

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

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

Civil Proceeding No. 236 of 2014

Trushna Rani Nayak, aged about 23 years,
W/o- Santosh Kumar Sahoo,
D/o-Tarunakanta Nayak,
Residing C/o-Pabitra Kumar Nayak,
Qrs. No. 1R-GH-7, Unit-5 State Guest House,
P.S.-Capital, Bhubaneswar, Dist-Khurda, Odisha.

... Petitioner

... Versus...

Santosh Kumar Sahoo, aged about 28 years,
S/o-Seshadeb Sahoo,
Vill-Adipura, P.O.-Marthapur,
P.S.-Bhuban, Dist-Dhenkanal, Odisha,
At present residing at Bhagatpur, P.O.-Telenga Bazar,
P.S.-Purighat, Dist-Cuttack,
Odisha.

... Respondent

Date of argument : 13.10.2015

Date of order : 03.11.2015

J U D G M E N T

The petitioner has filed this application Under Section 7 of the Family Court Act, 1984 (hereinafter the Act of 1984) with prayer for dissolution of her marriage with the respondent.

2. Admitted facts of the parties are that their marriage was solemnized before Marriage Officer, Cuttack on 11.06.2013.

3. The facts of the case of the petitioner are that prior to six months of marriage both of them were acquainted with each other. According to the

petitioner, the respondent insisted her for marriage to which she disagreed but when the respondent started blackmailing her, finding no alternative she agreed for the marriage and accordingly, their marriage was solemnized without knowledge of her family members before Marriage Officer, Cuttack on 11.06.2013. It is further averred by her that their marriage was only for a name shake as after marriage both of them resided separately. It is further averred by her that their marriage has not been consummated as both of them resided separately soon after the marriage. It is further averred by the petitioner that after marriage, the respondent taking advantage of marriage certificate started torturing her both physically and mentally. When she returned from her college i.e. OUAT Bhubaneswar obstructed her on her way to return to her uncle's house and also abused her over telephone. The respondent has also threatened her to kill by dousing acid on her person. The respondent also demanded Cash of Rs. 5,00,000/- towards dowry. He has also threatened her unless his demand would be fulfilled, he will continue his torture on her. Since the torture became unbearable by the respondent, she has filed this proceeding seeking a decree of divorce.

4. The respondent entered contest the proceeding denying all the allegations made against him by the petitioner. The specific case of the respondent is that prior to five years of the marriage both them acquainted with each other and after marriage both of them resided together as husband and wife for two months at Cuttack and they have consummated their marriage. The petitioner had also resided with his family members for some days. According to the respondent, he had spent lots of money for the petitioner and also given to her family members besides, gifts, medicine and other household articles to the petitioner. It is further averred by the respondent that on 16.09.2013, the petitioner went to Hyderabad to join in her service and given assurance to get transfer either to Cuttack or Bhubaneswar and thereafter both of them will reside together in a rented house. The respondent has further averred that both of them have never

separated from each other. While staying together, the petitioner went to her parental home on the pretext of illness of her parents and being a good husband, he never objected it. On 07.06.2014 the petitioner came to him and suggested to find a rented house and proposed to stay together and thereafter she went to her parental home telling him to return after taking a room on rent by him. But on 14.06.2014 he found her mobile phone was switched off and when he has no chance to meet his wife, he sent a request letter through his advocate to the father of the petitioner requesting to allow him to meet his wife and not to punish his wife. On 21.06.2014 the family members of the petitioner threatened to cut off all the relationship with the petitioner unless the petitioner file a divorce case against him. Hence, the petition filed by the petitioner be rejected and allow them to live together as husband and wife.

