

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

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

Civil Proceeding No. 397 of 2013

Gyana Ranjan Gouda, aged bout 40 years,  
S/o-Late Prafulla Chandra Gouda,  
Resident of Plot No. 741, Phase-II, Dumuduma H.B. Colony,  
P.S.-Khandagiri, Bhubaneswar,  
Dist-Khurda (Odisha)

... Petitioner

... Versus...

Puspanjali Gouda, aged about 25 years,  
W/o-Gyana Ranjan Gouda,  
D/o-Iswar Gouda,  
Resident of village Baunsia,  
P.S.-Kabi Surya Nagar,  
Dist-Ganjan (Odisha)

... Respondent

Date of Argument : 07.10.2015

Date of Judgment : 17.10.2015

J U D G M E N T

The petitioner-husband 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 his marriage with the respondent-wife on the grounds of desertion and cruelty.

2. The facts of the case of the petitioner are as follows:-

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites in Kolathia Community Center, Bhubaneswar on 29.01.2012 and they have no issue out of their wedlock. According to the petitioner, after marriage they led a happy conjugal life for few days and thereafter, the respondent insisted him to reside separately and when he

denied for the same, the respondent insulted him in public place and also refused to keep physical relationship with him. The parents of the respondent frequently visited to his house and interfered in their family matters for which his family life became ruined. On 25.02.2012 the respondent without intimating him and his family members went to her parental home. After some days of departure of the respondent from his house, he went to her parental home to bring her back but the respondent demanded for separate living. She has also threatened to give divorce to him for which he returned with disappointment. Thereafter he with the help of some local gentlemen tried for settlement on 20.01.2013 but all were in vain due to willful refusal of the respondent. When all of his attempts have been failed, finding no other alternative, he filed this proceeding before this forum seeking a decree of divorce on the grounds of desertion and cruelty. Hence, the divorce petition.

3. The respondent though filed her written statement yet, did not enter contest the petition and therefore, is set ex-parte.

4. The following points are formulated for determination of the case:-

(i) Whether the respondent deserted the petitioner?

(ii) Whether the circumstances and back grounds depicted in the narration of the petitioner's case constitute cruelty by the respondent 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.

**Point No.1**

Whether the respondent deserted the petitioner?

6. The petitioner sought divorce on the ground of respondent's desertion. It is needless to say Section 13(1) (i-b) of the Act, 1955 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-3 of his petition has stated that the respondent deserted him since 25.02.2012. The petition for divorce in this case is presented in the Court on

06.08.2012. Thus, it is clearly established that the petition has been filed before completion of two years from the date as alleged by the petitioner. Therefore, the ground of desertion has not established by the petitioner.

**Point No.2**

Whether the circumstances and back grounds depicted of the narration in 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?

7. Now the next point for consideration is cruelty. Admittedly, there has been no cohabitation between the parties since 25.02.2012. 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 her vitality. It must be recognized that nothing is more fatal to marriage than disappointment in sexual intercourse. Further the petitioner has stated that the respondent refused for any sexual relationship since 25.02.2012. Desexualizing the petitioner by the respondent for a continuous period of more than one year amounts to mental cruelty. Further from the evidence of the petitioner, it is established that when the petitioner refused the demand of the respondent for separate living, the respondent started quarreling with him. She has also insulted the petitioner in Public place and also refused to keep physical relationship with him. From the

evidence it is further established that the parents of the respondent interfered in their family members. On 25.02.2012 the respondent without intimating him went to her parental home. Thereafter several attempts have been made from his side to bring back the respondent but the respondent refused to join his company. Rather she demanded for separate living and threatened to divorce him. Therefore, concatenating the aforesaid circumstances and back grounds, 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;

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 17<sup>th</sup> day of October, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Gyana Ranjan Gouda

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.