

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

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

Criminal Proceeding No. 6 of 2014

Jyoti Nayak, aged about 21 years,  
W/o-Ashok Nayak  
At Patharbandha Bhera Sahi,  
P.O./P.S.-Sahid Nagar,  
Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Ashok Nayak, aged about 25 years,  
S/o-Tunia Nayak,  
Jayadev Vihar, Saliasahi, Santoshi Nagar,  
Bhubaneswar, Dist-Khurda.  
Permanent address:-Ashok Nayak,  
At/P.O.-Kirdaspur, P.S.-Dist-Nayagarh.

... Opp. Party

Date of Argument: 02.03.2015

Date of Order : 18.03.2015

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. 5,000/- for self from the Opp. Party.
2. The facts of the case of the petitioner is that her marriage with the Opp. Party was solemnized in Bishnu Temple at Saheed Nagar, Bhubaneswar on 15.07.2013. According to the petitioner, her father had given cash of Rs. 1,00,000/-, gold and silver ornaments along with other household articles amounting Rs. 2,70,000/- to the Opp. Party. After seven days of marriage, the Opp. Party started torturing her both physically and mentally due to additional demand of Rs. 1,00,000/-. The Opp. Party also told her that he has no consent to the marriage due to her black completion but he agreed for the marriage because of heavy amount of money, materials from her father as he

is a service holder. It is the further case of the petitioner that the Opp. Party has got an illicit relationship with another girl and he also promised her to marry her. The Opp. Party also threatened her to bring his additional demand of Rs. 1,00,000/- within seven days unless he would marry the other girl. When the torture became unbearable, she informed the said fact to her parents. Her parents requested the Opp. Party and his parents to give them four months of time to arrange the money. Thereafter they again started torturing her and when the torture became unbearable she informed the matter in the Mahial Police, Station, Bhubaneswar and before IIC Mahila P.S. it was compromised between them which was reduced in writing in a non judicial stamp paper on 18.11.2013. On the same day when the advocate of the Opp. Party, Opp. Party himself and his parents planned to murder her by pouring kerosene in the night, she was rescued by her parents and reported the matter in the Police Station. Since then she has been residing in her parental home without any maintenance. According to the petitioner, she is merely a housewife having no source of income of her own and is depending upon her parents whereas the respondent is earning Rs. 20,000/- 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. 5,000/- for self 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 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 in Bishnu Temple in Saheed Nagar, Bhubaneswar on 15.07.2013. Her aforesaid statement has not been challenged. Thus, it can safely be concluded that the petitioner is the legally wedded wife of Opp. Party. She has also stated that she was subjected to torture by the Opp. Party due to non fulfillment of additional demand of dowry of Rs. 1,00,000/-. She has further stated though the Opp. Party expressed that he was not interested to marry her due to her black completion but married her with a hope to get plenty of wealth from her parents as her father was a service holder. She has further stated that on 18.11.2013 after the matter was compromised in the police station the Opp. Party brought her to his house but planned to douse her with kerosene with the help of his lawyer and other family members, she was taken away by her parents to her parental home and since then she has been residing in her parental home. She has further stated that she is a house wife having no independent source of income and is depending upon her father. This part of the evidence of P.W. 1 having gone unchallenged, the same is accepted as true. Thus, from the aforesaid evidence of P.W. 1, it is very much clear that the petitioner left her matrimonial home due to the atrocity of the Opp. Party and his family members and also it is equally established that the petitioner is unable to maintain herself.

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 earning Rs. 20,000/- per month. The petitioner has baffled in stating that the professional occupation of the Opp. Party in as much as his source of income. Therefore, the bald statement of the petitioner that the monthly income of the Opp. Party is Rs. 20,000/- is not established. However, it is seen that the Opp. Party is a strong and stout man. He has the potentiality to earn his livelihood by doing labour work. According to the Govt. Notification, the income of an unskilled labourer is Rs. 180/- per day. If the average of 20 working days in a month be taken into consideration, then, the monthly income of the Opp. Party is Rs. 3,600/-. The Opp. Party has not provided a

single farthing to the petitioner since the date of her leaving her matrimonial home. Law prevents vagrancy and destitution of married woman. Therefore, the Opp. Party is liable to provide maintenance to the petitioner. Considering the present day of cost of living and the income of the Opp. Party, it would be just and proper to allow monthly maintenance of Rs. 1,500/- to the petitioner. Hence, it is ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. The Opp. Party is directed to pay a monthly maintenance of Rs. 1,500/-to the petitioner from the date of filing of application i.e. from 18.01.2014. 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. 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 17<sup>th</sup> day of March, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Jyoti Nayak

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.