

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

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

Criminal Proceeding No. 160 of 2014

Smt. Snigdha Subhadarsini, aged about 27 years,  
W/o-Sri Pravakar Majhi,  
D/o-Sri Jayaram Dalai,  
At present LIG-73, Brit Colony Nayapalli,  
P.O./P.S.-Nayapalli, Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Sri Pravakar Majhi, aged about 38 years,  
S/o-Sri Karunakara Majhi,  
At-Salt Road, Padagaon, Balasore, P.O./P.S.- Balasore Sadar,  
Dist-Balasore.  
At present:- H.P. Company, Bangalore.

... Opp. Party

Date of Argument : 16.04.2016

Date of Order : 22/23.04.2016

ORDER

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. 50,000/- 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 according to Hindu rites and customs on 22.05.2011. It is alleged by the petitioner that after one year of the marriage, the Opp. Party avoided to consummate the marriage and also refused to give anything to her for her day to day expenses. It is alleged by the petitioner that she was subjected to torture both physically and mentally on silly matters by the Opp. Party. On

30.05.2014 the Opp. Party assaulted her severely in presence of his other family members and was rescued by the neighbours and thereafter reported the matter to the local police station. According to the petitioner, she has no source of income and unable to maintain herself, whereas the Opp. Party is working in H.P. Company Bangalore and is getting Rs. 1,00,000/- per month. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain her, the petitioner is obliged to file the present petition claiming a monthly maintenance delineated herein before 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 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 chose not to file any document on her behalf.

6. The petitioner No.1 in her affidavit evidence has stated that she married to the Opp. Party according to Hindu rites and customs on 22.05.2011. 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 after one year of the marriage, she was subjected to torture both physically and mentally by the Opp. Party. She has further stated that the Opp. Party has not provided anything to her for her maintenance. She has also stated that 30.05.2014 the Opp. Party assaulted her severely in presence of his other family members and was rescued by the neighbours and thereafter reported the matter to the local police station.

These facts and circumstances are clearly suggestive and indicative of the facts that the petitioner has sufficient cause to live apart from the Opp. Party. It is equally established from the evidence of P.W. 1 that she has no independent income being a house wife and as such, she is entitled to claim maintenance from the Opp. Party.

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 working in H.P. Company Bangalore and is getting Rs. 1,00,000/- per month. She has also stated that the Opp. Party has not provided a single farthing to her for her maintenance. 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 petitioners.

8. The next question for consideration is what would be the quantum of maintenance. The Opp. Party is working in H.P. Company Bangalore and is getting Rs. 1,00,000/- per month. Since the aforesaid stated income of the Opp. Party has not been challenged, the same must be accepted as true. Considering the present day of 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. 10,000/- to the petitioner be allowed as monthly maintenance. Hence, it is 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. 10,000/- to the petitioner from the date of filing of application i.e. from 21.11.2014. 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 No.1 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 23<sup>rd</sup> day of April, 2016.

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Witnesses examined for the petitioner:

P.W.1                      Smt. Singdha Subhadarsini

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

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N.B- Judgment is pronounced today i.e. 23.04.2016 as 22.04.2016 was declared as holiday by the Hon'ble Court due to sad demise of Hon'ble Sri Justice B.P. Ray.