

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

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

Civil Proceeding No. 259 of 2015

Smt. Hemalata Malla, aged about 25 years,
W/o-Manash Ranjan Lenka,
D/o-Krushna Chandra Malla,
At-Marilo, P.O.-Chanchol, Via-Danpur,
Dist-Kendrapara, P.S.-Patakura,
Pin-754210
At present at Plot No. 924, Sampur, P.O.-Ghatikia,
P.S.-Khandagiri, Dist-Khurda.

... Petitioner

... Versus...

Manash Ranjan Lenka, aged about 35 years,
S/o-Nirajan Lenka,
At-Odhanga, P.S.-Patkura, Dist-Kendrapara.

... Respondent

Date of Argument : 06.10.2015

Date of Judgment : 16.10.2015

J U D G M E N T

The petitioner-wife, has filed a petition U/s. 13 (1) 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:-

It is averred by the petitioner that both of them acquainted with each other prior to the marriage as her elder sister married to the elder brother of the respondent. According to the petitioner after completion of her nursing course got her job in SUM Hospital, Bhubaneswar and started residing in a rented house in Sampur and during her stay there the respondent frequently

came to her and developed intimacy with her and on 15.01.2014 both of them married in Maa Kanak Durga Temple, Malipada under Chandaka police station without knowledge of their family members. When their family members came to know it, they again solemnized their marriage in Baladev Jew Temple, Kendrapara. It is averred by her that after marriage both of them consummated their marriage in a rented house at Sampur under Khandagiri police station. According to the petitioner, the respondent and his family members demanded cash of Rs. 3,00,000/- to her mother and her mother with much difficulties had given cash of Rs. 2,50,000/-, gold ornaments of 10 bharies and other household articles to the respondent and assured him to give rest amount of Rs. 50,000/-. After some days thereafter, the respondent started torturing her both physically mentally for the balance amount of Rs. 50,000/- and also made additional demand of a Hero Honda Motor Cycle. It is averred by her that on 10.04.2014 at about 9 P.M. the respondent with the spell of liquor came to her house at Sampur and when she asked the respondent for taking liquor, she started assaulting her mercilessly and abused her in filthy languages and threatened for dire consequence if she will come to his house without fulfilling his demand. The respondent also threatened her if his demand will not be fulfilled, he would divorce her and thereafter the respondent did not come to her. Thereafter several attempts have been made from her side to resolve the controversy between them but all were in vain due to willful refusal of the respondent. When all efforts from her side went in vain, she has filed the present petition seeking seeking a decree of divorce on the ground of cruelty.

3. The respondent did not enter contest the petition 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

P.W. 1 but did not chose to file any document on her behalf.

6. Admittedly, there has been no cohabitation between the parties since 10.04.2014. 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 he 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 his character and trebles his vitality. It must be recognized that nothing is more fatal to marriage than disappointment in sexual intercourse.

7. The petitioner has also stated that she was subject to torture both physically and mentally by the respondent due to non fulfillment of balance amount of Rs. 50,000/- and additional demand of a Hero Honda Motor Cycle. She has further stated that on 10.04.2014 the respondent came to her house and with the spell liquor started torturing her both physically and mentally and threatened to face dire consequence. The respondent also threatened her for divorce if she will not fulfill his aforesaid demand. It is also established from her evidence that the respondent assaulted her mercilessly when the petitioner questioned him as to why he has drunk liquor. Therefore, concatenating the aforesaid circumstances and back grounds I have no hesitation to conclude that the respondent subjected the petitioner to cruelty which is one of grounds U/s. 13 (i-a) of the Hindu Marriage, Act. 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 16th day of October, 2015.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Hemalata Malla

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.