

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

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

Civil Proceeding No. 324 of 2013

Somali Sahoo, aged about 22 years,
D/o- Ramesh Chandra Sahoo,
At-Bhingarpur, P.O-Bhatapatna,
P.S.-Balianta, Bhubaneswar,
Dist-Khurda.

... Petitioner

... Versus...

Ranjan Kumar Rout, aged about 23 years,
S/o-Ramakanta Rout,
At-Jagannathpur, P.O.-Kakarudrapur,
P.S.-Balianta, Dist-Khurda,
At present residing at-Lingipur,
P.O.-Susupalgarh, P.S.-Lingaraj,
Bhubaneswar, Dist-Khurda.

... Respondent

Date of Argument : 30.09.2014

Date of Judgment: 13.10.2014

J U D G M E N T

The petitioner has filed this Civil Proceeding U/s-25 of the Special Marriage Act, 1954(in short, the Act, 1954) to declare her marriage with the respondent Ranjan Kumar Rout as a nullity.

2. The case of the petitioner inter alia, is that she and the respondent managed to register their marriage before the Marriage Officer, Bhubaneswar vide marriage certificate No.690 of 2011 and their marriage was never consummated and the question of living husband and wife does not arise. It is averred that the respondent surprisingly taking advantage of such fraud marriage certificate, caused harassment to her and also tried his level best to black mail her with a threatening, if she will not agree for marriage then he is capable enough to kill her in life by hiring antisocial goondas. She has further averred that she had never applied for any marriage and also it was not within her knowledge about solemnization of the marriage before the Marriage Officer, Bhubaneswar, but the respondent had managed to impress her to arrange the residential certificate for her study purpose, for which the respondent had requested her to sign some papers for obtaining a residential certificate and on 12.09.2011 the respondent impressed her to go to the Tahasil office for the residential certificate but when she went to Tahasil Office along with her friend, the respondent along with some other persons threatened her at the point of gun to sign some papers and without getting any alternative, with fear and coercion, she compelled to sign certain documents without knowing the contents in order to save her life. When the petitioner attempted to intimate her parents and to the police station, the respondent has cleverly impressed her he will cancel the said fraud marriage certificate, for which she remained silent but while she was continuing her study, the respondent made attempt by designing her as wife by making false allegation which caused mental injury to her. She has further averred that her parents were not aware of such marriage. She has further averred that she has no marital relationship with the respondent and never cohabited with him. She has further stated that the respondent has committed fraud for getting marriage certificate. Therefore, she has prayed to declare their marriage as nullity.

3. The respondent though appeared, yet he has not filed any written

statement. Further, he has averred that, he has no objection, if the marriage registration certificate be declared as void.

4. From the aforesaid evidence of the parties, the question that requires to be adjudicated is

(1) Whether the alleged marriage was performed with the consent of the parties ?

(2) Whether the marriage certificate is prepared out of fraud and the petitioner is entitled for a decree of nullity ?

5. The petitioner in order to prove her case she, herself has been examined as P.W. 1. She has also relied upon Ext. 1, the marriage certificate bearing No. 690 dated 12.09.2011. The respondent in order to negate the claim of the petitioner he, himself has been examined as R.W.1.

6. The nullity of the marriage is sought on the ground that the consent of the petitioner to the marriage was obtained by coercion or fraud. P.W.1 has stated that she has no consent for such marriage and the respondent fraudulently managed to register their marriage before the Marriage Officer. She has further stated that, they have no physical relationship and as such their marriage has not been consummated. The respondent threatened her in different manner. The respondent in his cross-examination has admitted that their marriage was not consummated as he refused for sexual intercourse. He has also stated that he refused to take the petitioner to his house due to protest caused by his parents. Therefore, under no stretch of imagination it could be believed that the consent of the petitioner is obtained by the respondent at the time of preparation of marriage certificate. Therefore, nullity of the marriage on this ground is well proved by the petitioner.

7. The evidence of P.W. 1 makes a ground for nullity of the marriage on the ground of non-consummation of marriage. P.W. 1 has stated that the marriage was not consummated. R.W. 1 also admitted the said fact. Therefore, since the marriage has not been consummated due to willful refusal of the

respondent and the marriage being a nake-sake, petitioner is entitled to annulment of marriage by a decree of nullity. Hence, ordered;

O R D E R

The petition filed by the petitioner succeeds. The marriage between the petitioner and the respondent dated 12.09.2011 vide Ext. 1 is hereby annulled. The Marriage Certificate vide Ext. 1 be cancelled after the expiry of the appeal period.

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BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 13th day of October, 2014.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Somali Sahoo

Witnesses examined for the respondent:

R.W. 1 Ranjan Kumar Rout

List of documents by petitioner:

Ext. 1 Certified copy of the marriage certificate.

List of documents by respondent:

Nil

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