

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

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

Criminal Proceeding No. 81 of 2014

1. Smt. Mani Majumdar, aged about 25 years,  
W/o-Dharmabir Majumdar,  
D/o-Dukhisyam Majhi.
2. Riya Majumdar, aged about 3 years,  
D/o-Dharmabir Majumdar,  
Both are residing at Post Office Fishery Basti,  
(Pana Baraj Basti) Near Manorama Press,  
Laxmisagar, P.O./P.S-Budheswari, Bhubaneswar- 751006,  
Dist-Khurda.  
(Petitioner No.2 being the minor represented through her mother  
guardian petitioner No.1.

... Petitioners

... Versus...

Dharmabir Majumdar, aged about 26 years,  
S/o-Anil Kumar Majumdar,  
At-Post Office Fishery Basti,  
(Pana Baraj Basti), Near Manorama Press,  
P.O./P.S.-Laxmisagar, Bhubaneswar-751006,  
Dist-Khurda.

... Opp. Party

Date of Argument : 16.01.2016

Date of Judgment : 22.01.2016

J U D G M E N T

1. The petitioner No.1 has filed a petition U/s. 125 of the Code of Criminal Procedure (in short, Cr.P.C.) claiming monthly maintenance of Rs. 5,000/- for self and Rs. 3,000/- for petitioner No.2 from the Opp. Party.

2. The facts of the case of the petitioner are as follows:-

The marriage of the petitioner No.1 with the Opp. Party was solemnized according to Hindu rites and Customs on 25.12.2007 and out of their wedlock

one female child namely Riya Majumdar, petitioner No.2 was born. The marriage was a serendipity. The der-Tag started in their life on 14.06.2014 when the Opp. Party and his family members demanded additional demand of dowry of Rs. 50,000/- and when she showed her inability to fulfill the same she was subjected to torture both physically and mentally and driven her along with petitioner No.2 out from their house and since then she has been residing in her parental home. Several attempts have been made from her side to settle the dispute but all were in vain. It is further averred by her that since 14.06.2014 the Opp. Party has not providing any farthing to them for their maintenance. According to the petitioner No.1, she has no source of income whereas the Opp. Party is doing Gupchup business and is earning Rs. 20,000/- per month having no dependency. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain them, the petitioner No.1 is obliged to file the present petition claiming a monthly maintenance of Rs. 5,000/-for self and Rs. 3,000/- for petitioner No.2 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 No.1 is the legally married wife and petitioner No.2 is the legitimate child of the Opp. Party and the petitioner No.1 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 No.1 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 25.12.2007 and out of their wedlock one female child namely Riya Majumdar, petitioner No.2

was born. Her aforesaid statement has not been challenged. Thus, it can safely be concluded that the petitioner No.1 is the legally wedded wife of the Opp. Party and petitioner No.2 is their legitimate daughter. She has also stated that on 14.06.2014 the Opp. Party and his family members demanded additional demand of dowry of Rs. 50,000/- and when the petitioner showed her inability to fulfill the same she was subjected to torture both physically and mentally and driven her along with petitioner No.2 from their house. Therefore, it can safely be said that the petitioner No.1 has not left the company of the Opp. Party voluntarily. It is the Opp. Party who is responsible for petitioner No.1's living separately apart from the Opp. Party. The petitioner No.1 is a house wife and therefore, she has no independent source of income and as such, unable to maintain herself as well as petitioner No.2.

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 No.1 that the Opp. Party is doing Gupchup business and is earning Rs. 20,000/- per month whereas the petitioner No.1 is unable to maintain herself as well as the petitioner No.2. She has also stated that the Opp. Party has not provided a single farthing to her 14.06.2014. 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 have no sufficient means to support themselves. Law prevents vagrancy and destitution of married woman and child. 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. P.W. 1 has stated that she is a house wife and she has no independent source of income. The Opp. Party is doing Gupchup business and is earning Rs. 20,000/- 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. 2,000/- to the petitioner No.1 and Rs.1,000/- to the petitioner No.2 be allowed as monthly maintenance. Hence, ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioners. The Opp. Party is directed to pay a monthly maintenance of Rs. 2,000/- to the petitioner No.1 and Rs. 1,000/- to the petitioner No.2 from the date of filing of application i.e. from 06.08.2014. 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. 3,000/- to the petitioner No.1. 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 22<sup>nd</sup> day of January, 2016.

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Witnesses examined for the petitioner:

P.W.1            Smt. Mani Majumdar

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

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