

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

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

Criminal Proceeding No. 38 of 2013

Smt. Prabashini Dash, aged about 27 years,
W/o-Sri Jayakrushna Sahoo @ Nanda,
D/o-Sri Prafulla Chandara Dash,
Resident of At/P.O.-Chandpur,
P.S.-Ranpur, Dist-Nayagarh
At present residing at Plot No. 55,
Kanshari Jharana, Unit-6,
Bhimpur, P.S.-Capital, Bhubaneswar
Dist-Khurda.

... Petitioner

... Versus...

Sri Jaykrushna Sahoo @ Nanda, aged about 28 years,
S/o- Arupananda Sahoo,
Resident of At/P.O.-Chandpur,
P.S.-Ranpur, Dist-Nayagarh
At present residing at:- C/o-Managing Trustee,
Sri Sri Pataleswar Temple, B.D.A. Colony,
P.O. & P.S.-Chandasekharapur, Bhubaneswar,
Dist-Khurda.

... Opp. Party

Date of Argument : 17.10.2014

Date of Judgment: 27.10.2014

J U D G M E N T

1. 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 claiming monthly maintenance of Rs. 3,000/- from the Opp. Party.

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

The marriage of the petitioner with the Opp. Party was solemnized in the rented house of the petitioner at Nayapalli, Bhubaneswar according to Hindu custom and rites on 18.02.2005. According to the petitioner at the time of

marriage, her father had given cash of Rs. 60,000/- and gold ornaments valued at Rs. 50,000/- along with other household articles as per the demand of the Opp. Party but the Opp. Party and his family members were not satisfied with these articles. The marriage was a serendipity. The der-Tag started in their life when the Opp. Party and his family members demanded additional dowry of Refrigerator, Colour T.V. and Motor cycle just after fifteen days of their marriage and when the petitioner refused for the same, the Opp. Party and his family members tortured her both physically and mentally for which several meetings were conducted by between both the parties along with local gentries but in vain. The Opp. Party driven her out from his house since the year 2010 and since then she has been residing with her parents. When the torture became unbearable she had lodged an F.I.R. before Ranpur Police Station against the Opp. Party and his family members vide P.S. Case No. 194 of 2010 U/s. 498 (A), 506 & 34 IPC and now the same is pending for disposal before the S.D.J.M., Nayagarh. The Opp. Party since the year 2010 has not been providing any farthing to her and she is unable to maintain herself and depending upon her parents. The Opp. Party is working as a Priest in a Temple at B.D.A. Colony and is earning Rs. 5,000/- per month. Apart from that he is also getting Rs. 2,000/- per month from agriculture towards his share from his paternal property and also he has also share of Rs. 1,00,000/- from his paternal property at his native village. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain the petitioner, who is his legally wedded wife, the petitioner is obliged to file the present petition claiming a monthly maintenance of Rs. 3,000/- for herself from the Opp. Party.

3. The Opp. Party did not enter contest the petition and therefore, is set ex-parte.

4. The following points are formulated to resolve the controversy:-

- (1) Whether petitioner is the legal married wife of the Opp. Party and the petitioner has sufficient cause to live separately from the Opp. Party?
- (2) Whether the Opp. Party having sufficient means has

neglected or refused to maintain the petitioners?

(3) What would be the quantum of maintenance to be allowed to the petitioner, if point No. 1 and 2 are answered in her favour?

5. The petitioner in order to prove her case she, herself, has been examined P.W. 1.

6. The petitioner in her affidavit evidence has stated that she married to the Opp. Party on 18.02.2005. Her aforesaid statement has not been challenged. Thus, it can safely be concluded that the petitioner is the legally wedded wife of the Opp. Party. She has also stated that she was subjected to torture not only by the Opp. Party but also by her in-laws for non fulfillment of their additional demand of dowry of Refrigerator, Colour T.V. and Motor Cycle and driven her out from her matrimonial home and since the year 2010 she has been residing in her parental home. Therefore, it can safely be said that the petitioner has not left the company of the Opp. Party voluntarily. It is the Opp. Party and his family members who are responsible for petitioners living separately apart from the Opp. Party. The petitioner is a house wife and therefore she has no independent source of income.

7. The next question for consideration is, whether the Opp. Party has sufficient means and he has willfully neglected and refused to maintain the petitioner. It is stated categorically by the petitioner that the Opp. Party is working as a Priest in a Temple at B.D.A. Colony and is earning Rs. 5,000/- per month. Apart from that he is also getting Rs. 2,000/- per month from agriculture towards his share from his paternal property and also he has a share of Rs. 1,00,000/- from his paternal property at his native village whereas the petitioner is unable to maintain herself. She has also stated that the Opp. Party has not provided a single farthing to the petitioner since the date of desertion from her matrimonial home. This facts and circumstance is clearly suggestive of the facts that the Opp. Party having sufficient means not only willfully neglected but also refused to maintain the petitioner, who has no sufficient means to support herself. Law prevents vagrancy and destitution of married woman. Therefore, the Opp. Party is liable to provide maintenance to the petitioner.

8. The next question for consideration is the quantum of maintenance.

P.W. 1 has stated that she is a house wife and she has no independent source of income. The Opp. Party is working as a Priest and he has also some income. Although this part of her evidence gone unchallenged yet, the petitioner failed to lead any conclusive evidence. Considering the present day of cost of living and other attendant circumstances, in as much as, the income of the Opp. Party, I feel in the ends of justice and equity, a sum of Rs. 1,500/- to be allowed as monthly maintenance to the petitioner and in fact, I did the same. Hence ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. The Opp. Party is directed to pay a monthly maintenance of Rs. 1,500/-to the petitioner from the date of filing of application i.e. from 06.03.2013. The Opp. Party is further directed to clear up the arrear maintenance within two months hereinafter. He is also directed to pay the current 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.

In the peculiar fact and circumstances no order as to cost.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 27th day of October, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Prabashini Dash

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.