

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

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

Civil Proceeding No. 468 of 2015

G. Nagadhan Raj, aged about 38 years,  
S/o-Late G. Kanta Rao,  
At-Madhusudan Nagar, Behind Kendriya Vidyalaya,  
P.O./P.S.-Jatni, Dist-Khurda.

... Petitioner

... Versus...

G. Bhanupriya, aged about 31 years,  
W/o-G. Nagadhan Raj,  
D/o-P. Appa Rao,  
At-Block No. A-577/52/1, Unit-4, M.K.T.P.L.C.,  
P.O.-Nimpur, Kharagpur, Dist-Midnapore (West Bengal).

... Respondent

Date of Argument : 14.01.2016

Date of Judgment : 19.01.2016

J U D G M E N T

The petitioner-husband, has filed a petition U/s. 13 of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of her marriage with the respondent-wife 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 P.N.K. Kalyan Mandap, Kharagpur, West Bengal on 20.10.2012. It is averred by the petitioner that in the fourth night the respondent stated before him that she had love affairs with another boy and unable to forget him. The respondent also did not allow him for keeping conjugal relationship. On 29.12.2012 the respondent went to her parental home at Kharagpur without his knowledge and knowledge of his family members and returned after one and half months and after her return there was an agreement before

Notary Public, Jatni on 25.02.2013 that both of them would stay together as husband and wife in his house. It is further averred by the petitioner that the respondent is in habit of going to her parental home for months together. It is further averred by the petitioner that the respondent also talked for hours together in the midnight in his absence and when he asked about the identity of the persons with whom she was talking, the respondent deleted the numbers from her mobile. On 11.07.2014 the respondent told him she wanted to go to her parental home for a visit and accordingly, he left her in her parental home. After few days when he contacted the respondent, she avoided him and also not returned to his company. Thereafter several attempts have been made from his side to bring her back but all were in vain. Since it is not possible on his part to reside with the respondent due to cruel conduct of the respondent towards him, he 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 his case he, himself, has been examined as P.W. 1 but chose not file any document on his behalf.

6. From the unchallenged testimony of the petitioner, it is established that there has been no cohabitation between the parties since 11.07.2014. 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 her 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 man'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 man's brain, develops his character and trebles his vitality. It must be recognized that nothing is more fatal to marriage than disappointment in sexual intercourse. Therefore, the petitioner could establish the mental cruelty on her by the respondent and as such, the petitioner could establish the relief claim 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 19<sup>th</sup> day of January, 2016.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1      G. Nagadhan Raj

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
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