

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

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

Civil Proceeding No. 495 of 2015

Sri Badri Narayan Mishra,
S/o-Sri Purna Chandra Mishra,
At-Bhatakhuri, P.O.-Gangapada,
P.S.-Chandaka, Dist-Khurda.

... Petitioner

... Versus...

Smt. Sanhitarani Panda,
W/o-Sri Badri Narayan Mishra,
C/o-Sri Nabakishore Panda,
Village-Allaidiha, P.S.-Banpur, Dist-Khurda.

... Respondent

Date of Argument : 12.04.2016

Date of Judgment : 18.04.2016

J U D G M E N T

The petitioner-husband, 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-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 the parental home of the respondent on 26.02.2012 and out of their wedlock one female child was born on 17.07.2013. It is the case of the petitioner that the respondent during her stay in his house did not do any household chores and also not paid any respect to him and his family members. It is alleged by him that from the day one of the marriage, the respondent insisted him to live separately from his other family members. The

respondent also sleeps till the mid day in a very careless manner. When it was intimated her parents and other family members, they instead of making understand the respondent, they threatened him and his family members. The brother of the respondent told him if he will further tell anything to the respondent, then he and his family members would be implicated in false criminal cases and put them behind the bar. The brother of the respondent also told him to make him as their domestic son-in-law. It is further alleged by him that the parents and other family members have always created disturbances in his family matters. It is further alleged by him that after seven months of marriage, the brother of the respondent arrived at his house and took her to his house and while leaving he gave threat to him that if he will go to his house, he would be killed. In the month of June, 2012, the respondent returned to his house with her parents. It is further alleged by him that at the time of delivery of the female child, the family members of the respondent demanded Rs. 1,00,000/- and when he showed his inability, they abused and assaulted him and threatened for dire consequences. It is further alleged by him that neither the respondent nor her family members have intimated him at the time of delivery of the female child. After few days of the delivery when the matter was intimated to him, he immediately rushed to the house of the respondent but there he was abused and assaulted by the family members of the respondent. They have also forcibly driven him out from his house. According to the petitioner they have no relationship between them since 27.08.2014. 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 the month of 27.08.2014. 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. Insisting the petitioner for living separately from his other family members, misbehaving him and his family members, not doing any household chores, sleeping till mid day, threatening to file false criminal cases against him and his family members, demanding Rs. 1,00,000/- towards delivery, not intimating the petitioner at the time of delivery of the female child and forcibly driving the petitioner out from the house of the respondent are the circumstances amount to cruelty. In fine, the petitioner could establish the ground of cruelty and as such he is entitled to the relief claimed in the petition. Hence, it is ordered;

ORDER

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 18th day of
April, 2016.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Sri Badri Narayan Mishra

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.