

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

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

Civil Proceeding No. 282 of 2015

Debasis Jena, aged about 29 years,
S/o-Laxmidhar Jena,
At/P.O./P.S.-Tangi, Khurda.
At present residing Santoshi Mension (Apartment),
Nilakanthanagar, P.O./P.S.-Laxmisagar,
Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Rasmita Patra @ Jena, aged about 24 years,
W/o-Debasis Jena,
D/o-Prasant Patra,
At-Panaspur Sahi, P.O./P.S.-Tangi,
Dist-Khurda.

... Respondent

Date of Argument : 09.11.2015

Date of Judgment : 10.12.2015

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 his 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 to the respondent according to the Hindu rites and customs in Chandpur Ramchandi Temple in the district of Khurda on 15.02.2009 and out of their wedlock one female child namely Davanshi Jena was born on 07.08.2012. According to the petitioner, soon after the marriage the respondent started quarrelling with him and his family members on silly

matters and also insulted him in public. The respondent insisted him to reside separately apart from his other family members and when he denied it, she refused to keep physical relationship with him and also started creating disturbances in the family. The parents of the respondent by frequently visiting to his house interfered in their family life and created disturbances in his family. The respondent during her stay in his house did not perform her marital obligations. When the respondent created frequent disturbances in the family demanding to live separately, finding no other alternative, he brought the respondent to a rented house i.e. Santoshi Mension (Apartment), Nilakanthanagar, under Laxmisagar police station, Bhubaneswar on 10.05.2014. But the respondent did not change her previous behavior towards him. She has also insisted him not to give any financial support to his family members. The respondent also did not allow his family members to visit his house and when he objected it, she refused to keep physical relationship with him for which he suffered mental agony. According to the petitioner, the respondent without his consent and the consent of his other family members left his company on 23.12.2012. On 26.12.2012 he along with some local gentries went to the parental home of the respondent for settlement of the dispute and to bring her back but the respondent refused to return his company. Since it is not possible on his part to reside with the respondent due to cruel conduct of the respondent, he has filed the present petition for 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 is 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 P.W. 1 but did not chose to file any document on his behalf.

6. The petitioner while being examined as P.W.1 supported the averments made in the petition. From the unchallenged testimony of the petitioner, it is established that there has been no cohabitation between the parties since 23.12.2012. 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 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 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.

7. The petitioner has also stated that soon after the marriage, the respondent started quarreling with him and his family members on silly matters. He has further stated that the parents of the respondent have also interfered in the family members by visiting frequently to his house. He has also stated that the respondent did not perform her marital obligations during her stay and also insulted him in public. The respondent has also insisted him for separate living apart from his other family members and when he denied it, the respondent denied for keeping physical relationship with her. The respondent did not allow his family members to visit his rented house and insisted him not to give any financial support to them and when he denied it, she refused for keeping physical relationship with her. On 23.12.2012 the

respondent without his consent and the consent of his family members left his company. Therefore, concatenating the aforesaid circumstances and back grounds I have no hesitation to conclude that the petitioner could able cruelty of the respondent on him and the cruel conduct was so deleterious, it was impossible on the part of the petitioner to reside with the respondent and such, it is a fit case for grant a decree of divorce to the petitioner. 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.

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Dictated, corrected by me and is pronounced on this the 10th day of December, 2015.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Debasis Jena

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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