

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

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

Civil Proceeding No. 227 of 2014

Sri Partha Sarathi Ray, aged about 35 years,  
S/o.- Sri Sulava Ch. Ray,  
Permanent at-Sanaraipada, P.O.-Kotapur,  
P.S.-Dharmasala, Dist-Jajpur,  
Correspondent address:-  
Sri Partha Sarathi Ray,  
C/o-A.C. Mallick,  
At Plot No. 4, Gopabandu Chhak, Unit-7, Surya Nagar,  
Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Smt. Smruti Rekha Mishra, aged about 28 years,  
W/o-Sri Partha Sarathi Ray,  
D/o-Sri Umakanta Mishra,  
At-Nuasahi, Plot No. 455/14,  
P.O.-Nuasahi, Nayapalli,  
Bhubaneswar, Dist-Khurda.  
Correspondence official address:-  
Smt. Smruti Rekha Mishra,  
1249, 29<sup>th</sup> Main, 14<sup>th</sup> A Cross,  
BTM Lay out, 2<sup>nd</sup> Stage, Bangalore.

... Respondent

Date of Argument: 03.03.2015

Date of Judgment : 20.03.2015

J U D G M E N T

The petitioner has filed a petition u/s. 13 (1) of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of his marriage with the respondent on the ground cruelty.

2. The facts of the case of the petitioner are that his marriage with respondent was solemnized as per Hindu Custom and rites in on 14.12.2012. According to the petitioner their marriage was a love marriage and dowry free marriage. He has further stated that they have not consummated their marriage due to chickenpox disease of the respondent and thereafter on the next day he had gone to his place of posting in USA. The respondent has insisted him to live separately from his family members and when he denied for the same, the respondent misbehaved and made false allegations against him and his family members without rhyme or reason with a view to create disturbance in the family. He has further averred that the respondent is arrogant, egoist, self-centered motive and cruel in nature. The respondent during her stay insisted her demand to return to her parental home. She has also threatened to commit suicide and to implicate him and his family members in false criminal cases. The respondent had also once attempted to commit suicide at Bangalore in his absence. He has also further stated that the respondent had threatened to agree for mutual divorce on payment of Rs. 50,00,000/- to her towards permanent. She had also expressed before him to remarry to her boy friend after getting permanent alimony from him. When his father was suffering from cancer and also mother was suffering from spinal cord disease, the respondent threatened to fulfill her demand or else she would lodge criminal cases against him. The petitioner has further averred that the respondent deserted him since 15.01.2013. Thereafter, several attempts have been made from his side to settle the dispute but all were in vain. According to the petitioner the respondent is working in Mavenir Systems, Bangalore and is getting Rs. 8,00,000/- per annum. Since the torture and cruelty by the respondent has become in-tolerable and as the respondent debarred him for any marital relationship, he has filed this proceeding seeking a decree of divorce on 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 respondent is entitled to get alimony either permanent or monthly?

5. The petitioner in order to prove her case she, herself, has been examined P.W. 1 and relied on a document i.e. Ext. 1, the Invitation Card of the marriage.

**Point No.1:-**

6. Whether, there exists any cruelty on the part of the respondent to allow the petition for divorce?

The petitioner sought divorce on the grounds of respondent's cruelty. He has deposed about the maltreatment of the respondent to him and his family members. He has further averred that the respondent demanded Rs. 50,00,000/- towards her permanent alimony and she has also expressed before him to live with her boy friend after getting the permanent alimony. She has also threatened to file criminal cases against him and his family members when his parents were suffering from diseases. 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. Attempting to commit suicide, insisting to live separately from other family members and decasualization of the parties since 15.01.2013 due to voluntarily withdrawal of the respondent from the company of the petitioner are circumstances which constitute mental cruelty. Therefore, the petitioner is entitled to a decree of divorce. Accordingly this issue is answered in favour of the petitioner.

**Point No.2:-**

6. Whether the respondent is entitled to get alimony either permanent or monthly?

The next question for consideration is about grant of alimony either permanent or monthly. From the evidence of P.W. 1, it is established that he is working in a Multinational Company as he had gone to USA to join in his service soon after the marriage and he must have substantial income of his own. On the other hand, according to the P.W. 1 the respondent is working in Mahavnir Systems, Bangalore and is getting Rs. 8,00,000/- per annum. The petitioner has failed to prove the employment of the respondent by filing any document. Therefore, even if this part of his evidence gone unchallenged yet the said facts need to be proved by documentary evidence. Since the petitioner has failed to file any document regarding the employment of the respondent. The petitioner has stated that the respondent agreed for mutual divorce on payment of Rs. 50,00,000/-. Therefore, it is evident that the respondent has no employment. The respondent was aged about 28 years in the year 2014. Therefore, by now she is aged about 29 years old. There is every chance of remarriage of the respondent. Therefore, allowance of a lump sum amount as permanent alimony will be an unjust enrichment to the respondent. However, keeping in view of the high education and family background of the petitioner and spiraling rising of the price of the essential commodities and present day cost of living, the minimum supporting financial need is Rs. 20,000/- (Rupees twenty thousand) only per month. Hence, the alimony is fixed at Rs. 20,000/- (Rupees twenty thousand) only. It is made clear that the monthly alimony shall be paid from this date of order till the respondent gets the remarried. Accordingly, this issue is also answered in favour of the respondent. Hence, it is ordered.

**ORDER**

The suit and the same be decreed ex-parte in favour of the petitioner. A decree of divorce is passed and the marriage between the petitioner and the

Opp. Party is hereby declared dissolved with effect from the date of decree. The petitioner is directed to pay Rs. 20,000/- (Rupees twenty thousand) only per month towards alimony to the respondent from this date of order till the respondent gets remarried.

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Dictated, corrected by me and is pronounced on this the 20<sup>th</sup> day of March, 2015.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1                      Sri Partha Sarathi Ray

Witnesses examined for the respondents:

None

List of documents by petitioner:

Ext. 1                      Invitation Card

List of documents by respondents:

Nil

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