

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

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

Criminal Proceeding No. 125 (A) of 2013

1. Ramamani Parida, aged about 36 years,  
W/o-Sri Sagar Parida,  
Vill.-Panivandar, P.O.-Biswanathpur,  
P.S.-Satyabadi, Dist-Puri,  
At present- C/o- Sri Madhusudan Swain,  
Qrs No. F-1/3, WRCP Colony,  
At-Badagada, P.O.-Badagada BRIT Colony,  
P.S.- Badagada, Bhubaneswar,  
Dist-Khurda.
2. Prativa Parida, aged about 12 years (minor)  
D/o- Sri Sagar Parida,  
Vill.-Panivandar, P.O.-Biswanathpur,  
P.S.-Satyabadi, Dist-Puri,  
At present- C/o- Sri Madhusudan Swain,  
Qrs No. F-1/3, WRCP Colony,  
At-Badagada, P.O.-Badagada BRIT Colony,  
P.S.- Badagada, Bhubaneswar,  
Dist-Khurda.  
Represented through its mother guardian ... Petitioners  
... Versus...

Sagar Parida, aged about 42 years,  
S/o- Late Kanduri Parida,  
Vill.-Panivandar, P.O.-Biswanathpur,  
P.S.-Satyabadi, Dist-Puri. ... Opp. Party

Date of argument : 27.08.2014

Date of order : 06.09.2014

ORDER

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. 10,000/- to each of them and litigation expenses of Rs.20,000/- from the Opp. Party.

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

The marriage of the petitioner No.1 with the Opp. Party was solemnized as per Hindu custom and rites on 12.03.2000 and out of their wedlock petitioner No.2 namely Pravati Parida was born. The marriage was a serendipity. The der-Tag started in their life when the Opp. Party and his family members after birth of petitioner No.2 demanded additional dowry and when the petitioner No.1 refused the same, the Opp. Party and his family members tortured her both physically and mentally and also did not provide the daily amenities to her and to her child and driven out her along with petitioner No.2 from his house. Finding no alternative, she took shelter in her parent's house and since then she has been residing with her parents. The well wishers and relatives of the petitioner No.1 tried to settle the disputes but it could not yield any positive result. The Opp. Party since then has not been providing any farthing to them and she is unable to maintain herself and the educational expenses of petitioner No.2. The Opp. Party having 15 acres of landed property and various coconut orchards in Sakhigopal area earns Rs. 50,000/- per month. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain the petitioners, who is his legally wedded wife and daughter, the petitioners are obliged to file the present petition claiming a monthly maintenance of Rs. 10,000/- for herself and Rs. 10,000/- for petitioner No.2 and Rs. 20,000/- towards litigation expenses 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 No.1 is the legal married wife and petitioner No.2 is the legitimate daughter of the Opp. Party and the

petitioners have sufficient cause to live separately from the Opp. Party?

(2) Whether the Opp. Party having sufficient means has neglected to refuse 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 and relied on some documents i.e. Exts. 1 to 7 are Pattas obtained through Internet bearing Khata Nos. 771/03, 971/103, 93, 92, 91, 102 and 419.

6. The petitioner No.1 in her affidavit evidence has stated that she married to the Opp. Party on 12.03.2000 and out of their wedlock she is blessed with a female child i.e. petitioner No.2. Her aforesaid statements have not been challenged. Thus, it can safely be concluded that the petitioner No.1 is the legally wedded wife of the Opp. Party and petitioner No.2 is their legitimate child. She has also stated that the petitioner No.1 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 and she was driven out from her matrimonial home along with her legitimate daughter. Therefore, it can safely be said that the petitioner No.1 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 No.1 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 petitioners. It is stated categorically by the petitioner No.1 that the Opp. Party having 15 acres of landed property and various coconut orchards in Sakhigopal area earns Rs. 50,000/- per month whereas the petitioner is unable to maintain herself and his legitimate child. She has also stated that the Opp. Party has not provided a single farthing to the petitioners 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 petitioners, who have no sufficient means to support themselves. Law prevents vagrancy and destitution of married woman and children. Therefore, the Opp. Party is liable to provide maintenance to the petitioners.

8. 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. 6,000/- to petitioner No. 1 and Rs. 4,000/- to petitioner No. 2 per month would be just and proper, which according to me, would neither allow the petitioners to lead a princely and luxury life nor also the Opp. Party to any vagrancy. Hence ordered;

#### ORDER

The petition is allowed ex-parte in favour of the petitioners. The Opp. Party is directed to pay a monthly maintenance of Rs. 6,000/-to the petitioner No. 1 and Rs. 4,000/- to petitioner No. 2 from the date of filing of application i.e. on 29.07.2013. 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 1<sup>st</sup> week of the succeeding month. Besides, he is also directed to pay Rs. 5,000/- towards cost of litigation expenses. Failure to carry out the order by the Opp. Party, the petitioners are at liberty to levy execution through due process of law.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 6<sup>th</sup> day of September, 2014.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Ramamani Parida

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

- Ext. 1 Patta bearing Khata No. 771/03 obtained through Internet.
- Ext. 2 Patta bearing Khata No. 971/103 obtained through Internet.
- Ext. 3 Patta bearing Khata No. 93 obtained through Internet.
- Ext. 4 Patta bearing Khata No. 92 obtained through Internet.
- Ext. 5 Patta bearing Khata No. 91 obtained through Internet.
- Ext. 6 Patta bearing Khata No. 102 obtained through Internet.
- Ext. 7 Patta bearing Khata No. 419 obtained through Internet.

List of documents by Opp. Party:

Nil

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