

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

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

Civil Proceeding No. 363 of 2010

Niranjan Sahoo, aged about 35 years,
S/o-Narayan Sahoo,
At-L/B-154, Phase-2, Vimatangi,
P.O.-Bhubaneswar-2, P.S.-Airfield,
Dist-Khurda.

... Petitioner

... Versus...

Swapna Rani Sahoo, aged about 29 years,
W/o-Niranjan Sahoo,
D/o- Bhikari Charan Sahoo,
At Plot No. 981/3418, Jagamara,
Back side of IBCS, Sidheswar Nagar, Bhubaneswar-30,
P.S.-Khandagiri, Dist-Khurda.

... Respondent

Date of Argument : 15.04.2015

Date of Judgment : 01.05.2015

J U D G M E N T

The petitioner husband Niranjan Sahoo has filed a petition U/s. 13 of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of his marriage with the respondent on the ground of cruelty.

2. The admitted facts of the case of the parties are that their marriage was solemnized as per Hindu rites and customs in Chandan Kalyan Mandap, Bhubaneswar on 22.02.2002 and out of their wedlock one female child was born on 20.03.2005.

3. The case of the petitioner is that after some days of marriage the respondent showed indifferent attitude and behavior towards him and his old ailing parents and unmarried brother. The during her short stay in his house the respondent frequently visited to her parental home and stayed 15 to 20 days together at a time in a month and returned after much persuasion by him. According to the petitioner the respondent during her stay in his house did not take care of his old ailing parents. She has also uttered filthy languages to them and during his absence from home the respondent did not provide food and medicines in time to them for which his parents became mentally shocked and his father being shocked remained bed ridden due to high blood pressure and other ailments. On two to three occasions the respondent has physically assaulted him. It is further stated by the petitioner that he has tried his level best to change the attitude of the respondent but she threatened to file divorce case against him. On 07.06.2009 the respondent without informing him and his family members went to her parental home along with the minor child and stayed there for nine months and in spite of several request she did not come. On 17.10.2009 he along with grandparents went to the parental home of the respondent to bring her back but the respondent and her parents misbehaved them and forcibly driven them out from their house. According to him on 15.11.2009 there was a meeting in Vimeswar Temple and in the said meeting the local gentries tried their best for their reunion but all were in vain. In the said meeting the respondent claimed her ornaments for which he handed over the same to her there. The respondent without rhyme or reason voluntarily left his house and while leaving his house she has taken F.D of Rs. 6,000/- which was deposited by him in the name of the respondent. Hence, the petition for divorce filed by the husband on the aforesaid grounds.

4. The respondent has contested the proceeding by filing written statement. The specific case of the respondent is that, she had never committed any misdeeds. The petitioner with an ulterior motive filed this case for divorce and therefore, the same is liable to be dismissed.

5. From the aforesaid rival pleadings of the parties, the question that requires to be adjudicated is whether, there exists any cruelty on the part of the respondent to allow the divorce petition and whether the respondent is entitled to alimony if the divorce is allowed in favour of the petitioner and what is the quantum thereof?

6. The petitioner in order to buttress his case he himself, has been examined as P.W.1. The respondent in order to nix the allegation of the petitioner she, herself, has been examined as R.W. 1.

7. The cruel conduct of the respondent as alleged by the petitioner are that the respondent did not provide food and medicines to his old ailing parents; assaulting him and mis-behaving his unmarried brother and sister. The respondent denied it. The petitioner except his sole evidence has not adduced any evidence to corroborate his statement. The parents and brother and sisters of the petitioners are best witnesses who could have corroborated his statement but they were not examined. Even we accept the aforesaid statement of the petitioner as true though not contrary, the conducts complained up are not grave and weighty for arriving at a conclusion that the petitioner spouse cannot be reasonable excepted to live with the respondent. Since in the instant case, sufficient materials have not been produced by the petitioner to conclude that the allegation of cruelty out in the application for divorce having adequately established while the respondent residing in her matrimonial home. It was the duty of the husband to produce some corroborating evidence of inmates of his house to prove those allegations of cruel acts of the wife. However the case does not rest there. The petitioner otherwise could prove mental cruelty caused to him by the respondent. The respondent during his cross examination at paragraph-2 has stated that we have no sexual relation since the year 2009 as the petitioner stopped cohabitation with her due to his extra marital relations with another lady. The respondent has also put that question to the petitioner while cross-examining him. The respondent stated that petitioner has extra marital relationship with one of his bank staff although

the respondent has not made such allegations in his written statement yet has built of this defence subsequent to filing of her W.S. and therefore, this could be taken into account to prevent multiplicity of proceeding in future. Indiscriminate and irresponsible allegations of this kind of the respondent touching the character of the petitioner would have its own deleterious effect upon both the parties accused of adultery. From this unethical and unholy allegation linking of the character of the husband with the character of one of his bank staff indicates the amount of abhorrence the wife gathered against the husband. The respondent has failed to prove it. Therefore, leveling of such reckless and baseless allegations of extramarital relation of the husband with another lady amount to mental cruelty and hence, the husband is entitled to the relief he claimed in his petition.

8. Now the next question that brooks up for consideration is the quantum of alimony. The order dated 23.06.2012 passed in I.A. No. 644 of 2010 indicates that the petitioner is working in SBI Life Insurance Company, Rourkela and is getting Rs. 14,000/- per month. The petitioner has admitted in that proceeding that the respondent and his daughter were residing in his house and he has been maintaining them. During hearing the argument, it was agreed by the husband that he is willing and ready to provide separate residence to the wife along with making provision for maintenance of respondent and daughter and the educational and marriage expenses of the daughter and also the medical expenditure of the respondent to which the respondent agreed. In that view of the matter, the aforesaid arrangement shall continue and in case of any deviation the aggrieved party shall come up with a separate petition U/s. 25 of the H.M. Act. Hence, it is ordered;

O R D E R

The petition of the petitioner is allowed on contest with cost. 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 subject to making separate provision for residence, maintenance and

medical expenses of the respondent and board and lodging of the daughter such as clothing, medical, education and marriage expenses of the daughter.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 1st day of May, 2015.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Niranjan Sahoo

Witnesses examined for the respondent:

R.W.1 Swapna Rani Sahoo

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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