

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

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

Criminal Proceeding No. 11 of 2013

Smt. Mousumi Lenka @ Biswal, aged about 38 years,
W/o- Bibekananda Biswal,
of Radanga, P.O.- Paripada, P.S.- Mangalpur,
Dist-Jajpur,
At present, D/o- Jatrindranath Lenka,
At- Nayapalli, Plot No. 204, Damayanti Apartment,
Behera Sahi Chhack, P.S.-Nayapalli, Bhubaneswar-12
Dist-Khurda.

... Petitioner

... Versus...

Bibekananda Biswal, aged about 42 years,
S/o-Upendranath Biswal,
of Radanga, P.O.- Paripada, P.S.- Mangalpur,
Dist-Jajpur.
At present-C/o- Sanjaya Patra (Brundaban Satyanivash)
Bharat Vihar, 2nd Lane, P.S.- Khodasinga, Via-Berhampur,
Dist-Ganjam.

... Opp. Party

Date of argument : 10.07.2014

Date of order : 25.07.2014

ORDER

1. This order arises out of a petition u/s. 125 of the Code of Criminal Procedure (in short, Cr.P.C.) filed by the petitioner claiming monthly maintenance of Rs. 10,000/- for herself and litigation expenses of Rs. 15,000/- from the Opp. Party.
2. The facts of the case of the petitioner are as follows:-

The marriage of the petitioner with Opp. Party was solemnized as per Hindu Custom and rites at Hotel Bari International, Indradhanu Market, IRC Village on 11.03.2012 and as per demand of the Opp. Party, cash of Rs. 1,50,000/-, gold chain and six gold rings and other household articles including gold ornaments weighing 15 tolas were given to him. After marriage, both of them went to the service place of the Opp. Party at Berhampur and stayed in a rented house. The marriage was a serendipity. The der-Tag started in their life when the Opp. Party and his family members demanded more dowry of Rs. 1,00,000/- and when she refused for the same she was subjected to torture both physically and mentally by the Opp. Party. On 03.05.2012 the Opp. Party took her and left her at her parental home at Bhubaneswar with a threat not to take her unless the demand is fulfilled. The Opp. Party also for several times threatened over phone to her and her mother and since then she has been residing with her widow mother. She has also averred that she has filed a criminal case against the Opp. Party before Mahila P.S. which has been registered as Mahila P.S. Case No. 89/2012 u/s. 498(A), 417,420,495 and 34 IPC and 4 D.P. Act against the Opp. Party. The well wishers and relatives of the petitioner tried to settle the disputes but it could not yield any positive result. Neither she nor her brother and mother have sufficient means to maintain her. The Opp. Party earns Rs. 25,000/- per month from his salary. Apart from that he has one building at C.D.A. Sector-10 Cuttack and from that house the Opp. Party by letting out the same is getting Rs. 10,000/- per month and he has also eight acres of landed property and out of that he is also earning some lakhs. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain the petitioner, who is his legally wedded wife, the petitioner is obliged to file the present petition claiming a monthly maintenance of Rs. 10,000/- for herself and Rs. 15,000/- for litigation expenses from the Opp. Party.

3. The Opp. Party did not enter contest the petition and therefore, is set ex-parte.

4. The following points are formulated to resolve the controversy:-
- (1) Whether petitioner is the legal married wife of the Opp. Party?
 - (2) Whether the Opp. Party having sufficient means has neglected or refused to maintain the petitioner?
 - (3) What would be the quantum of maintenance to be allowed to the petitioner, if point No. 1 and 2 are answered in her favour?
5. The petitioner in order to prove her case she, herself, has been examined P.W. 1 and relied on some documents i.e. Ext. 1 is the F.I.R. in G.R. Case No. 1478/2012, Ext. 2 is the Invitation Card, Ext. 3 is the Salary Slip of Opp. Party, Ext. 4 is the function prospects of Hotel Bari International and Ext. 5 is the information obtained under R.T.I. Act that Plot No. 1F/468 in Sector-10, C.D.A. stands in the name of the Opp. Party.
6. The petitioner in her affidavit evidence stated that she married to the Opp. Party on 11.03.2012. Her aforesaid statement has not been challenged. Thus, it can safely be concluded that the petitioner is the legally wedded wife of the Opp. Party and their marriage was solemnized on 11.03.2012.
7. She has also stated that she was subjected to torture not only by the Opp. Party but also by her in-laws for non fulfillment of their additional demand of dowry of Rs. 1,00,000/- and on 03.05.2012 the Opp. Party left her at her parental home at Bhubaneswar. Therefore, it can safely be said that the petitioner has not left the company of the Opp. Party voluntarily. It is the Opp. Party and his family members who are responsible for petitioner's living separately apart from the Opp. Party.
8. The next question for consideration is, whether the Opp. Party has sufficient means and he has willfully neglected and refused to maintain the petitioner. It is stated categorically by the petitioner that the Opp. Party is working as a Manager in TATA AIG Business Development. From Ext. 3, the salary slip of the Opp. Party it is clearly established that he is getting salary of Rs. 25,000/- per month. Apart from that it is also evident from Ext. 5 that the Opp. Party is the owner of the Plot No. IF/468, Sector-10, CDA and from that plot the Opp. Party is getting house rent of Rs. 10,000/- per month whereas

she is merely a housewife having no separate income and depending upon her widow mother. She has also stated that the Opp. Party has not provided a single farthing to the petitioner since the date when the Opp. Party left her at her parental home. This facts and circumstance is clearly suggesting of the facts that the Opp. Party having sufficient means not only willfully neglected but also refused to maintain the petitioner, who has no sufficient means to support herself. Therefore, the Opp. Party is liable to provide maintenance to the petitioner.

9. The next question for consideration is the quantum of maintenance. Considering the cost of living and other attendant circumstances, in as much as, the income of the Opp. Party, I feel the ends of justice and equity shall be met if, a sum of Rs. 8,000/- per month be allowed towards maintenance to the petitioner which neither would to the petitioner lead a princely and luxury life would put the Opp. Party to any vagrancy. Hence ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. The Opp. Party is directed to pay a monthly maintenance of Rs.8,000/- to the petitioner from the date of filing of the application i.e. on 28.01.2013. The Opp. Party is further directed to clear up the arrear maintenance within two months hereinafter. He is also directed to pay the current monthly maintenance within the 1st week of the succeeding month. Besides, he is also directed to pay Rs. 6,000/- towards cost of litigation expenses. Failure to carry out the order by the Opp. Party, the petitioner is at liberty to levy execution through due process of law.

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Dictated, corrected by me and is pronounced on this the 25th day of July, 2014.

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Witnesses examined for the petitioner:

P.W.1 Smt. Mousumi Lenka

Witnesses examined for the respondent:

None

List of documents by petitioner:

Ext. 1 Certified copy of the F.I.R. in G.R. Case No. 1478 of 2012.

Ext. 2 Marriage Invitation Card

Ext.3 Salary slip of the Opp. Party.

Ext.4 Function prospects of Hotel Bari International.

Ext. 5 Information obtained under R.T.I. Act that Plot No. 1F/468,
Sector-10, CDA, Cuttack stands in the name of the Opp. Party.

List of documents by respondent:

Nil

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