

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

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

Civil Proceeding No. 64 of 2014

Swati Subhalaxmi Mahaaptra, aged about 33 years,
W/o-Rajesh Kumar Mohaptra,
D/o-Dr. Pradeep Kumar Acharya,
Presently residing at Plot No. SN-44, Siva Nagar,
Tankanapani Road, Bhubaneswar-751018, Dist-Khurda.

... Petitioner

... Versus...

Rajesh Kumar Mohapatra, aged about 36 years,
S/o-Dharmananda Patra,
Permanent resident of Kolsahi, P.S.-Chandikhol, Dist-Jajpur,
Presently residing at Plot No. SN-44, Siva Nagar,
Tankanapani Road, Bhubaneswar-751018, Dist-Khurda.

... Respondent

Date of Argument : 09.11.2015

Date of Judgment : 17.11.2015

J U D G M E N T

The petitioner-wife has filed a petition U/s. 27 of the Special Marriage Act, 1954 (in short, the Act 1954) praying for a decree of dissolution of her marriage with the respondent-husband 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 before Marriage Officer, Cuttack on 06.09.2000 vide Ext. 1, (Xerox copy of the Marriage Certificate bearing No. 184 of 2000) and out of their wedlock one male child was born. It is the case of the petitioner that her father had fulfilled all the demand

of the respondent and his family members at the time of marriage. According to the petitioner, during her stay, the respondent misbehaved her without any rhyme or reason and started neglecting her and her minor son. The respondent also tortured on her both physically and mentally on silly matters. According to her, in the year 2011-12, the respondent started a company where he inducted himself as Managing Director and her as the Director of the company. But her directorship was only in paper and she had only signed some documents at the instants of the respondent in good faith. It is further averred by her that the respondent without intimating anything regarding the company taken her signatures on some papers and blank cheques and when she asked about the same, the respondent became furious and threatened not to interfere in his business matter. After some days, apprehending mis-utilization of her signatures, she requested the respondent to withdraw her directorship from the company and after much persuasion the respondent withdrew her directorship and inducted his father in her place. It is further averred by her that when she requested the respondent to return her blank signature cheques of State Bank of India, Bapuji Nagar Branch and State Bank of India Lewis Road Branch, the respondent did not return the same on the plea of that the same cheques are kept in the office and after collection of the same, he will give them to her. It is further averred by her that on 19.11.2014, the respondent went to his office, but did not return to his home and she has also not able to trace out his whereabouts. But after few days, the respondent telephoned her from an unknown number and intimated her that he will come back after few days. Since then she has not traced him out for which she has informed the matter before the Police. It is further averred by her the respondent has not provided a single farthing for her and her minor child for their maintenance for which they are forced to take shelter in her parental home. The respondent has also given her blank signed cheques to some strangers who many times misbehaved and threatened for dire consequence to her at her parental home for which she faced

serious harassment and also the reputation of her parents has been tarnished in the locality. Since the torture and cruelty by the respondent became intolerable she has filed this proceeding seeking a decree of divorce on the grounds of desertion and cruelty.

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 and whether the petitioner is entitled for permanent alimony in case divorce is allowed in favour of the petitioner?

5. The petitioner in order to prove her case she, herself, has been examined as P.W. 1 and relied on two documents. They are:- Ext. 1 is the Xerox copy of the marriage certificate and Ext. 2 is the receipt of paper publication in Eastern Media Ltd.

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-6 of her petition has stated that the respondent deserted her since 19.11.2014. The petition of divorce in this case is presented in the Court on 02.02.2015. Thus, it is clearly established that the petition has been filed before completion of two years from the date as alleged by the petitioner. Hence, the ground of desertion held not established.

7. The residue point that remains to be discussed is cruelty. Torturing both physically and mentally on silly matters, neglecting the petitioner and her minor son, obtaining the signatures on bank papers and cheques by threatening, not returning the cheques to the petitioner, humiliating by the known persons to whom the respondent has given her signed cheques in her parental home are the circumstances sufficient enough to attribute mental torture perpetrated by

the respondent on petitioner. Additionally, the respondent has non-sexed the petitioner for more than one year which adds mental cruelty. 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.

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 certificate bearing No. 184 of 2000 be cancelled and the marriage between the petitioner and the respondent is hereby declared dissolved with effect from the date of decree. The respondent is directed to bear the educational and medical expenses of the minor son. The respondent is further directed to pay litigation expenses of Rs. 7,000/- to the petitioner.

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Dictated, corrected by me and is pronounced on this the 17th day of November, 2015.

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Witnesses examined for the petitioner:

P.W.1 Smt. Swati Subhalaxmi Mohapatra

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Ext. 1 Copy of Marriage Certificate

Ext. 2 Receipt of Paper Publication in Eastern Media Ltd

List of documents by Opp. Party:

Nil

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