

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

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

Civil Proceeding No. 196 of 2014

Smt. Rasmita Das, aged about 34 years,
W/o-Sri Debraj Sahoo,
D/o- Late Paramananda Das,
At-Bokakhai, P.O.-Jharapada, P.S.-Ranpur, Dist-Nayagarh.
AT present residing-Rangamatia, P.O./P.S.-Mancheswar,
Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Sri Debraj Sahoo, aged about 45 years,
S/o-Late Udayanath Sahoo,
At-Bokakhai, P.O.-Jharapada, P.S.-Ranpur,
Dist-Nayagarh.
At present-Karanapalli, (Gurudwar), P.O.-Gobara,
P.S.-Vikrampur, Talcher, Dist-Angul.

... Respondent

Date of Argument : 05.03.2016

Date of Judgment : 10.03.2016

J U D G M E N T

The petitioner-wife, has filed a petition U/s. 13 (1) (i-a) of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of her marriage with the respondent-husband on the ground of cruelty.

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

The petitioner married the respondent according to the Hindu rites and customs in her parental home at Press Colony, Mancheswar, Bhubaneswar on 16.05.2004 and they have no issue out of their wedlock. The marriage was a serendipity. The der-Tag started in their life when the Opp. Party and his family members demanded additional demand of dowry of Rs. 1,00,000/- to purchase a piece of land and when she showed her inability to fulfill the same,

she was subjected to torture both physically and mentally. She has further alleged that the respondent after assaulting her brutally forcibly terminated her pregnancy. It is further alleged by her that on 11.11.2010 her mother has given Rs. 1,00,000/- to the respondent and after getting the amount, he instead of purchasing the land spent the money otherwise. It is also alleged by her that the respondent is a drug addict. It is further alleged by her that she was subjected to torture both physically and mentally by the respondent when she denied to give money which she was earning from her beauty parlor at Talacher. It is further alleged by her that on 13.03.2014 the respondent had assaulted and attempted to kill her and out of fear she was compelled to leave her matrimonial house and since then she has been residing in her matrimonial home. Thereafter several attempts have been made from her side for reunion but all were in vain. Since it is not possible on her part to reside with the respondent due to cruel conduct of the respondent towards her, she has filed the present petition seeking for a decree of divorce on the ground of cruelty.

3. The respondent did not contest the proceeding and therefore, is set ex-parte.

4. The only point formulated for determination of the case is whether the circumstances and back grounds depicted in the narration of the petitioner's case constitute cruelty by the respondent on the petitioner and if so, whether the petitioner is entitled for a decree of divorce?

5. The petitioner in order to prove her case she, herself, has been examined as P.W. 1 but chose not file any document on her behalf.

6. From the unchallenged testimony of the petitioner, it is established that there has been no cohabitation between the parties since 13.03.2014. From the unchallenged evidence of the petitioner, it is clearly established that the respondent without any rhyme or reason willfully withdrew the cohabitation with the petitioner. There is no evidence on record that denial of sexual intercourse is the result of sexual weakness of the respondent disabling him from having a sexual union with the petitioner but it was willfully refused by the respondent. The result, is frustration and misery to the petitioner due to

denial of normal sexual life and hence cruelty. Sex is the foundation of marriage and without a vigorous and harmonious sexual activity it would be impossible for any marriage to continue for long. It cannot be denied that the sexual activity in marriage has an extremely favourable influence on a woman's mind and body. The result being that if she does not get proper sexual satisfaction it will lead to depression and frustration. It has been said that the sexual relations when happy and harmonious vivifies a woman's brain, develops her character and trebles her vitality. It must be recognized that nothing is more fatal to marriage than disappointment in sexual intercourse. Additionally, the petitioner was subjected to torture both physically and mentally due to non fulfillment of the additional demand of dowry of Rs. 1,00,000/- and termination of her pregnancy by force, extracting the money, consuming drug, attempting to murder the petitioner. In fine, the petitioner could establish the ground of cruelty and as such she is entitled to the relief claimed in the petition. Hence, it is ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. A decree of divorce is passed and the marriage between the petitioner and the respondent is hereby declared dissolved with effect from the date of decree.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 10th day of March, 2016.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Rasmita Das

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.