with the respondent, her father has been sending money in every month towards educational expenses and day to day expenditure and the respondent did not give any money to her. The petitioner in spite of repeated assault and torture waited for about 16 years with a hope that the respondent would realise the responsibility of the family and would change his rude behaviour and cruel act in future. The petitioner has averred that the respondent has got illicit relationship with a girl. She has further averred that the respondent while staying with her had forcibly taken away her gold jewellery weighing 30 grams and other household articles and driven her out with her sons on 07.01.2011 and since then she has been residing with her parents. She has averred that the respondent also threatening over phone to her and her sons. It is further

averred that several attempts have been made from the side of the petitioner for settlement of the dispute, but the respondent did not cooperate. Their marriage has been irretrievably broken down. Since the torture and cruelty by the respondent became in-tolerable the petitioner 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 her case she, herself, has been examined P.W. 1.

6. The petitioner sought divorce on the ground of respondent 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. 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. Assaulting physically to the petitioner due to non-fulfillment of additional demand of dowry and not giving money towards

educational expenses of the children and non-provision of food, clothing and medicines to the respondent and keeping illicit relation with another girl 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.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 25<sup>th</sup> day of October, 2014.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1        Smt. Tuni Gochhayat

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.