

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

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

Criminal Proceeding No. 218 of 2011

Smt. Rina Pradhan, aged about 31 years,
W/o-Ranjan Pradhan, At-Narasinghagada,
P.O.-Gangapur, Via-Pattapur, Dist-Ganjam,
At present residing at Barabhuja Basti,
P.S.-Khandagiri, Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Ranjan Pradhan, aged about 35 years,
S/o-Doctor Pradhan,
At-Manideipentho, P.O-Phasiguda,
P.S.-Pattapur, Dist-Ganjam.

... Opp. Party

Date of Argument : 08.01.2015

Date of Judgment: 22.01.2015

J U D G M E N T

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. 10,000/- for herself from the Opp. Party.

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

The marriage of the petitioner with Opp. Party was solemnized as per Hindu rites and customs on 18.05.1997 and out of their wedlock one son namely Papun and two daughters namely Jyoti Pradhan and Sruti Pradhan were born. According to the petitioner, after marriage they started their marital life in the house of the Opp. Party at Manidei Pentha, Pattpur in the district of Ganjam. In her matrimonial home, though her sister-in-law married lived there with her husband. During her stay, the Opp. Party and his family

members including her sister-in-law started torturing her both physically and mentally due to demand of dowry as her parents could not give sufficient dowry at the time of marriage. They also did not give sufficient food and forced to do all the domestic works. In the month of January, 2007, the Opp. Party after assaulting her forcibly drove her out along with two children and sent her to her parental home to bring dowry of Rs. 50,000/- giving a threat to face dire consequence if she would not fulfill his demand. Due to her pregnancy at that time she suddenly fell ill because of her journey and after reaching at her parental home, though this fact was intimated to the Opp. Party and his family members nobody came to see her at that time. Her father being a poor man could not arrange the money for which her father requested the Opp. Party to give him some more time and to take back her to her in-laws house but nobody came to take her and her children. In February, 2007, she and her children along with her father returned to her matrimonial home. But after her return, they again started torturing her both physically and mentally and on 11.03.2007 in the mid night they drove her out from their house for which she spent that night in the Veranda of the Opp. Party without food. On the next morning when she requested the Opp. Party and his family members to allow her to enter in their house, they forcibly threw them out from the Veranda and threatened to fulfill their demand of Rs.50,000/-. Finding no alternative, she along with her children went to her parental home on 12.03.2007 and since then they have been residing with her father at Barabhuj Basti, Khandagiri Bhubaneswar where she gave birth the third child namely Sruti but the Opp. Party or his family members did not come to see her and her newly born child. According to the petitioner, she is merely house unable to maintain herself along with her three children and their study and other expenses. Her father is a labourer who is unable to maintain them. The Opp. Party is a businessman and is earning Rs. 10,000/- per month. Apart from that he is getting Rs. 1,50,000/- per annum from his 20 acres landed property. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain the petitioners, who are his legally wedded

wife and children, the petitioner is obliged to file the present petition claiming a monthly maintenance of Rs.10,000/- for them 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 legally married wife and Papun and two daughters namely Jyotirani and Sruti are the legitimate children of the Opp. Party and the petitioner have sufficient reasons 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 petitioners, if point No. 1 and 2 are answered in their 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 stated that she married to the Opp. Party on 18.05.1997 and out of their wedlock one son namely Papun and two daughters namely Jyotirani and Sruti were born respectively. 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 and Papun and two daughters namely Jyotirani and Sruti are their legitimate son and daughters.

7. 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 Rs. 50,000/- and in the mid night of 11.03.2007 the Opp. Party and his family members drove out them from the house and since 12.03.2007 she has been residing in her parental home with her legitimate children. 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. Law prevents vagrancy and destitution of neglected wife and children.

8. The next question for consideration is, whether the Opp. Party has sufficient means and he has willfully neglected or refused to maintain the petitioners. It is stated categorically by the petitioner that the Opp. Party is a businessman and is earning Rs. 10,000/- per month. Apart from that he is getting Rs. 1,50,000/- per annum from agriculture. The above evidence of the petitioner remains unchallenged and there is no reason to disbelieve the statement of the petitioner. She has also stated that the Opp. Party's has not provided a single farthing to them since 12.03.2007 when the Opp. Party and his family members had driven her out from their house. 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 petitioners, who have no sufficient means to support themselves. Therefore, the Opp. Party is liable to provide maintenance to the petitioner and her children.

9. The next question for consideration is the quantum of maintenance. Considering the 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. 8,000/- per month to petitioner and her children would be just and proper, which according to me, would not allow to petitioner to lead a princely and luxury life and also at the same time it would not put the Opp. Party to any vagrancy. Hence ordered;

ORDER

The petition is allowed ex-parte in favour of the petitioner. The Opp. Party is directed to pay a monthly maintenance of Rs.8,000/-to the petitioner and her children from the date of filing of application i.e. on 29.09.2011. The Opp. Party is further directed to clear 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.

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Dictated, corrected by me and is pronounced on this the 22nd day of January, 2015.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Rina Pradhan

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

JUDGE, FAMILY COURT,
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