

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

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

Criminal Proceeding No. 190 of 2014

Smt. Manjulata Behera, aged about 22 years,  
W/o-Padeep Kumar Das,  
D/o-Manguli Behera,  
Village-Sithalo, P.S.-Niali, Dist-Cuttack.  
At present Plot No. 351, Tamando, Singh Colony,  
P.S.-Tamando, Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Pradeep Kumar Das, aged about 22 years,  
S/o- Bholo Das,  
Village-Ranipada, P.S.-Niali,  
Dist-Cuttack  
At present Rental Colony, Behera Sahi Basti,  
P.O.-Rental, P.S.-Nayapalli,  
Bhubaneswar, Dist-Khurda.

... Opp. Party

Date of Argument : 05.10.2015

Date of Judgment: 08.10.2015

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/- and litigation expenses 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 in Sobhaneswar temple on 25.04.2012. According to the petitioner her father at the time of marriage had given cash of Rs. 80,000/-, one gold chain, four numbers of gold rings to the Opp. Party along with other household articles. The marriage was a serendipity. The der-Tag started in their life when the

Opp. Party and his family members demanded additional dowry of a motor cycle and non fulfillment thereof the petitioner was subjected to torture both physically and mentally by the Opp. Party and his family members and on 10.06.2014 they have driven her out from their house. Finding no other alternative, she has taken shelter in her parental home. During her stay in her matrimonial home, the Opp. Party also assaulted her with the spell of liquor. The Opp. Party also threatened to kill her if their additional demand of dowry would not be fulfilled. They have also obtained her signatures on some blank papers. The Opp. Party also avoided conjugal relationship with her. He has also talked with someone else over his phone and on her asking she was assaulted severely. It is further averred by her that there was a settlement between the parties in Niali Police Station and as per the settlement she again went to her matrimonial home and thereafter the Opp. Party went to Bhubaneswar and did not make any contact with her. During her stay there, her father-in-law with the spell of liquor also assaulted her. It is further averred by her that due to extra marital relationship of the Opp. Party with another lady, the Opp. Party always avoided for conjugal relationship. Thereafter several attempts have been from her side to settle the dispute but all were in vain. According to the petitioner she is merely a house wife and is depending upon the mercy of her parents for her livelihood. She has further stated that since the date of leaving separately, the Opp. Party has not been maintaining her. According to the petitioner, she has no source of income whereas the Opp. Party is a driver and out of his profession, he is getting Rs. 30,000/- per month. Apart from that he is getting Rs. 6,00,000/- per annum from agricultural sources. Since the Opp. Party having sufficient means willfully neglected and refused to maintain her, who is his legally wedded wife, the petitioner is obliged to file the present petition claiming a monthly maintenance of Rs. 20,000/- and litigation expenses of Rs. 50,000/- 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 relied on one document i.e. Ext. 1 is the FIR.
6. The petitioner in her affidavit evidence has stated that she married to the Opp. Party in Sobhaneswar temple on 25.04.2012. 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 she was subjected to torture both physically and mentally by the Opp. Party and his family members due to non fulfillment of additional demand of a motor cycle and on 10.06.2014 they have driven her out from their house. Additionally the Opp. Party has got some illicit relations with another lady. Thereafter several attempts have been made from her side to settle the disputes but all were in vain. 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. The petitioner is a house wife and therefore she has no independent source of income and as such, she is 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 petitioner. It is stated categorically by the petitioner that the Opp. Party is driver and out of the said profession he is getting Rs. 30,000/- per month. Apart from that he is getting Rs. 6,00,000/- per annum from agricultural sources whereas the petitioner is unable to maintain herself. She has also

stated that the Opp. Party has not provided a single farthing to her since the date of leaving from her matrimonial 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 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 petitioner.

8. The next question for consideration 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. The Opp. Party is getting Rs. 30,000/- per month. Apart from that he is getting Rs. 6,00,000/- per annum from agriculture source. The petitioner failed to file any document regarding the agricultural income of the Opp. Party as well as the driving license of the Opp. Party. Be that as it may, the Opp. Party is an able bodied person and having potentiality to earn his livelihood. 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. 3,000/- 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 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. from 26.12.2014. 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. 4,000/- to the petitioner. Failure to carry out the order by the Opp. Party, the petitioner is at liberty to levy execution through due process of law.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

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

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Manjulata Behera

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Ext. 1 FIR

List of documents by Opp. Party:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.