

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

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

Criminal Proceeding No. 142 of 2014

1. Smt. Kunalata Sahoo, aged about 30 years,
W/o-Srikanta Kumar Sahoo,
D/o-Late Balunki Sahoo,
2. Itishree Sahoo, aged about 10 years,
D/o-Srikanta Kumar Sahoo,
3. Chinmaya Sahoo, aged about 8 years,
S/o-Srikanta Kumar Sahoo
All are resident of House No. LB-91,
Badagada Brit Colony, Bhubaneswar,
Dist-Khurda.
(Being the mother guardian the petitioner No.1
is representing the petitioner No.2 and 3)

... Petitioners

... Versus...

Sri Srikanta Kumar Sahoo, aged about 33 years,
S/o-Sadasiba Sahoo,
At-Bijaya Mandap Sahi,
At-Odogaon, P.O.-Nayagarh,
Dist-Nayagarh.

... Opp. Party

Date of Argument: 12.03.2015

Date of Order : 26.03.2015

ORDER

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 No.1 claiming monthly maintenance of Rs. 25,000/- for self and Rs. 20,000/- for the petitioner No.2 and 3 and litigation expenses of Rs. 50,000/- from the Opp. Party.

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

The marriage of the petitioner No.1 with Opp. Party was solemnized as per Hindu rites and customs on 14.07.2002 and out of their wedlock two

children one daughter namely Itishree Sahoo and son namely Chinmaya Sahoo were born on 18.02.2004 and 24.04.2006 respectively. According to the petitioner No.1 her father had given cash of Rs. 80,000/-, gold and silver ornaments worth of Rs. 1,00,000/- along with household articles as per demand of the Opp. Party. It is the further case of the petitioner that after some days of marriage, the Opp. Party and his family members started torturing her both physically and mentally due to additional demand of dowry. During her stay there she was doing all the household work as the other family members did not lend their hands in doing household works. During birth of the daughter the Opp. Party and his family members did not provide adequate medical facilities and nourishment to her and all the medical expenses was borne by her family members. After birth of the daughter, the Opp. Party and his family members became more violent and tortured her why she gave birth to a female child and forced her to bring more dowry or else to leave their house. Even after birth of the son the Opp. Party and his family members regularly threatened her to bring more money from her parents to meet his expenses and when she showed her inability, the Opp. Party assaulted her mercilessly for which she sustained injuries for many times. On 07.07.2013 the Opp. Party and his family members had driven her out from their house along with her children. Finding no other alternative she had taken shelter in her parental home. Thereafter several attempts have been made to settle the dispute but all were vain. According to the petitioner No.1, she is merely a house wife, unable to maintain herself along with her two children and their study and other expenses as her father is unable to maintain them. The Opp. Party is a businessman. Apart from that he has vast landed property from which he is getting Rs. 3,00,000/- per annum. Besides that he is getting huge amount towards house rent and in total the monthly income of the Opp. Party is more than Rs. 80,000/- per month. 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 No.1 is obliged to file the present petition claiming a monthly maintenance of Rs.25000/- for self and Rs. 20,000/- for petitioner No.2 and 3 and Rs. 50,000/-

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 legally married wife and petitioner No.2 and 3 are the daughter and son of the Opp. Party and the petitioner No.1 has 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 and relied on one document i.e. Ext. 1 is the compromise in Odogaon Police Station.
6. The petitioner in her affidavit evidence stated that she married to the Opp. Party on 14.07.2002 and out of their wedlock one daughter namely Itishree Sahoo and a son Chinmaya Sahoo were born to them. 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 the daughter namely Itishree Sahoo and the son Chinmaya Sahoo are their legitimate children.
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 and on 07.07.2013 the Opp. Party and his family members drove out them from the house and since then 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 the petitioners living separately apart from the Opp. Party. Law prevents vagrancy and destitution of neglected wife and children. The petitioner No.1 is a housewife and she has

no independent income and petitioner No.2 and 3 are their legitimate minor children. Therefore, the petitioners are entitled to get maintenance from the Opp. Party.

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 No.1 that the Opp. Party is a businessman. Apart from that he has vast landed property from which he is getting Rs. 3,00,000/- per annum. Besides that he is getting huge amount towards house rent and in total the monthly income of the Opp. Party is more than Rs. 80,000/-. The above evidence of the petitioner No.1 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 07.07.2013 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 maintain the petitioners.
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 No.1 and Rs. 4,000/- each to the petitioner No.2 and 3 would be just and proper, which according to me, would not allow the petitioners 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 No.1, Rs. 4,000/- each to the petitioner No.2 and 3 from the date of filing of application i.e. on 28.10.2014. 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. He has further directed to pay litigation expenses of Rs. 10,000/- to the petitioners. Failure to carry out the order by the Opp. Party, the petitioner No.1 is at liberty to levy execution through due process of law.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 26th day of March, 2015.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Kunalata Sahoo

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Ext.1 Compromise in Odogaon Police Station

List of documents by Opp. Party:

Nil

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