

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

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

Criminal Proceeding No. 125 of 2012

Ranjubala Behera @ Swain, aged about 24 years,  
W/o-Deepak Swain,  
D/o-Ananta Charan Behera,  
Resident of Plot No. 789, Swain Sahi,  
Baramunda, P.S.-Khandagiri,  
Bhubaneswar, Dist-Khurda,  
At present residing at:-  
At/P.O.-Balakati, P.S.-Baliana,  
Dist-Khurda.

... Petitioner

... Versus...

Deepak Swain, aged about 28 years,  
S/o- Rohit Swain,  
Resident of Plot No. 789, Swain Sahi,  
Baramunda, P.S.-Khandagiri,  
Bhubaneswar, Dist-Khurda.

... Opp. Party

Date of Argument : 23.12.2014

Date of Judgment : 08.01.2015

J U D G M E N T

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 Ranjubala Behera @ Swain claiming monthly maintenance of Rs. 22,000/- for herself and Rs. 20,000/- towards litigation expenses from the Opp. Party.

2. The admitted fact of the case of the parties are as follows:-

The petitioner is the legally married wife of Opp. Party and their marriage was solemnized at Sharadhha Kalyan Mandap, Balakati under Baliana Police Station on 03.07.2009 and consummated the marriage in the

house of the Opp. Party at Plot No. 789, Swain Sahi, Baramunda under Khandagiri Police station and have been living separately after seventeen days of marriage.

3. The brief facts of the case of the petitioner is that at the time of marriage, her father had given Rs. 60,000/-, towards dowry and Rs. 10,000/- for dress of the Opp. Party. A gold chain of 20 grams, six gold rings and other household articles were also given as dowry as per the demand of the Opp. Party. The der-Tag in their life started when the Opp. Party and his family members started torturing her both physically and mentally due to non-fulfillment of additional demand of dowry of Rs. 2,00,000/-. The Opp. Party and his family members assaulted her for several times and also threatened to kill her by pouring kerosene. According to the petitioner, the differences arose between them due to the extra marital relation of the Opp. Party with a married lady. It is the further case of the petitioner that in one occasion the Opp. Party called her to the roof of their building and without any reason scolded her in filthy languages and suddenly pushed her from the roof of the building with an intention to kill her but she was escaped. On the next day, she informed this matter to her father and before arrival of her father, the Opp. Party and his family members on the point of Bhujali and sword forcibly had taken her signatures on two blank papers. When the torture became unbearable she was forced to leave her matrimonial home on 25.01.2012 and started residing in her parental home since then. During her stay, the Opp. Party and his family members threatened her over phone that if she would not bring their additional demand of dowry of Rs. 2,00,000/- they would not accept her as their daughter-in-law. Finding no alternative being harassed by the Opp. Party and his family members, she has lodged an F.I.R. before Mahila Police Station on 25.04.2012 vide Mahila P.S. Case No. 189 U/s. 498 (A), 323, 506, 34 I.P.C. And 4 D.P. Act. According to the petitioner she is unable to maintain herself as she has no source of income and is depending upon on her poor father whereas the Opp. Party is a Builder and is getting Rs.

1,00,000/- per month. Apart from that he is getting house rent of Rs. 30,000/- from the house situated near Baramunda Kali Mandir and he has also having a tractor from which he earns Rs. 20,000/- and he is also a collection agent of Axis Bank from which he is getting Rs. 20,000/- per month. Besides that the Opp. Party has 10 acres of landed property out of which he is getting Rs. 1,00,000/- per annum. 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. 20,000/- for herself from the Opp. Party.

4. The Opp. Party entered contest the petition nixing the allegations made by the petitioner against him. According to him several attempts have been made from his side for settlement of dispute but all were in vain. He has further stated that they have no physical relation during the period of seventeen days stay of petitioner in his house. The Opp. Party has further stated that he is a matriculate, an unemployed and has no source of income whereas the petitioner is serving as a Junior Clerk in Postal Department and is getting more than Rs. 30,000/- per month towards her salary. He has already returned all the gift items including the cash in presence of well-wishers, mediators, including father and brother of the petitioner after signing a declaration to that effect on 22.01.2010 and thereafter in order to harass him and his parents, she lodged an F.I.R. on 25.04.2012 at Mahila Police Station.

5. From the aforesaid rival contentions of the parties the following points are formulated to resolve the controversy:-

- (1) Whether the petitioner has sufficient cause to live separately from the Opp. Party and the petitioner has no sufficient means to support herself?
- (2) Whether the Opp. Party having sufficient means willfully refused or neglected to maintain the petitioner?

