

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

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

Criminal Proceeding No. 134 of 2013

Diptimai Panda, aged about 34 years,
W/o-Ramesh Chandra Ratha,
Plot No.-93, Sarala Nagar, P.S.-Laxmisagar,
Dist-Khurda.

At present C/o-Keshab Chandra Panda,
P.S.-Jajpur Town, Dist-Jajpur and
at present residing at
C/o-Kasinath Sahoo (Taaz Tailor),
At-Rasulgarh, P.O.-Rasulgarh,
Kuchilakhai Market, P.S.-Mancheswar,
Bhubaneswar-10, Dist-Khurda.

... Petitioner

... Versus...

Ramesh Chandra Rath, aged about 36 years,
S/o- Upendranath Rath,
resident of Laxisagar, Sarala Nagar,
Plot No.- 93, P.S.-Laxmisagar,
Dist-Khurda.

... Opp. Party

Date of Argument : 01.11.2014

Date of Judgment : 14.11.2014

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. 4,000/- for herself and her minor daughter 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 on

16.07.2010 and out of their wedlock one female child was born on 23.08.2011. The marriage was a serendipity. The der-Tag started in their life when the Opp. Party and his family members demanded additional dowry of Rs. 1,00,000/- and when the petitioner refused for the same, the Opp. Party and his family members tortured her both physically and mentally and did not provide food and clothes and medicines to her and his minor daughter for which several meetings were conducted between both the parties along with local gentries but in vain. She has further averred that the Opp. Party filed a case bearing C.P. No. 716/2011 and she has also filed I.A. Bearing No. 52/2012 U/s. 24 of Marriage Act before this Hon'ble Court and on 20.03.2013 in I.A. No. 52/2012 the Hon'ble Court passed an order to direct the Opp. Party to give interim maintenance of Rs. 2,000/- per month to the petitioner and C.P. No. 716/2011 was dismissed for default for nonpayment of maintenance for which she is suffering irreparable loss and injury. The Opp. Party has not been providing any farthing to her and she is unable to maintain herself and is depending upon her parents. The Opp. Party is serving at Satya Nagar P.H.D Division and is getting Rs. 7,000/- per month. 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. 4,000/- for herself and her daughter 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 16.07.2010 and out of their wedlock one female child was born on 23.08.2011. Her aforesaid statement has not been challenged. Thus, it can safely be concluded that the petitioner is the legally wedded wife of Opp. Party and a daughter was born out of their wedlock. 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. 1,00,000/- and now 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 serving at Satya Nagar P.H.D Division and is getting Rs. 7,000/- per month whereas the petitioner is unable to maintain herself and her daughter She has also stated that the Opp. Party has not provided a single farthing to the petitioner since the date of leaving 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 and child. 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 is serving at Satya Nagar P.H.D Division and is getting Rs. 7,000/- per month 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. 2,000/- to be allowed as monthly maintenance to the petitioner and in fact, I did the same. 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. 2,000/-to the petitioner from the date of filing of application i.e. from 07.08.2013. 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 14th day of November, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Diptimai Panda

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.