

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

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

Criminal Proceeding No. 112 of 2013

Mrs. Sujata Kundu @ Nayak, aged about 27 years,  
W/o-Sunil Manohar Kundu,  
At present:-D/o-Purandar Nayak,  
EB-4, Stage-I, Laxmisagar, P.O./P.S.-Laxmisagar,  
Dist-Khurda.

... Petitioner

... Versus...

Sunil Manohar Kundu, aged about 34 years,  
S/o- Antaryami Kundu,  
Vill.-Balasahi, P.O.-Chauda Kulat,  
P.O.-Pattamundai, Dist-Kendrapara,  
At present-Team Leader, Elcomponics, Sales Pvt. Ltd.  
of K-13, 2<sup>nd</sup> Floor, Sector-12, Noida (U.P.)

... Opp. Party

Date of Argument : 29.10.2015

Date of Judgment: 02.11.2015

J U D G M E N T

The petitioner has filed a petition U/s. 125 of the Code of Criminal Procedure (in short, Cr.P.C.) claiming monthly maintenance of Rs. 10,000/- from the Opp. Party.

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

The marriage of the petitioner with the Opp. Party was solemnized in Kasturba Nari Mohal, Bhubaneswar on 05.02.2010. It is the case of the petitioner at the time of marriage, her father had fulfilled all the demand of the Opp. Party and his family members. According to her, after eight days of marriage the Opp. Party leaving her in her matrimonial home went to his

service place at Noida (U.P.) where he works as Team Leader in Elcomponics Sales Pvt. Ltd.. It is further averred by the petitioner that when the Opp. Party did not turn up for about 6 months, she along with her brother went to the service of the Opp. Party and stayed for two months there. While staying there she came to know that the Opp. Party has got illicit relationship with another lady and when she objected it, she was tortured both physically and mentally by the Opp. Party. The Opp. Party also with the help of liquor assaulted her mercilessly and did not provide her food. On 26.10.2010 the brother of the Opp. Party namely Abjijit Kundu arrived there and brought her to his wife. After one and half months she again went to Noida and stayed there for four months and during her stay there, the Opp. Party repeated his previous activities on her. When the torture became unbearable she informed the same to her parents and her parents reached there on 07.08.2012. Seeing her parents the Opp. Party became more violent and abused them in filthy languages. The Opp. Party also threatened dire consequence to them. Finding no other alternative, her parents brought her back to their house with them on 13.08.2012 and since then she has been staying in her parental home. Thereafter several attempts have been made from her side to settle the disputes but all were in vain. According to the petitioner she is merely a house wife and is depending upon the mercy of others for her livelihood. She has further stated that since the date of leaving separately, the Opp. Party has not been maintaining her. According to the petitioner, she has no source of income whereas the Opp. Party is working as Team Leader in Elcomponics Sales Pvt. Ltd. and is getting Rs. 26,000/- per month, besides, he is getting Rs. 1,00,000/- per annum from his landed property. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain her, who is his legally wedded wife, the petitioner is obliged to file the present petition claiming a monthly maintenance of Rs. 10,000/- 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:-
- (i) Whether petitioner is the legally married wife of the Opp. Party and the petitioner has sufficient cause to live separately from the Opp. Party?
  - (ii) Whether the Opp. Party having sufficient means has neglected or refused to maintain the petitioners?
  - (iii) 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 but did not chose to file any document on her behalf.
6. The petitioner in her affidavit evidence has stated that she married to the Opp. Party in Kasturba Nari Mohal, Bhubaneswar on 05.02.2010. 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. She has also stated that during her stay at Noida with the Opp. Party, she came to know that the Opp. Party has got illicit relationship with another lady and when she objected it, she was tortured both physically and mentally. On 26.10.2010 the brother of the Opp. Party namely Abjijit Kundu arrived there and brought her to his house. After one and half months she again went to Noida and stayed there for four months and during her stay there, the Opp. Party repeated his previous activities on her. When the torture became unbearable she informed the same to her parents and her parents reached there on 07.08.2012. Seeing her parents the Opp. Party became more violent and abused them in filthy languages. The Opp. Party also threatened for dire consequence to them. Finding no other alternative, her parents bring her with them to their house on 13.08.2012. Therefore, it can safely be said that the petitioner has not left the company of the Opp. Party voluntarily. It is the Opp. Party who is responsible for petitioner's living separately apart from the Opp. Party. The petitioner is a house wife and therefore she has no independent source of income and as such unable to maintain herself.

7. 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 Team Leader in Elcomponics Sales Pvt. Ltd. and is getting Rs. 26,000/- per month, besides, he is getting Rs. 1,00,000/- per annum from his landed property. She has also stated that the Opp. Party has not provided a single farthing to her since the date of leaving from her matrimonial home. This facts and circumstance is clearly suggestive 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. Law prevents vagrancy and destitution of married woman. Therefore, the Opp. Party is liable to provide maintenance to the petitioner.

8. The next question for consideration what would be the quantum of maintenance. P.W. 1 has stated that she is a house wife and she has no independent source of income. The Opp. Party is working as Team Leader in Elcomponics Sales Pvt. Ltd. and is getting Rs. 26,000/- per month, besides, he is getting Rs. 1,00,000/- per annum from her landed property. The petitioner also did not chose to file any document to vouch safe it. Be that as it may, the aforesaid evidence of the petitioner having not since been challenged, I have no compunction to take a different view that what has been stated by the petitioner. Considering the present day of cost of living and other attendant circumstances, I feel in the ends of justice and equity, a sum of Rs. 5,000/- to the petitioner be allowed as monthly maintenance. Hence, ordered;

#### ORDER

The petition is allowed ex-parte in favour of the petitioner. The Opp. Party is directed to pay a monthly maintenance of Rs. 5,000/- to the petitioner from the date of filing of application i.e. from 09.07.2013. 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 1<sup>st</sup> week of the succeeding month. Besides that the Opp. Party is directed to pay litigation expenses of Rs. 5,000/- to the petitioner. Failure to carry out the order by the Opp. Party, the petitioner is at liberty to levy execution through due process of law.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 2<sup>nd</sup> day of November, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1                      Mrs. Sujata Kundu @ Nayak

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.