

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

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

Civil Proceeding No. 757 of 2011

Sukanta Kumar Sahoo, aged about 31 years,  
S/o-Arakhita Sahoo,  
Resident of Vill.-Pratap Sasan Samil Rathijema,  
P.O.-Balakati, P.S.-Baliana,  
Dist-Khurda.

... Petitioner

... Versus...

Annapurna Prusty, aged about 27 years,  
W/o-Sukanta Kumar Sahoo,  
D/o-Krushna Chandra Prusty,  
Resident of Vill.-Pratap Sasan Samil Rathijema,  
P.O.-Balakati, P.S.-Baliana,  
Dist-Khurda  
At present:- C/o-Krushna Chandra Prusty,  
Rathijema (Nusahi), P.O.-Balakati,  
P.S.-Baliana, Dist-Khurda.

... Respondent

Date of Argument : 23.12.2014

Date of Judgment: 24.12.2014

J U D G M E N T

This order arises out of a petition u/s. 13 (1) 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 grounds of desertion and cruelty.

2. The facts of the case of the petitioner are as follows:-

The marriage of the petitioner with respondent was solemnized with respondent on 10.11.2006 and the marriage was consummated at his village Pratap Sasan Samil Rathijema under Baliana Police Station in the district of

Khurda and out of their wedlock one male child was born in Arnapurnna Memorial Hospital, Bhubaneswar on 16.07.2007. It is the further case of the petitioner that the respondent during her stay showed rude behaviours to him, his family members, relatives, well-wishers and friends who visited to his home, even not offered a glass of water as a good gesture. The respondent being the daughter-in-law has not performed the traditional Puja, Osa and other festivals even also not performed Mana Basa Gurubar and in the month of Kartika, she has not taken meal without non-vegetarian items. On the other hand, he and his other family members have taken vegetarian foods. The respondent on many occasions did not cook food for his family and confined herself in the bedroom and when he and his old parents requested her for preparing food, the respondent abused in filthy languages and threatened to file false dowry case against them. The respondent also not attaining the social functions like marriage, puja, Srada Kriya and other customary functions of his family. The respondent always underestimated him and his family members as she hails from a rich family. The respondent during her stay never takes care of his and his family members and without his consent moved in market and visited cinema. She has also always insisted him to live separately and despite of his poor financial condition had taken a house on rent with a hope the respondent after staying separately may have change in her behaviour. On 27.03.2008 when his only son was ill, the respondent forced him to visit Dolamelan but when he tried to understand her that both of them will visit after their son became cure, the respondent became furious and assaulted him by means of Nail and Paniki and threatened to pour poison in food and to file false dowry torture case against him. Finding no alternative, he informed the matter in writing by registered post to OIC, Baliana Police Station, Mahila Police Commission and other concerned authorities in the month of May, 2008. On 28.03.2008 the respondent without rhyme or reason voluntarily left his house and told him that she will never return to his house as his status is not equal with her parent's family and she will never returned to her in-laws house. The

respondent in order to harass him has filed a petition U/s. 9 of Hindu Marriage Act, before this Court vide C.P. No. 443/2010. On 10.04.2008 when one of his uncle expired, he and his parents requested to come and attend the funeral ceremony and other rituals of his uncle but the respondent neither come to his house nor observed the rituals. On different functions, he and his parents requested to come and attend functions but all their requested were in vain. The respondent did not come to his house after knowing everything about the illness of his sister. He has further averred that on 29.08.2011 when his mother's leg was fractured and was confined herself in bed, the respondent did not come to his house to see her ailing mother after several requests have been made from his side. Since the torture and cruelty by the respondent became in-tolerable the petitioner has filed this proceeding seeking a decree of divorce on the grounds of desertion and 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 desertion and 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 as P.W.1 who supported the averments made in the petition. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 13 (i-b) of the Act, 1954 provides that the other party has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition. The petitioner at paragraph 17 of his petition has stated that the respondent deserted him since 28.03.2008. The petition of divorce in this case is presented in the Court on 03.09.2011. Thus, it is clearly established that the petition has been filed after completion of two years from the date as alleged by the petitioner. From the aforesaid tenor of the evidence, it is as much as clear as noon day that there has been total liquidation of obligation of marriage between the parties since 28.03.2008, meaning thereby that intentional permanent forsaking and

abandonment of one spouse by the other without the others consent and without reasonable cause also meaning not permitting or allowing or facilitating cohabitation between the spouses. The respondent without any rhyme or reason deserted the petitioner and subjected her to cruelty. This conduct of the parties is a continuous one for last three years. There is also blink chance of their reunion. Therefore, it is a fit case to snap out the marital relation between parties by passing a decree of divorce. In other words the petitioner could establish the ground of desertion.

6. The residue point that remains to be discussed is cruelty. Threatening to file dowry cases against him and his family members and pouring poison in food, misbehaving the petitioner, his family members and his relatives, taking non-vegetarian food during in the month of Kartika spell cruel conduct of the respondent towards the petitioner. Therefore, the petitioner could successfully establish the ground of cruelty which is also one of the ingredients u/s. 13 (1) (i-a) of the Act for granting a decree of divorce. 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 24<sup>th</sup> day of December, 2014.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1        Sukanta Kumar Sahoo

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:  
Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.