

**COURT OF THE SUBDIVISIONAL JUDICIAL MAGISTRATE
BHUBANESWAR**

Present:

**Sri Deepak Ranjan Sahoo, LL.M.,
S.D.J.M., BHUBANESWAR**

CrI. M.C. No. 81/12.

Smt. Mamata Rout

Age about 28 years

W/o. Santosh Kumar Rout,

D/o. Akrura Biswal

At- Biswal Sahi, Kazipur,

P.O. Pala Sahi, P.S. Nimapara

Dist. - Puri.

..... **Aggrieved person**

Vrs.

1. Manguli Rout, aged about 56 years,
S/o. Late Mochi Rout,
2. Pratima Rout, aged about 40 years,
W/o Manguli Rout.
3. Sipra Rout, aged about 25 years,
D/o Manguli Rout.
4. Santosh Kumar Rout, aged about 31 years,
S/o Manguli Rout, All are of At- Plot No.b-5/17,
Indira Housing Colony, Nuagaon, Sisuplagarh,
P.S. Lingaraj, Bhubaneswar-2, Dist- Khurda.

Respondents

Date of conclusion of Argument : 20.02.2014

Date of Judgment : 04 .03.2014

For the aggrieved person: Sri R.K Paltsingh and other asocites

For the Respondents: Sri P.K Das and other Associates

UNDER SECTION 12 OF THE
PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005
J U D G M E N T

The present case has been filed U/s 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the 'Act') for granting of reliefs U/Ss. 18, 19 and 20 of the Act.

2. The case of the aggrieved persons in brief is that:

She had got married to Sri Santosh Kumar Rout on 10.05.2009 as per Hindu rites and rituals and as per demand of her husband she gave Rs. 1,51,000/- (Rupees one lakh fifty one thousand) along with one Hero Honda Motror Cycle, gold and silver ornaments, utensils and other house hold articles. After her marriage she continued her happy marital life till six months and then she became pregnant and felt ill. Then the respondents further demanded Rs.50, 000/- from the father of the aggrieved person but due to poor financial condition her father could not fulfill their demand. In such circumstances the respondents started ill treating the aggrieved person, despite of the fact that she is pregnant. On 30.06.2010 the aggrieved person gave birth a male child and returned to the house of her husband but she was further subjected to mental and physical harassment by the respondents and was assaulted mercilessly. The aggrieved person also intimated such fact at Mahila Police Station and due to intervention of the village gentle men, the matter was settled and the respondents took back the aggrieved person to their house but subsequently she was subjected to mental and

physical harassment. On 14.02.2012 the husband of the aggrieved person left her at rented house along with her child and went away. For that reason finding no other way out the aggrieved person called her father and brother and went to her house and since then she is residing there helplessly. Her father-in-law is working in Secretariat and earning Rs. 25,000/- and her husband is earning Rs. 5,000/- per month but they are not taking care of the aggrieved person. In such circumstances, the petitioner has prayed for Rs.8, 000/- per month from her husband for her maintenance.

The husband of the aggrieved person Santosh kumar Rout, who is one respondent in this case in his written objection has submitted that the allegation made by the aggrieved person against him is completely false, fabricated and after thought and the aggrieved person is rowdy, selfish and unsocial lady who never cares for others and her behavior towards others is very rough and violent. He has further submitted that it is very difficult to manage the aggrieved person with an income of Rs. 5,000/- per month in a separate mess. He has further submitted that he is working at Capital Hospital on contractual basis and his job is lost since 16.02.12 when the aggrieved person lodged F.I.R. against him. As per the settlement made at Mahila Police on 25.08.12, the aggrieved person left matrimonial home and stayed in rented house and the present respondent tried his level best to fulfill the demand of the aggrieved person. He has further alleged that in his absence several persons visit to his rented house and his wife talks uninterrupted over Mobile phone for long time. It is the further submission of the respondent that the petitioner went to her father's house and did not return to his rented house as per her sweet-will and he has never subjected her to any cruelty and has further submitted that all the allegations made by his wife are false .

The father in-law, mother-in-law and sister-in-law in their separate written objection also denied all the allegations made by the

aggrieved person against them and have submitted the facts regarding the attitude and behavior of the aggrieved person as has been submitted by the husband of the aggrieved person and they have submitted that a proper enquiry will meet the ends of justice and the aggrieved person has no right to seek any maintenance from them.

4. The points for determination which arise in this case are:-

- 1) *Whether the parties to the case have any domestic relationship or not?*
- 2) *Whether there is any domestic violence committed against the aggrieved person or not?*
- 3) *Whether the applicant is entitled to the reliefs prayed for by her and any other reliefs under the Act ?*

5. In order to establish her case the aggrieved person Mamata Rout has examined herself as P.W.1 and has examined her father Akrura Biswal as P.W. 2. On the other hand the respondent Santosh Kumar Rout, husband of the aggrieved person has examined himself as D.W.1 and the respondent Manguli Rout has examined himself as D.W.1

6. Before going into the merits of the case, let us discuss who is an 'aggrieved person.' ,and what is the meaning of "domestic relationship" and what constitutes "domestic violence".

