

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

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

Criminal Proceeding No. 96 of 2013

Smt. Purnimarani Rath, aged about 40 years,
W/o. Srinivas Rath, At- Sanamachhapur,
P.O. Dalakasoti, P.S. Balipatna, Dist.Khurda.
At present C/o. Surendra Nath Mohapatra,
Vill. Nuasasan, P.S. Pipili, Dist. Puri.

... Petitioner

... Versus...

Srinivas Rath, aged about 47 years,
S/o. Baidhar Rath, At- Sanamachhapur,
P.O. Dalakasoti, P.S. Balipatna, Dist.Khurda.

... Opp. Party

Date of Argument : 02.09.2014

Date of order : 15.09.2014

O R D E R

This order arises out of a petition u/s. 125 of the Code of Criminal Procedure (in short, Cr.P.C.) filed by the petitioner Purnimarani Rath claiming monthly maintenance of Rs. 20,000/- for herself along with litigation expenses from the Opp. Party.

2. The fact of the petitioner's case are as follows:-

The petitioner is the legally married wife of the Opp. Party and their marriage was solemnized on 27.5.2003 in the paternal house of the petitioner as per Hindu rites and customs. It is averred inter alia that at the time of marriage, as per demand, the father of the petitioner had given cash of Rs.1,00,000/-, gold ornaments and other

valuable articles to the Opp. Party. She has further averred that the Opp. Party and his parents started torturing the petitioner from the 3rd day of marriage. During her stay with the Opp. Party, the Opp. Party did not provide her sufficient food and was assaulting her brutally. Out of their wedlock two female children were born. The Opp. Party and his family members tortured the petitioner both mentally and physically on demand of additional dowry and did not provide proper food to her as well as to the children. Since the torture on her became unbearable, she has reported the matter before IIC Balipatna P.S. and on the persuasion of the Opp. Party, the dispute was settled amicably. Thereafter, on 26.4.2013, the Opp. Party further demanded Rs.2,00,000/- from her parents and forced her to give her gold ornaments to them. When the petitioner tried to inform the same to police, the Opp. Party snatched away her mobile phone and the Opp. Party, his parents and some antisocial assaulted her by means of bamboo stick and wooden household articles, causing bleeding injuries. After rescue by the police the petitioner was shifted to Capital Hospital for treatment and lodged an FIR before IIC Balipatna P.S. against the Opp. Party and his family members for torture and dowry demand. It is averred that since the torture and cruelty on her became unbearable, she took the shelter of her father who has no means of income. According to the petitioner, the Opp. Party has got sufficient landed property and his income from agricultural sources is Rs.5,00,000/- per annum. Apart from that the Opp. Party is getting Rs.30,000/- per month from business. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain the petitioner-wife, the petitioner is obliged to file the present petition claiming a monthly maintenance of Rs. 20,000/- for herself from the Opp. Party.

3. In spite of issuance of notice, the Opp. Party did not appear

and failed to contest the proceeding. Therefore, he is set ex parte.

4. From the above pleadings of the petitioner, the following issues are settled for adjudication:

(i) Whether the petitioner is the legally married wife of the Opp. Party ?

(ii) Whether the Opp. Party having sufficient means willfully refused or neglected to maintain the petitioner?

(iii) What would be the quantum of maintenance to be allowed to the petitioner for her maintenance per month?

5. In order to substantiate the stand, the petitioner has examined herself as P.W.1 and has proved Xerox certified copy of FIR vide Ext.1. P.W.1 has stated that she married to the Opp. Party on 27.5.2003 as per Hindu rites and customs. At the time of marriage, her father has fulfilled all demands of the Opp. Party and soon after marriage, the Opp. Party has demanded additional dowry and have tortured her both mentally and physically. P.W.1 has fully described the inhuman act committed by the Opp. Party and his family members. From the evidence adduced by the petitioner, it is forthcoming that she is the legally married wife of the Opp. Party and out of their wedlock two female children were born.

6. P.W.1 has further stated that the Opp. Party has got sufficient landed property and his income from agricultural sources is Rs.5,00,000/- per annum. Apart from that the Opp. Party is getting Rs.30,000/- per month from business and having sufficient means of income, he is will-fully neglected and refused to maintain her. The above evidence of P.W.1 remains unchallenged and there is no reason to disbelieve the above evidence of petitioner. Law prevents vagrancy and destitution of neglected wife. Petitioner is staying separately from the Opp. Party and the Opp. Party having sufficient

means has not provided any single farthing to her. The marriage is a sacred bond between two souls and they became life partner and each of them must have mutual respect for one another. There is no room for mental humiliation and physical torture. Opp. Party being the husband has fully neglected to maintain the petitioner for which she took shelter of her father who has no means of income. Petitioner has clearly proves the income of the Opp. Party and since Opp. Party having sufficient means is neglecting to maintain her, in my considered view an amount of Rs. 6000/- per month towards the maintenance of the petitioner will serve the fruitful purpose. Hence, ordered:

ORDER

The petition of the petitioner is allowed ex-parte. The Opp. Party is directed to pay a monthly maintenance of Rs.6000/- to the petitioner from the date of filing of application i.e. on 17.6.2013. The Opp. Party is further directed to clear up the arrear maintenance within two months hereinafter. He is also directed to pay the monthly maintenance within the 1st week of the succeeding month. Failure to carry out the order by the Opp. Party, the petitioner is at liberty to levy execution through due process of law.

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Dictated, corrected by me and is pronounced on this the 15th day of September, 2014.

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List of witness on behalf of petitioner

P.W. 1 Purnimarani Rath.

List of witness on behalf of Opp. Party

None.

List of exhibits on behalf petitioner

Ext.1 Xerox certified copy of FIR.

List of exhibits on behalf of Opp. Party

Nil

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