

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

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

Criminal Proceeding No. 51 of 2014

Smt. Sujata Sahoo, aged about 32 years,
W/o-Ashis Kumar Narendra
At-Chhatabar, P.O.-Dandichhatabar,
P.S.-Chandaka, Dist-Khurda.

... Petitioner

... Versus...

Sri Ashis Kumar Narendra, aged about 45 years,
S/o-Basanta Kumar Narendra,
At-Nuapada, P.O.-Nirakarpur, P.S.-Jankia, Dist-Khurda.

... Opp. Party

Date of Argument : 25.02.2016

Date of Judgment : 02.03.2016

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. 7,000/- and litigation expenses of Rs. 10,000/- along with compensation amount of Rs. 6,00,000/- 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 registered before the Marriage Officer, Khurda at Bhubaneswar on 07.04.2010 vide marriage certificate Ext. 1 and after marriage both of them resided together in a rented house at Mendhasala where she was running a Beauty Parlour. It is alleged by her that while residing there, her father received a notice from the court mentioning therein one Smt. Geeta Narendra has filed a suit claiming herself as the wife of the Opp. Party from where she gathered the knowledge that the Opp. Party is a married person and by suppressing his earlier marriage, he

married to her. It is alleged by the petitioner that the Opp. Party had taken Rs. 4,00,000/- from her to develop his business. According to the petitioner the Opp. Party in connivance with his first wife has filed the Civil Proceeding before Civil Judge, (Sr. Division), Puri in order to harass her and since the date of filing of the aforesaid proceeding, the Opp. Party stopped coming to their rented house. According to the petitioner due to such act of the Opp. Party, she suffered mental agony and stopped going to her shop for which she has lost her earnings. According to the petitioner, she has no source of income whereas the Opp. Party is running a medicine shop at Nirakarpur and earns Rs. 40,000/- per month besides, he has also other sources of income from movable and immovable properties. 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.

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, one Prasanta Kumar Singh as P.W.2 and relied on three documents. They are:- Ext. 1 is the Marriage Certificate, Ext. 2 is the certified copy of the petition in C.S. No. 293/2010, Ext. 3 is the certified copy of the order in C.P. No. 39 of 2012 and Ext. 4 is the written statement of the petitioner in C.S. No. 293 of 2010.

6. The petitioner in her affidavit evidence has stated that her marriage

with the Opp. Party was registered before the Marriage Officer, Khurda at Bhubaneswar on 07.04.2010 vide marriage certificate Ext. 1. The petitioner further stated that the Opp. Party married her concealing the fact of his earlier marriage to her. She has also stated that she is a house wife and has no independent income. She has also stated that the Opp. Party has deserted her and now staying with his first wife. She proved the earlier marriage of the Opp. Party with Geeta Narendra vide Ext.2. In view of case law *Badshah Vrs. Urmila Badshah Godse and another reported in (2014) 1 Supreme Court Cases (Civ) 51, (2014 1 Supreme Court Cases 188*. When the Opp. Party married the petitioner vide Ext. 1 concealing his earlier marriage with Geeta Narendra, the petitioner is entitled to claim maintenance from the Opp. Party. The petitioner has also proved that the Opp. Party is residing with his first wife by deserting her in a destitute condition. Therefore, it can safely be said that the petitioner has not left the company of the Opp. Party voluntarily. It is the Opp. Party who is responsible for petitioner's living separately apart from him.

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 running a medicine shop at Nirakarpur and earns Rs. 40,000/- per month besides, he has also other sources of income from movable and immovable properties. She has also stated that the Opp. Party has not provided a single farthing to her. 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 is running a medicine shop at Nirakarpur and earns Rs. 40,000/- per month besides, he has also other sources of income from movable and immovable properties. 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. 5,000/- 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. 5,000/- to the petitioner from the date of filing of application i.e. from 27.05.2014. 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 1st 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 2nd day of March, 2016.

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Witnesses examined for the petitioner:

P.W.1 Smt. Sujata Sahoo
P.W. 2 Sri Prasanta Kumar Singh

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Ext. 1 Marriage Certificate
Ext. 2 Certified copy of the petition in C.S. No. 293/2010
Ext. 3 Certified copy of the order in C.P. No. 39 of 2012
Ext. 4 Written statement of the petitioner in C.S. No. 293/2010

List of documents by Opp. Party:

Nil

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