5. The only point 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?

6. The petitioner in order to prove her case she, herself, examined has been as P.W. 1 and relied on one document i.e. Ext. 1 is the Marriage Certificate. On the other hand, the respondent in order to negate the claim of the petitioner, he himself examined, as R.W. 1, one Subhranshu Sekhar Nayak as R.W. 2, Kalpataru Dash as R.W. 3 and one Rajesh Kumar Dash as R.W. 4 and relied on nine documents. They are:- Ext. A is the account statement of the petitioner towards cinema ticket dated 02.12.2012, Ext. B is the account statement of the respondent towards booking of Railway ticket for the petitioner and his friend to attend an interview at Balasore on 06.06.2012, Ext. C is the Hotel Bill for boarding of the petitioner and respondent from 09.09.2013 to 11.09.2013, Ext. D is the expenditure for Railway ticket for the petitioner and the respondent from Kolkata to Bhubaneswar dated 28.09.2013, Ext. F is the document showing deduction of money from the

account of the respondent towards railway ticket from Bhubaneswar to Hyderabad on 29.09.2013, Ext. G is the expenditure statement deducted from the account of the respondent for the railway ticket of the petitioner from Hyderabad to Kazipet on 02.10.2013, Ext. H is the expenditure statement deducted from the account of the respondent towards flight ticket of the petitioner from Kazipet to Secunderabad on 10.10.2013, Ext. J is the expenditure statement deducted from the account of the respondent towards flight ticket of the petitioner and her mother from Hyderabad to Bhubaneswar on 07.06.2014 and Ext. K is the return flight tickets for both the petitioner and her mother on 16.06.2014.

7. The petitioner in her evidence has supported the facts as stated in her plaint. The only complaint of the petitioner against the respondent attributing cruelty is that the respondent tortured on her both physically and mentally as she could not fulfill the aforesaid demand of the respondent. Except the bald statement of the petitioner, there is no corroborative evidence. On the other hand, from the oral evidence as well as the documentary evidence of the respondent, would go to show that the respondent spent lots of money for the petitioner. What I mean to convey is that the respondent is an affluent man. The marriage was love marriage. Therefore, there is hardly any scope for demand of dowry by the respondent. The evidence of the respondent prove the fact that he was sharing the trouble and caring for the petitioner by taking her to different places to attend the interview at his own expenses. The non consummation of marriage as alleged by the petitioner is a myth. In the sense that when both the petitioner and the respondent spent in night together in hotels outside the State. From the evidence on record, it is establish that the petitioner who is guilty throughout not cooperating for consummation of marriage. In the fact situation, the petitioner having singularly failed to establish the ground of cruelty, she is not entitled to the relief claimed in her petition. Hence, it is ordered;

O R D E R

The petition filed by the petitioner is dismissed on contest.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 3rd day of November, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Trushna Rani Nayak

Witnesses examined for the respondent:

R.W.1 Santosh Kumar Sahoo

R.W. 2 Subhranshu Sekhar Nayak

R.W. 3 Kalpataru Dash

R.W.4 Rajesh Kumar Dash

List of documents by petitioner:

Ext. 1 Marriage Certificate

List of documents by respondent:

Ext. A Account statement of the petitioner towards cinema ticket dated 02.12.2012

Ext. B Account statement of the respondent towards booking of Railway ticket for the petitioner and his friend to attend an interview at Balasore on 06.06.2012

Ext. C Hotel Bill for boarding of the petitioner and respondent from 09.09.2013 to 11.09.2013

Ext. D Expenditure for Railway ticket for the petitioner and the respondent from Kolkata to Bhubaneswar dated 28.09.2013

Ext. F Document showing deduction of money from the account of the respondent towards railway ticket from Bhubaneswar to Hyderabad on 29.09.2013

Ext. G Expenditure statement deducted from the account of the respondent for the railway ticket of the petitioner from Hyderabad to Kazipet on 02.10.2013

Ext. H Expenditure statement deducted from the account of the respondent towards flight ticket of the petitioner from Kazipet to Secunderabad on 10.10.2013

- Ext. J Expenditure statement deducted from the account of the respondent towards flight ticket of the petitioner and her mother from Hyderabad to Bhubaneswar on 07.06.2014
- Ext. K Return flight tickets for both the petitioner and her mother on 16.06.2014.

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