

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

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

Criminal Proceeding No. 90 of 2013

1. Italirani Pal, aged about 37 years,
W/o-Sagar Ranjan Pal,
C/o-Bipini Bihari Das,
2. Kumari Chanchal Pal, aged about 10 years,
D/o-Sagar Ranjan Pal,
Being the minor represented through petitioner No.1
Both are resident of Qrs. No. L-416, Baramunda, Housing Board,
Colony, Baramunda, Dist-Khurda.

... Petitioners

... Versus...

Sri Sagar Ranjan Pal,
S/o- Late Anil Kumar Pal,
At present working as Group-D in the office of the Registrar,
Co-operative Societies, Bhubaneswar,
Heads of Building, Bhubaneswar, Dist-Khurda.

... Opp. Party

Date of Argument : 03.10.2015

Date of Judgment: 05.10.2015

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. 10,000/- for self and for petitioner No.2 and Rs. 2,000/- for educational expenses of the petitioner No.2. 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 Hotel RITZ, Baramunda, Bhubaneswar on 18.11.2000 and out of their wedlock one female child namely Chanchal Pal was born. The marriage was a

serendipity. The der-Tag started in their life after birth of the petitioner No.2 when the Opp. Party and his family members demanded additional dowry of Rs. 5,00,000/- and non fulfillment thereof the petitioner No.1 was subjected to torture both physically and mentally and when the torture became unbearable she was forced to leave the quarters of the Opp. Party along with petitioner No.2 on 20.11.2005 and taken shelter in her parental home. Thereafter several attempts have been from her side to resolve the controversy between them but all were in vain due to willful refusal of the Opp. Party and his family members. During such attempts by her family members, the Opp. Party and his family members demanded their additional demand of Rs. 5,00,000/- and threatened to give marry the Opp. Party else where with more amount of dowry. It is averred by the petitioner that lastly in the month of February, 2012 she went to the house of the Opp. Party in order to provide them some maintenance but the Opp. Party refused to pay the same. In the said visit she found another lady in that quarters. Thereafter she reported the mater to the Mahila Police Station and Women Commission but there is no result. According to the petitioner No.1 she is merely a house wife and is depending upon the mercy of her father for their livelihood who is a retired Govt. servant who is unable to maintain them. She has further stated that since February, 2012, the Opp. Party has not been maintaining them. According to the petitioner No.1, she has no source of income whereas the Opp. Party is working as Group-D employee in the office of Registrar, Co-operative Societies and is getting Rs. 20,000/- per month besides, he is getting Rs. 10,000/- per month from his ancestral property. Since the Opp. Party having sufficient means will-fully neglected and refused to maintain them, who is his legally wedded wife and legitimate child, the petitioner No.1 is obliged to file the present petition claiming a monthly maintenance of Rs. 10,000/- for self and for petitioner No.2 and Rs. 2,000/- towards the educational of the 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 and relied on three documents. They are Ext. 1 is the proceeding of Mahila Commission, Ext. 2 is the order of the Mahila Commission dated 23.07.2013 and Ext. 3 is the deposition of Saragar Rajan Pal.
6. The petitioner No.1 in her affidavit evidence has stated that she married to the Opp. Party in Hotel RITZ, Baramunda, Bhubaneswar on 18.11.2000 and out of their wedlock one female child namely Chanchal Pal 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 out of their wedlock one female child namely, Chanchal Pal petitioner No.2 was born. 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 dowry of Rs. 5,00,000/- and when the torture became unbearable she was forced to leave her matrimonial home on 22.11.2005. Additionally in the month of February, 2012 she went to the house of the Opp. Party in order to provide them some maintenance but the Opp. Party refused to pay the same. In the said visit she found another lady in that quarters. 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 No.1 has not left the company of the Opp. Party voluntarily. It is the Opp. Party and his family members who are 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 working as Group-D employee in the office of Registrar, Co-operative Societies and is getting Rs. 20,000/- per month besides, he is getting Rs. 10,000/- per month from his ancestral property 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 since February, 2012. 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 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 working under Group-D employee in the office of Registrar, Co-operative Societies and is getting Rs. 20,000/- per month besides, he is getting Rs. 10,000/- per month from his ancestral property. The salary certificate which is available on record, though not exhibited reveals that the gross salary of the Opp. Party is Rs. 22,635/- per month. But the petitioner has failed to file any document regarding the ancestral property of the Opp. Party. Be that as it may, the Opp. Party has sufficient means. 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. 4,000/- to the petitioner No.1 and Rs. 3,000/- to the petitioner No.2 which includes her educational expenses 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. 4,000/- to the petitioner No.1 and Rs. 3,000/- to the petitioner No.2 which includes her educational expenses from the date of filing of application i.e. from 27.05.2013. 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 1st week of the succeeding month. Besides that the Opp. Party is directed to pay litigation expenses of Rs. 3,000/- to the petitioners. 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 5th day of October, 2015.

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Witnesses examined for the petitioner:

P.W.1 Smt. Italirani Pal

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Ext. 1 Proceeding of the Mahila Commission

Ext. 2 Order dated 23.07.2013 of Mahila Commission

Ext. 3 Deposition of Sagar Ranjan Pal.

List of documents by Opp. Party:

Nil

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