

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

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

Criminal Proceeding No. 21 of 2012

Puspalata Sahoo, aged about 25 years,
W/o- Narendra Sahoo,
resident of Vill/P.O.- Gurujang (Tangi Sahi),
P.S./Dist-Khurda,
At present C/o-Golakha Chandra Sahoo,
Manhisakhal, P.O.-BJB Nagar,
P.S.-Baragarh, Bhubaneswar,
Dist-Khurda.

... Petitioner

... Versus...

Narendra Sahoo, aged about 37 years,
S/o-Late- Udayanath Sahoo,
resident of Vill/P.O.- Gurujang (Tangi Sahi),
P.S./Dist-Khurda.

... Opp. Party

Date of argument : 06.09.2014

Date of order : 24.09.2014

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 claiming monthly maintenance of Rs. 10,000/- for herself and litigation expenses of Rs. 10,000/- from the Opp. Party.

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

The marriage of the petitioner with Opp. Party was solemnized as per Hindu Custom and rites on 31.05.2010 and consummated their marriage in the residence of Opp. Party. At the time of marriage, the mother of the petitioner had given cash of Rs. 40,000/-, gold and silver ornaments and other household articles valued at Rs. 50,000/- as per demand of the Opp. Party.

The marriage was a serendipity. After one month of marriage, the Opp. Party and his family members started torturing her both physically and mentally and did not provide food and clothing to her. On 13.10.2010, the mother of the petitioner along with other relatives and villagers proceeded to the house of the Op. Party to settle the matter, but the Opp. Party and his elder brother and mother misbehaved them and forcibly driven out the petitioner from their house. The Opp. Party is running sanitary fittings shop at market place of Khurda and Pichukuli markets and is earning rupees two lakhs per months. Apart from that the Opp. Party has got income from agriculture source and house rent worth of Rs. 30,000/- 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. 10,000/- for self and litigation expenses of Rs. 10,000/- 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 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 petitioner?

(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 stated that she married to the Opp. Party 31.05.2010. 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 their marriage was solemnized on 31.05.2010. 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 13.10.2013 she was driven out from her matrimonial 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 petitioner's living separately apart from the Opp. Party.

7. The next question for consideration is, whether the Opp. Party has sufficient means and he has willfully neglected or refused to maintain the petitioner. It is stated categorically by the petitioner that the Opp. Party is running sanitary fittings at market place of Khurda and Pichukuli markets and is earning two lakhs per months. Apart from that the Opp. Party has got income from agriculture and house rent worth of Rs. 30,000/- per month whereas she is merely a housewife having no separate income and depending upon her widow mother. She has also stated that the Opp. Party has not provided a single farthing to the petitioner since last two years. This facts and circumstance is clearly suggestive of the fact 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. Therefore, the Opp. Party is liable to provide maintenance to the petitioner.

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. 7,000/- per month to petitioner 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. 7,000/- to the petitioner from the date of filing of application i.e. on 07.02.2012 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. Besides that the Opp. Party is directed pay litigation expenses of Rs. 5,000/- to the petitioner. 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 24th day of September, 2014.

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Witnesses examined for the petitioner:

P.W.1 Puspalata Sahoo

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

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