

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

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

Criminal Proceeding No. 150 of 2013

Pournamasi Jema, aged about 31 years,
W/o-Bijaya Shankar Singdeo,
D/o-Late Raghunath Samanta,
Kalarapat House, Manikeswari Square,
At/P.O./P.S.-Bhabanipatna, Dist-Kalahandi.
AT present-Plot No. 2184, Sabarsahi Lane,
Bhubaneswar-6, P.S.-Laxmisagar, Dist-Khurda.

... Petitioners

... Versus...

Bijaya Sankar Singdeo, aged about 35 years,
S/o-Late Prasanna Kumar Singdeo,
Kalarapat House, Manikeswari Square,
At/P.O./P.S.-Bhabanipatna, Dist-Kalahandi.

... Opp. Party

Date of Argument : 16.01.2016

Date of Judgment : 22.01.2016

J U D G M E N T

1. 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. 20,000/- from the Opp. Party.

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

According to the petitioner, her marriage with the Opp. Party was solemnized according to Hindu rites and Customs in Paramount Club, Badagada, Bhubaneswar on 11.05.2012. The marriage was a serendipity. The der-Tag started in their life when the Opp. Party and his family members demanded additional demand of dowry of Rs. 20,00,000/- and when the petitioner showed her inability to fulfill the same she was subjected to torture both physically. The Opp. Party and his family members also tried to kill her by opening the Gas Stove. When the torture became unbearable she was

forced to leave her matrimonial home after ten days of marriage. Thereafter she and her widow mother have been residing in a rented house at Bhubaneswar. According to the petitioner she is merely a house wife having no source of income to maintain herself and is depending upon her widow mother, who is unable to maintain her whereas the Opp. Party is an Advocate and from the said profession he is earning Rs. 20,000/- per month besides, he is getting crores of rupees towards his share from mines as it his family business. Apart from the he is getting lakhs of rupees towards house sent. Besides the above, the Opp. Party is getting lakhs of rupees per annum from his 40 acres of cultivable land. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain them, the petitioner No.1 is obliged to file the present petition claiming a monthly maintenance of Rs. 20,000/-for self 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 and placed reliance on three documents. They are:- Ext. 1 is the ROR stands recorded in the name of the mother of the Opp. Party, Ext. 1/a and 1/b are the RORs stand recorded in the name of father-in-law of the petitioner.

6. The petitioner No.1 in her affidavit evidence has stated that she married to the Opp. Party according to Hindu rites and Customs in Paramount Club, Badagada, Bhubaneswar on 11.05.201. 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 soon after the

marriage, she was subjected to torture both physically and mentally by the Opp. Party and his family members due to non fulfillment of their additional demand of dowry of Rs. 20,00,000/-. It is further stated by the petitioner that the Opp. Party and his family members also tried to kill her by opening the Gas Stove and when the torture became unbearable she was forced to leave her matrimonial home. 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 petitioners. It is stated categorically by the petitioner that the Opp. Party is an Advocate and from the said profession is earning Rs. 20,000/- per month besides, he is getting crores of rupees towards his share from mines as his family business. Apart from the he is getting lakhs of rupees towards house rent. Besides the above, the Opp. Party is getting lakhs of rupees per annum from his 40 acres of cultivable land whereas the petitioner is unable to maintain herself. 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 petitioners, who have no sufficient means to support themselves. Law prevents vagrancy and destitution of married woman and child. Therefore, the Opp. Party is liable to provide maintenance to the petitioners.

8. The next question for consideration is 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. Though the petitioner has stated the above income of the Opp. Party yet, failed to prove the same by filing documentary evidence except the ancestral landed property vide Ext. 1, 1/a and 1/b which stand recorded in the name of the parents of the Opp. Party. On perusal of the order of interim maintenance, it is seen that the Opp. Party is an advocate and highly qualified person and belongs to a Royal Family of Bhawanipatna. Considering the present day of cost of living and status of the parties and

other attendant circumstances, in as much as, the income of the Opp. Party, I feel in the ends of justice and equity, a sum of Rs. 12,000/- to the petitioner be allowed as monthly maintenance. Hence, ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioners. The Opp. Party is directed to pay a monthly maintenance of Rs.12,000/- to the petitioner from the date of filing of application i.e. from 04.09.2013. If any payment made earlier shall be adjusted. 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. Failure to carry out the order by the Opp. Party, the petitioner is at liberty to levy execution through due process of law.

No order as to costs since litigation expenses of Rs. 10,000/- has been allowed in the interim application.

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Dictated, corrected by me and is pronounced on this the 21st day of January, 2016.

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Witnesses examined for the petitioner:

P.W.1 Pournamasi Jema

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Ext. 1 ROR stands in the name of the mother of the Opp. Party

Ext. 1/a and 1/b RORs standing in the name of father-in-law

List of documents by Opp. Party:

Nil

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