

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

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

Civil Proceeding No. 469 of 2012

Guru Charan Preet Kaur, aged about 23 years,
W/o- Rabi Sankar Nanda,
D/o- Jasveer Singh,
At-Gopabandhu Nagar, Hilpatna
At-Gasani Nuagaon, Dist-Ganjam,
At present, Plot No. 645/651, Behera Sahi,
P.S.-Nayapalli, Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Rabi Sankar Nanda, aged about 27 years,
S/o-Chandra Sekhar Nanda,
At-Telebudhi Sahi,
P.O.-Lanjipalli, Berhampur,
Dist-Ganjam.

... Respondent

Date of argument : 20.08.2014

Date of order : 21.08.2014

ORDER

This order arises out of a petition u/s. 27 of Special Marriage Act, 1954 (in short, the Act 1954) 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 before the Marriage Officer Khurda at Bhubaneswar on 26.05.2009 vide Marriage Certificate bearing No. 324/09 (Ext. 1) without the knowledge of their parents

and consummated their marriage in a rented house at Plot No. 641, Balu Bhaban, Kanal Road, Jharapda. The petitioner has averred that at the time of marriage both of them were students and they had married without the knowledge of their parents. She has further averred that before marriage she has proposed to the respondent for a general marriage but the parents of the respondent opposed it. She has further averred that being instigated and pressurized by the respondent she got registered marriage and at that time the respondent had told her that if they would get a registered marriage, then the parents of the respondent will accept their marriage and would take steps for their arrange marriage. She has further averred that after six months of their marriage when she asked to the respondent to take her to his house, the respondent stopped relationship with her and replied that he shall not do anything against the will of his parents. She has further averred that on 16.03.2010 seeing the ill intention of the respondent she went to the house of the respondent and the respondent and his family members did not allow her to stay with him. Rather, he drove out her from his house after brutally assaulting her in presence of his parents and scolded her in filthy language and demanded Rs. 10,00,000/- towards dowry. Thereafter the parents of the respondent over phone told her that several marriage proposals have been coming for the respondent offering them Rs. 10,00,000/- towards dowry and if her parents would give Rs. 10,00,000/- they will accept her as their daughter-in-law. She has also averred that she has also made several attempts to settle the dispute but in vain. Since the torture and cruelty by the respondent became intolerable she has filed this proceeding seeking a decree of divorce.

3. The respondent 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 27 (i) (b) of the Act, 1954 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 5 of her petition has stated that the respondent deserted her since 16.03.2010. The petition of divorce in this case is presented in the Court on 22.11.2012. 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 16.03.2010, meaning thereby that intentional permanent forsaking 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 or 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 blink 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. Demanding dowry of Rs. 10,00,000/- by the respondent and his family members and refusing her to accept as his daughter-in-law by her parents-in-law and driving out from his house and when the petitioner expressed her inability to fulfill the dowry, the respondent and his family members tortured her both physically and mentally and threatening her to kill spell cruel conduct of the respondent towards the petitioner. Therefore, the petitioner could successfully establish the ground of cruelty which is also one of the ingredients u/s. 27 (1) (d) 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 and the marriage certificate bearing No. 324/09 is hereby cancelled.

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BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 21st day of August, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Guru Charan Preet Kaur

Witnesses examined for the respondent:

None

List of documents by petitioner:

Ext. 1 Marriage Certificate bearing No. 324/09

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.