According to Section 2(a) of the Act,

'aggrieved person' means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.

Section 2(f) of the Act says

'domestic relationship' means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related

by consanguinity, marriage or through a relationship in the nature of marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.”

As per Section 3 of the Act,

“any act, omission or commission or conduct of the respondent causing physical abuses, sexual abuses, verbal, emotional, economic abuses shall constitute domestic violence.’

So far as the domestic relationship of the aggrieved person with the respondents is concerned, it is to be proved by the aggrieved person that she is domestically related to the respondents. It is admitted fact that the aggrieved person is wife of respondent Santosh kumar Rout and the daughter-in-law of respondent Manguli Rout and Pratima Rout and sister-in-law of Sipra Rout. So, there is no need to further discuss about the domestic relationship exists in between the parties.

7. It is the allegation of the aggrieved person that she was subjected to mental and physical harassment at the house of her in-laws who are respondents in this case. Even during her pregnancy she was not provided with proper food and medicines. All though the respondents, specifically the husband of the aggrieved person, has denied such allegation in his written objection, such fact has not been suggested to the aggrieved person during her examination as witness before this Court. Not a single question has been put to the aggrieved person relating to such aspects. So the evidence on record suggests that prior to such case the aggrieved person had lodged F.I.R. against her husband and in-laws at Mahila Police Station and accordingly as

per the amicable settlement arrived at Mahila Police Station both husband and wife resided at rented house. During cross-examination, the husband of the aggrieved person answered to a question by learned counsel for the aggrieved person by stating that he was not present in the house when the aggrieved person allegedly left house and went away. This fact gets corroborated with the allegation made by the aggrieved person that her husband left her in a rented house and went away and did not return for which she was forced to call her father and brother and she was forced to go to her father's house and to reside there.

8. The ambit of domestic violence is very vast and domestic violence refers to any act, omission, commission, or conduct including causing physical abuse, sexual abuse and verbal abuse and emotional abuse or economic abuse to the aggrieved person. The facts and circumstances especially facts discussed above clearly shows that the respondent Santosh Ku. Rout has subjected the aggrieved person to mental and physical harassment and has caused domestic violence to her.

The report of the protection officer and the evidence on record discloses that there was domestic violence caused to the aggrieved person and admittedly the aggrieved person is not personally residing with the respondents, she along with her child are residing at her father's house . It is also not disputed that at present the husband of the aggrieved person is earning Rs. 5,000/- per month. Hence taking consideration of the monthly income of the husband of the aggrieved person and taking consideration of the fact that the present aggrieved person is maintaining her child, this Court feels its proper to award monetary relief to the aggrieved person to meet the expenses incurred towards maintenance of the

aggrieved person and her child. Hence this order

ORDER

The Misc. case be and same is on contest against respondents but without cost.

- 1) The respondents are restrained from committing any act of domestic violence or abating in the commission of acts of domestic violence against the aggrieved person u/s 18 , (a),(b),(d),(e) and (f) of the Act.
- 1) The respondent No. 4. Santosh Kumar Rout is directed to pay monetary relief of Rs. 3,000/- per month to the aggrieved person from the date of filing of this case before this Court towards her expenses and towards expenses of her child u/s.20 of protection of women from domestic violence Act, 2005 and he is further directed to provide same level of alternative accommodation for the aggrieved person as enjoyed by her in the shared house hold and for that purpose the respondent No.4 is directed to pay sum or Rs.1,000/- per month from the date of filing of this application towards rental charge in the accommodation of the aggrieved person. The arrear money shall be paid to the aggrieved person by the respondent No.4 in four equal installment within four months from the passing of such order or else the aggrieved person may realize the arrear amount with due procedure of law. Issue free copy of this order to all the parties concerned, protection officer, the IIC, Lingarj P.S. for implementation of the order.

S.D.J.M, Bhubaneswar

Order pronounced in the Open Court on this the 4th day of March, 2014 being dictated & corrected by me under my hand and seal of the Court.

S.D.J.M, Bhubaneswar

Witnessed examined on behalf of the aggrieved person

P.W.1 : Mamata Rout

P.W. 2: Akrura Biswal

Witnessed examined on behalf of the respondent

OPW.1: Santosh Kumar Rout.

OPW.2: Manguli Rout.

Extib list on the behalf of the aggrieved person

. Nil

List of Exts. On behalf of the respondents.

Nil.

S.D.J.M, Bhubaneswar

