

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

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

Criminal Proceeding No. 156 of 2013

Smt. Tapasi Patra, aged about 21 years,
W/o- Pratap Rana,
D/o-Haresh Chandra Patra,
of Vill-Sahada, Kacheri Sahi
P.S./Dist-Bhadrak,
At present residing at
Plot No. LP-799, Prasanti Vihar,
Near KIIT Campus, P.S.-Infocity,
Bhubaneswar-24, Dist-Khurda.

... Petitioner

... Versus...

Pratap Rana, aged about 25 years,
S/o-Raghu Nath Rana,
Resident of At/P.O.-Kansari,
P.S./Dist-Kendrapara.

... Opp. Party

Date of argument : 07.08.2014

Date of order : 11.08.2014

ORDER

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

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

The marriage of the petitioner with Opp. Party was solemnized in Bhubaneswar as per Hindu custom and rites in the village of petitioner at village Sahada, Kacheri Sahi in the district of Bhadrak on 08.05.2013. It is averred that at the time of marriage, the father of the petitioner had given

cash of Rs. 50,000/- and 10 tolas of gold ornaments along with other household articles as per demand of the Opp. Party. The marriage was a serendipity. From the very next day of her marriage, the Opp. Party and his family members started torturing her for not giving a gold ring in the box of her sister-in-law. On 07.06.2013 in the event of the Sabitri and Raja when the father of the petitioner came to her in laws house at Kendrapara, the Opp. Party and his family members demanded further dowry of Rs. 30,000/- for distribution of sweets to their co-villagers and when her father showed her inability, the Opp. Party and his family members scolded him in obscene languages and pushed him for which he fell down. Due to non-fulfillment of such additional dowry, the Opp. Party and his family member tortured her both physically and mentally and did not provide food, for which the petitioner has remained in starvation for days. On 08.07.2013 at about 5 to 6 A.M the Opp. Party and his family members tied the neck of the petitioner while she was sleeping but fortunately the petitioner rescued herself. On 10.07.2013 in the morning the younger brother of the Opp. Party left the petitioner at her sister's house at Prasanti Vihar, Bhubaneswar and since then she has been residing with her parents. The Opp. Party since then is not providing any farthing to her. The Opp. Party is working in a Steel Plant at Hyderabad and earns Rs. 14,000/- per month. Apart from that he is also earning Rs. 30,000/- to Rs. 40,000/- per annum from agriculture. 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 self and Rs. 20,000/- 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 to

refused or 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.

6. The petitioner in her affidavit evidence stated that she married to the Opp. Party on 08.05.2013. 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 08.05.2013.

7. She has also stated that the petitioner was subjected to torture not only by the Opp. Party but also by her in-laws due to non fulfillment of additional dowry and on 10.07.2013, the younger brother of the Opp. Party left her at the house of her sister at Prasanti Vihar, 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 in a Steel Plant at Hyderabad and earns Rs. 14,000/- per month and apart from that he is also getting Rs. 30,000/- to Rs. 40,000/- per annum from agriculture whereas she is merely a housewife having no separate income and depending upon her parents. She has also stated that the Opp. Party has not provided a single farthing to the petitioner since the date of leaving 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 in the ends of justice and equity, a sum of Rs. 3,000/- per month to petitioner would be just and proper, which according to me, would not allow to petitioner to lead a princely and luxury life and also at the same time it would not 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.3,000/- to the petitioner from the date of filing of application i.e. on 07.09.2013. The Opp. Party is further directed to clear 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. 3,000/- 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 11th day
of August, 2014.

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Witnesses examined for the petitioner:

P.W.1 Smt. Tapasi Patra

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

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