

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

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

Civil Proceeding No. 107 of 2015

Sthiti Pragyan Mohapatra, aged about 26 years,  
W/o.- Santosh Kumar Sahoo,  
Permanent resident of vill./P.O.-Beguniapada,  
P.-Kodala, Dist-Ganjam  
At present C/o- Sarat Kumar Sahoo,  
At-Balabhadrapur, P.O.-Brahmansarangi,  
P.S.-Balianta, Dist-Khurda.

... Petitioner

... Versus...

Santosh Kumar Sahoo, aged about 36 years,  
S/o-Late Muralidhar Sahoo,  
Permanent resident of vill./P.O.-Beguniapada,  
P.S.-Kodala, Dist-Ganjam.

... Respondent

Date of Argument : 24.11.2015

Date of Judgment: 26.11.2015

J U D G M E N T

The petitioner-wife has filed a petition U/s. 13 (1) (i-a) and (i-b) 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 grounds of desertion and cruelty.

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

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites at Balabhadrapur on 08.02.2014. According to the

petitioner, after seven days of their marriage, the respondent and his family members demanded cash of Rs. 1,00,000/- for treatment of the respondent and none fulfillment thereof she was subjected to torture both physically and mentally. The brother and mother of the respondent in presence of the respondent scolded her in slang language and also told her that they have done a mistake by making a beggar's daughter as a bride. The mother of the respondent also threatened her, if their additional demand of dowry will not be fulfilled, they would drive her out and will bring another bride for the respondent. Except one pair of bangles, her mother-in-law also had taken away her gold ornaments from her person. While she was staying there, the respondent and his family members forced her to do all the household work without taking any rest from morning till midnight. They have also not provided food to her. On 09.03.2014 her mother-in-law along with Gitanjali tried to drive her out and also threatened to kill her by setting fire. On the next day her brother and parents getting information came to her matrimonial house and tried for a settlement but all were in vain due to willful refusal of the respondent and his family members. Rather they had threatened for dire consequences if any legal action will be taken against them and also denied to accept her. Finding no other alternative, her brother and parents took her to their house. Thereafter several attempts have been made from her side to settle the disputes but all were in vain. It is further averred by her that she had filed an FIR in Mahila Police Station, Bhubaneswar against the respondent and his family members vide P.S. Case No. 171/2014 U/s. 498(A), 323, 294, 506 and 34 IPC read with 4 of D.P. Act. Thereafter, the respondent and his brother threatened to kill her if she would not withdraw the case filed against them. It is further averred by her that at time of marriage, the respondent was working as Public Relation Officer, Narayani Institute of Engineering, Vishakpatnam and was getting more than Rs. 40,000/- per month. Since the respondent debarred her from any marital relationship, she

has filed this proceeding seeking a decree of divorce on the grounds of desertion and cruelty.

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

4. The question that requires to be adjudicated is whether, there exists any desertion and cruelty on the part of the respondent to allow the petition for divorce?

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

6. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 13(1) (i-b) of the Act, 1955 provides that the other party has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition. The petitioner at paragraph-24 of his petition has stated that the respondent deserted him since 10.03.2014. The petition for divorce in this case is presented in the Court on 21.02.2015. Thus, it is clearly established that the petition has been filed before completion of two years from the date as alleged by the petitioner. In other words the petitioner could not able establish the ground of desertion.

7. The next point that remains to be discussed is cruelty. Torturing both physically and mentally by the respondent and his family members due to additional demand of Rs. 1,00,000/-, speaking beggar's family to the petitioner, forcing her to do the household work without taking any rest from morning to midnight, threatening to kill her by setting fire, not providing food to the petitioner, taking away the gold ornaments by the mother of the respondent, threatening to face dire consequence for non-withdrawal of the criminal case are the circumstances sufficient enough to attribute mental torture perpetrated by the respondent on petitioner. Additionally, the respondent has non-sexed the petitioner for more than one year which also

adds mental cruelty. Therefore, the petitioner could successfully establish the ground of cruelty which is one of the ingredients u/s. 13 (1) (i-a) of the Act for granting a decree of divorce. 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 26<sup>th</sup> day of November, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Sthiti Pragyan Moahaptra

Witnesses examined for the respondent:

None

List of documents by petitioner:

None

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.