

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

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

Criminal Proceeding No. 36 of 2013

Smt. Namita Das, aged about 30 years,  
W/o-Sri Santosh Mohanty,  
D/o-late Chandra Sekhar Das,  
Resident at-Jajapurua Lane, Balisahi,  
P.S.-Puri Town, Dist-Puri,  
At present:-At/P.O.-Kudiari, P.S.-Jatni, Dist-Khurda.

... Petitioner

... Versus...

Sri Santosh Mohanty, aged about 35 years,  
S/o-Late Lokanath Mohanty,  
At-Jajapurua Lane, Balisahi,  
P.S.-Puri Town, Dist-Puri.

... Opp. Party

Date of Argument : 05.11.2015

Date of Judgment: 16.11.2015

J U D G M E N T

1. The petitioner-wife has filed a petition U/s. 125 of the Code of Criminal Procedure (in short, Cr.P.C.) claiming monthly maintenance of Rs. 10,000/- for self and litigation expenses of Rs. 5,000/- 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 on 06.06.2010. 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. 30,000/-, refrigerator, washing machine and colour T.V. and when the petitioner showed her inability to fulfill the same she was subjected to torture both physically and mentally. It is further averred by her that when she informed the said demand of the Opp. Party and his family members over mobile phone to her parents, they snatched out the phone from her and

threatened to kill by pressing her neck. They have also not allowed to make any contact with her family members. In the month of October, 2011 after getting information from her through her relatives, her elder brother and brother-in-law came to her matrimonial house and took her with the consent of the Opp. Party and his family members to her parental home of the petitioner for a change of her mind. While leaving her matrimonial house, the Opp. Party and his family members threatened if she will not bring their additional demand of dowry then she would face dire consequence. Since then she has been residing in her parental home. Thereafter several attempts have been made from her side to settle the dispute but all were in vain due to willful refusal of the Opp. Party and his family members. According to the petitioner, she is merely a house wife and is depending upon the mercy of her father for her livelihood who is unable to maintain her. According to the petitioner, she has no source of income whereas the Opp. Party is having stationary shop at Sea Beach, Puri from which he is getting Rs. 25,000/- per month besides, he is getting commission for booking lodge for tourists. Apart from that he has landed property of Rs. 50,00,000/- in Puri Town from which he is getting Rs. 5,000/- per month. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain the petitioner, who is his legally wedded wife, she is obliged to file the present petition claiming a monthly maintenance of Rs. 10,000/- for self and litigation expenses of Rs. 5,000/- 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 but did not chose to file any document on her behalf.

6. The petitioner in her affidavit evidence has stated that she married to the Opp. Party on 06.06.2010. 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 her non fulfillment of their additional demanded of dowry. It is further stated by the petitioner that the Opp. Party and his family members have also not allowed to make any contact with her family members. In the month of October, 2011 after getting information from her through her relatives, her elder brother and brother-in-law came to her matrimonial house and with the consent of the Opp. Party and his family members took her to her parental home. While leaving her matrimonial house, the Opp. Party and his family members threatened if she will not brought their additional demand of dowry then she would face dire consequence. It is further averred by her that several attempts have been made from her side to settle the dispute between them but all were in vain due to willful refusal of the Opp. Party and his family members. 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 having stationary shop at Sea Beach, Puri from which he is getting Rs. 25,000/- per month besides, he is getting commission for booking lodge for tourists. Apart from that he has landed property of Rs. 50,00,000/- in Puri Town from which he is getting Rs. 5,000/- per month. The Opp. Party has not provided any single farthing to the petitioner from the date of her separate living from the Opp. Party. 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 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. The Opp. Party has a stationary shop at Sea Beach, Puri from which he is getting Rs. 25,000/- per month besides, he is getting commission from booking lodge for tourists. Apart from that he has landed property of Rs. 50,00,000/- in Puri Town from which he is getting Rs. 5,000/- per month.. The petitioner has failed to file any document regarding above stated income of the Opp. Party as well as the ancestral property of the Opp. Party. Be that as it may, the Opp. Party is an able bodied person and potentiality to earn his livelihood and hails from an affluent family. Considering the present day of cost of living and other attendant circumstances, I feel in the ends of justice and equity, a sum of Rs. 6,000/- to the petitioner be allowed as monthly maintenance. Hence, 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.6,000/- to the petitioner from the date of filing of application i.e. from 05.03.2013. 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 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 16<sup>th</sup> day of November, 2015.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Namita Das

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

JUDGE, FAMILY COURT,  
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