

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

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

Criminal Proceeding No. 161 of 2013

1. Smt. Mita Majhi, aged about 30 years,
W/o-Bhagyadhar Mahji,
At/P.O.- Kujimahal, P.S.-Chandaka,
Dist-Khurda.
2. Subhajeet Majhi, aged about 10 years (minor)
S/o- Bhagyadhar Mahji
Represented through its mother guardian
Both are presently residing at
C/o-D/o- Sarat Chandra Pradhan
At/P.O.- Kujimahal, P.S.-Chandaka,
Dist-Khurda.

... Petitioners

... Versus...

Bhagyadhar Majhi, aged about 33 years,
S/o- Laxmidhar Majhi,
At/P.O.-Kujimahal, P.S.-Chandaka,
Dist-Khurda
At present working as Peon,
O/o- A.G. (A & E) Audit Section,
Bhubaneswar.

... Opp. Party

Date of argument : 10.07.2014

Date of order : 25.07.2014

ORDER

1. 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. 7,000/- for self and for her minor son and Rs. 3,000/- towards house rent and litigation expenses of Rs.5,000/- from the Opp. Party.
2. The facts of the case of the petitioners are as follows:-

The marriage of the petitioner No.1 with the Opp. Party was solemnized in Bhuasuni Temple, Kujimahal under Chandaka police station at Bhubaneswar as per Hindu custom and rites on 10.12.2000 and out of their wedlock petitioner No.2 namely Subhajeet was born on 10.12.2003. The marriage was a serendipity. The der-Tag started in their life when the Opp. Party and his family members demanded additional dowry of Rs. 50,000/- and when the petitioner No.1 refused for the same, the Opp. Party and his family members tortured her both physically and mentally and also did not provide the daily amenities to her and to her child and in the meanwhile the petitioner has got a job of helper under ICDS Project in Anganwadi Center with a salary of Rs. 1,750/- per month. On 04.05.2013 the Opp. Party driven out her from his house along with her minor son. Finding no alternative, she took shelter in her parent's house and since then she has been residing with her parents. The well wishers and relatives of the petitioner tried to settle the disputes but it could not yield any positive result. She is not able to maintain herself and his legitimate son with the scanty income of Rs. 1,750/- and also unable to give the proper education to the petitioner No.2. The Opp. Party is working as a Peon in the office of the Accountant General (A & E) Audit Section, Bhubaneswar and is getting salary of Rs. 20,000/- per month. Apart from that the Opp. Party earns Rs. 50,000/- per annum from his landed property. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain the petitioners, who is his legally wedded wife and son, the petitioners are obliged to file the present petition claiming a monthly maintenance of Rs. 7,000/- for both and Rs. 3,000/- towards house rent and Rs. 5,000/- towards 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 No.1 is the legal married wife and petitioner No.2 is the legitimate son of the Opp. Party?

(2) Whether the Opp. Party having sufficient means has neglected to refuse to 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 has stated that she married to the Opp. Party on 10.09.2000 and out of their wedlock she is blessed with a male child on 10.12.2003. Her aforesaid statements have not been challenged. Thus, it can safely be concluded that the petitioner is the legally wedded wife of the Opp. Party and petitioner No.2 is their legitimate child. She has also stated that the petitioner No.1 was subjected to torture not only by the Opp. Party but also by her in-laws for non fulfillment of their additional demand of dowry of Rs. 50,000/- and on 04.05.2013 she was driven out from her matrimonial home along with her legitimate son. 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 petitioners living separately apart 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 a Govt. employee and works as a Peon in the office of the Accountant General (A & E) Audit Section, Bhubaneswar and is getting salary of Rs. 20,000/- per month whereas the petitioner is unable to maintain herself and his legitimate child with the mere income of Rs. 1,750/-. 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 suggestive of the facts that the Opp. Party having sufficient means not only willfully neglected but also refused to maintain the petitioners, who has no sufficient means to support themselves. Law prevents vagrancy and destitution of married woman and children. Therefore, the Opp. Party is liable

to provide maintenance to the petitioners.

8. 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. 6,000/- per month would be just and proper, which according to me, would neither allow the petitioners to lead a princely and luxury life nor also the Opp. Party to any vagrancy. Hence ordered;

ORDER

The petition is allowed ex-parte in favour of the petitioners. The Opp. Party is directed to pay a monthly maintenance of Rs. 6,000/- to the petitioners from the date of filing of application i.e. on 20.09.2013. 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 petitioners are at liberty to levy execution through due process of law.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 25th day of July, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Mita Majhi

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.