(3) What would be the quantum of maintenance to be allowed to the petitioner for her maintenance per month?

6. The petitioner in order to buttress her case she, herself, has been examined as P.W. 1. The Opp. Party in order to negate the claim of the petitioner has examined himself as O.P.W. 1 and his father as O.P.W.2 and relied one document i.e. Ext. A showing the settlement deed and return of goods.

7. P.W. 1 in her evidence has stated that she was subjected to torture both physically and mentally by the Opp. Party due to non fulfillment of additional demand of dowry of Rs. 2,00,000/-. She has further stated that the Opp. Party threatened to kill her by pouring kerosene. Once the Opp. Party called her to the roof of his building and without any rhyme or reason scolded her in filthy languages and suddenly the Opp. Party pushed her from the roof of his building with an intention to kill her but fortunately she was escaped. After seventeen days of marriage, she came to know the extra marital relation of the Opp. Party with a married lady and after one month of marriage he kept that lady in his house and when she objected for the same, the Opp. Party started torturing her. She has further stated that the Opp. Party and his family members did not allow her to go to her parental home. During cross examination nothing has been brought out to shatter the stoical statement of P.W.1 regarding torture due to non-fulfillment of additional demand, nay, keeping one married lady, P.W.1 in a despair condition. These two circumstances are sufficient indicators of cruelty on the petitioner by the Opp. Party which compelled the petitioner to reside separately from the Opp. Party. The Opp. Party admitted that they have no physical relationship since long. He has further stated that the petitioner has returned back all of her ornaments and household articles which clearly indicate that the petitioner is residing separately from the Opp. Party since long. O.P.W. 2 being the father of the O.P.W. 1 has supported the averments made by the O.P.W. 1. The Opp. Party nowhere has stated that he is looking after the petitioner.

8. Now, the next question for consideration is whether the Opp. Party having sufficient means refused or neglected to maintain the petitioner. Although the Opp. Party has stated that the petitioner is working as Jr. Clear in Postal Department and is getting salary of Rs. 30,000/- per month, yet he has failed to prove the same through any documentary evidence. Therefore, it is crystal clear that the petitioner wife is a house wife and she has no independent source of income. On the other hand, the petitioner-wife could establish sufficient cause for her living separately from the Opp. Party. P.W. 1 has stated that the Opp. Party is a Builder and is getting Rs. 1,00,000/- per month. Apart from that he is getting house rent of Rs. 30,000/- from the house situated near Baramunda Kali Mandir and he has also having a tractor from which he earns Rs. 20,000/- and he is also a collection agent of Axis Bank from which he is getting Rs. 20,000/- per month. Besides that the Opp. Party has 10 acres of landed property and out of which he is getting Rs. 1,00,000/- per annum. The Opp. Party has not provided any farthing to the petitioner from the date of her living separately. Therefore, the Opp. Party having sufficient means has willfully neglected and refused to maintain his wife and therefore, the petitioner wife is entitled to claim maintenance from the Opp. Party.

9. Now, the next question is about the quantum of maintenance. Though the petitioner has stated the above income of the Opp. Party but failed to prove the above income of the Opp. Party through any documentary evidence. On the other hand, the Opp. Party has denied his income. The Opp. Party is an educated man, able bodied person and hails from a well do to family and therefore, he must have some income of his own. Thus, taking into consideration all the facts and circumstances of the case, I feel it just and proper to allow a monthly maintenance of Rs. 6,000/-. Hence ordered;

#### ORDER

The petition is allowed on contest in favour of the petitioner. The Opp. Party is directed to pay a monthly maintenance of Rs. 6,000/- to the petitioner

from the date of filing of application i.e. on 03.09.2012. The Opp. Party is directed to clear up the arrear maintenance within two months hereinafter. He is also directed to pay the monthly maintenance within the 1<sup>st</sup> week of the succeeding month. Failure to carry out the order by the Opp. Party, the petitioner is at liberty to levy execution through due process of law.

In the peculiar fact and circumstances no order as to cost.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 8<sup>th</sup> day of January, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

List of witness on behalf of petitioner

P.W. 1      Ranjulata Behera

List of witness on behalf of Opp. Party

O.P.W. 1    Deepak Swain

O.P.W. 2    Rohit Swain

List of exhibits on behalf petitioner

Nil

List of exhibits on behalf of Opp. Party

Ext. A      Settlement deed and return of goods

JUDGE, FAMILY COURT,  
BHUBANESWAR.