

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

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

Civil Proceeding No. 279 of 2013

Aparnna Samanta, aged about 25 years,
W/o- Saikat Dutta @ Virat,
Resident of DL-65, Sec.-II, Salt lake, Kolkata-700091,
At present- D/o- Antarjyami Samanta,
Resident of Duplex No. 21, P.O.-Sailashreevihar,
P.S.-Chandrasekharapur, Bhubaneswar-21,
Dist-Khurda.

... Petitioner

... Versus...

Saikat Dutta @ Virat, aged about 27 years,
S/o-Sri Samir Dutta
Resident of DL-65, Sec.-II, Salt lake,
Kolkata-700091.

... Respondent

Date of argument : 04.08.2014

Date of order : 05.08.2014

ORDER

1. This order arises out of a petition u/s. 13 of the Hindu Marriage Act, 1956 (in short, the Act 1956) praying for a decree of dissolution of marriage of the petitioner with the respondent on the grounds of desertion and cruelty.

2. The fact of the case of the petitioner are that:-

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites at Hotel May Fair, Bhubaneswar on 16.01.2009. The petitioner has averred that at the time of marriage the petitioner was a student of KIIT, Bhubaneswar. At the time of marriage the parents of the petitioner had fulfilled all the demand of the respondent. She has further averred that at the time of marriage it was given impression to her and her

parents that the respondent is a software engineer and he is working in a prestigious company but after marriage it came to light that it was false and neither the respondent has attended any office nor done any work as he is a psycho patient sleeping in the day time. She has averred that the parents of the petitioner had bore all the expenses of marriage including lodging and boarding charge at Bhubaneswar and even the parents of the petitioner have also arrange to see the sight scene of Bhubaneswar, Puri and nearby areas and after that the petitioner went to Kolkata and consummated their marital life but from the very day of the 1st meet the respondent show his rude behaviour towards the petitioner. She has further averred that from the date of marriage the respondent has not attended his office nor able to earn a single pie rather he is taking medicine from his doctor R.K. Brahma of Salt Lake City, Kolkata who is a psycho Medicine Specialist. She has further averred that the respondent was not sleeping in the night time and was sleeping in the day time and every time he demanded additional dowry from the petitioner and assaulted her and the respondent had also sold all her gold ornaments and valuables but the petitioner due to the prestige of the family of the petitioner did not disclose anything before her family members. When it became unbearable the petitioner narrated the facts before her parents. She has further averred that when this fact was informed to the parents of the respondent they admitted it and also told that the respondent is taking psycho medicine, and lost his temper. The respondent when came to know it, he became irritated. As the respondent was suffering from depression, to eradicate it, the parents of the petitioner arrange some outing of the petitioner and the respondent and after that the petitioner and the respondent was staying some days at Bhubaneswar in the year 2010. But the behaviour of the respondent did not change in any manner rather it increased day by day and became intolerable towards the petitioner. The respondent brutally assaulted the petitioner in presence of her parents and others. She has further averred that the respondent has also taking ganja cigarette and also consuming liquor at late night. She has further averred that on 20.02.2010 the respondent

brutally assaulted the petitioner at Bhubaneswar in public and when public gathered the respondent left there in helpless condition and fled away and since then the respondent deserted her. Since the torture and cruelty by the respondent became in-tolerable she has filed this proceeding seeking a decree of divorce.

3. The Opp. Party 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.

6. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 13(1) of the Hindu Marriage Act, 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 10 of her petition has stated that the respondent deserted her since 20.02.2010. The petition of divorce in this case is presented in the Court on 17.06.2013. Thus, it is clearly established that the petition has been filed after completion of two years from the date as alleged by the petitioner. From the aforesaid tenor of the evidence, it is as much as clear as noon day that there has been total liquidation of obligation of marriage between the parties since 20.02.2010, meaning thereby that intentional permanent forshaking and abandonment of one spouse by the other without the others consent and without reasonable cause also meaning not permitting or allowing or facilitating cohabitation between the spouses. The respondent without any rhyme and reason deserted the petitioner and subjected her to cruelty. This conduct of the parties is a continuous one for last three years. There is also blick chance of their reunion. Therefore, it is a fit case to snap out the marital relation between parties by passing a decree of divorce. In other words the petitioner could establish the ground of desertion.

7. The residue point that remains to be discussed is cruelty. Taking ganja, cigarette and also consuming liquor in late night and demanding further dowry and sale of gold ornaments and other valuables and when the petitioner protested it the respondent tortured her both physically and mentally spell cruel conduct of the respondent towards the petitioner. Therefore, the petitioner could successfully establish the ground of cruelty which per se is one of the ingredients u/s. 13 (1) 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 5th day of August, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Aparna Samanta

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.