

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

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

Civil Proceeding No. 425 of 2013

Saumyakanta Satyasundar, aged about 37 years,  
S/o.- Late Dr. Rajkishore Swain,  
P.S./P.O./Dist-Nayagarh, Pin-752069,  
At present-C/o-J.B.N. Choudhury,  
Plot No. 516/1680, Adarsa Vihar,  
Patia, P.S.-Infocity, P.O.-Patia,  
Dist-Khurda.

... Petitioner

... Versus...

Manjushree Reddy, aged about 44 years,  
W/o-Saumyakanta Satyasundar,  
D/o-Late R. Krishna Mohan Reddy,  
Q004, Vivek Vihar (A.W.H.O.),  
Sector-82, Noida, P.O.-Noida, P.S.-Noida Phase-II,  
Dist-Goutambudha Nagar, Dist-Goutambudha Nagar,  
U.P.

... Respondent

Date of Argument : 18.08.2015

Date of Judgment : 31.08.2015

J U D G M E N T

The petitioner 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 her marriage with the respondent on the ground of 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 Bhubaneswar on 05.08.1999 and out of their wedlock one male child was born on 05.12.2002. According to the petitioner,

their marriage was a love marriage. After marriage, both of them resided in a rented house at Bhubaneswar. They led a happy conjugal life for two years and thereafter the respondent started ill treating him. After marriage, the respondent did not allow him to keep any relation with his family members and other relations. It is averred by the petitioner that his father died in the year 1984 and in the year 2001 when he wanted to go to attend the Srada ceremony of his father, she did not allow him, rather scolded him in filthy languages and assaulted him severely for which he has admitted in Kalinga Hospital. It is alleged by the petitioner that the respondent did not take his care and the care of the child. She has also asked him to give all of his earning to him otherwise he would not be provided any food. It is further alleged by the petitioner that the respondent without any rhyme or reason assaulted him and his child and also misbehaved him. The respondent has also threatened to file false cases against him. It is further averred by the petitioner that in the year 2004 both of them went to Delhi for a change in the behaviour of the respondent but some days after her return she started torturing him both physically and mentally. On 31.12.2006, in the night when he was vomiting the respondent on return from her brother's house after attending a party there drove him out from the house in stead of taking his care. It is further alleged by the petitioner that constant torture on him, he was not in a normal state of mind to discharge his duty peacefully. In the month of December, 2011 when some of his friends visited to house at Noida, the respondent did not serve snacks and tea to his friends for which he felt insult before his friends. The respondent also did not allow him to keep physical relation with her for which he was suffering from mental agony. On many occasions the respondent went to the hospital where he was working and made allegations before his colleagues which hampered his prestige. On 18.06.2013 the respondent demanded Rs. 5,00,000/- for her mother and when he refused for the same, the respondent became furious and assaulted him and driven him out from his house and since then he has been residing at Bhubaneswar. According to the petitioner that the respondent is working at Noida and is

getting salary of Rs. 50,000/- per month. Since the respondent debarred him from any marital relationship, he has filed this proceeding 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 following points are formulated for determination of the case:-

(i) Whether the circumstances and back grounds depicted in the narration in the petitioner's case constitute cruelty by the respondent on the petitioner and if so, whether the petitioner is entitled for decree of divorce?

(ii) To what other relief?

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 her behalf.

**Point No.1**

Whether the circumstances and back grounds depicted in the narration in the petitioner's case constitute cruelty by the respondent on the petitioner and if so, whether the petitioner is entitled for decree of divorce?

6. The petitioner sought divorce on the ground of respondent's cruelty. Admittedly, there has been no cohabitation between the parties since 18.06.2013. 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. Further the petitioner has stated that the respondent refused for any sexual relationship since 18.06.2013. Desexualizing the petitioner by the respondent for a continuous period of four years amounts to mental cruelty. Further from the evidence of the petitioner it is established that the respondent used to assault the petitioner and his child and insulted the petitioner; not allowing the petitioner to keep any relationship with his family members; defaming him before his colleagues and finally on 18.06.2013 driven out from the house when the petitioner refused to give Rs. 5,00,000/- to the respondent for her mother. 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.

**Point No.2**

To what other relief?

6. The petitioner has stated that the respondent is working at Noida and is getting Rs. 50,000/- per month which is gone unchallenged as the respondent has been set ex-parte. Therefore, she is not entitled to any relief on this point at present. So far as the minor son is concerned, the petitioner is directed to bear all the medical and educational expenses of the son. 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 and the petitioner is directed to bear all the medical and educational expenses of the son.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 31<sup>st</sup> day of August, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1        Saumyakanta Satyasunder

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
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