

**HIGH COURT OF TRIPURA
AGARTALA**

FA No.04 of 2022

Shri Biswajit Debnath,

Son of Shri Bhabatosh Debnath, aged about 40 years, resident of Gandhigram,
P.O. & P.S. Airport, District West Tripura.

..... Appellant(s)

V E R S U S

Smti. Paramita Debnath,

Wife of Shri Biswajit Debnath, daughter of Shri Haripada Debnath, resident of
Durjaynagar, P.S. Airport, District West Tripura.

..... Respondent(s)

For Appellant(s)	:	Mr. S. Lodh, Advocate.
For Respondent(s)	:	Mr. H.K. Bhowmik, Advocate.
Date of hearing & delivery of judgment	:	16th May, 2024.
Whether fit for reporting	:	NO

**HON'BLE MR. JUSTICE ARINDAM LODH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

JUDGMENT & ORDER (ORAL)

Heard Mr. S. Lodh, learned counsel appearing for the appellant-
husband. Also heard Mr. H.K. Bhowmik, learned counsel appearing for the
respondent-wife.

[2] This is an appeal under Section 19(1) of the Family Court's Act,
1984, against the judgment & decree dated 16.03.2022 passed by the learned
Judge, Family Court, Agartala, West Tripura in T.S. (Divorce) 357 of 2015
whereby learned Judge, Family Court dismissed the petition filed by the
petitioner-husband against the respondent.

[3] It is the case of the appellant-husband that the marriage between the appellant and respondent was solemnized on 04.03.2009 as per Hindu Rites and customs. As alleged by the appellant, on the day of marriage when the respondent was brought to “Kunja”, it was noticed by the friends and relatives of the appellant that the bride did not wear the “crown” (Mukut) and garland worn by the respondent was torn and she behaved abnormally and on being enquired, the relatives of the respondent told that she wept a lot for her family members as she had to leave her matrimonial home after marriage. Even the respondent initially did not agree to exchange garland with the appellant, and at last, she exchanged garlands with the help of others. After solemnization of marriage, the appellant and the respondent were shifted to a room where they were to perform certain rituals and there too the appellant noticed the behavior of the respondent to be abnormal. On 05.03.2009, the appellant along with the respondent returned to his house. When the respondent was taken to the appellant’s room she was again arrested by her abnormal behavior and she tried to assault the appellant and suddenly ran out. Appellant’s parents and relatives tried to convince the respondent but their efforts turned futile. Thereafter, the negotiator of the marriage and other guardians from both sides were informed to which the father, brother and some other guardians of the respondent came to the house of the appellant and talked with the respondent in a separate room closing the door. On 06.03.2019, in the dawn, the appellant again noticed her abnormal behavior. On the same day, on being informed about the incident, the father and brother of the respondent took her to Dr. Ashim Chowdhury in the evening but the appellant was not allowed to enter where the doctor examined

her and only on intervention by the appellant, he was allowed to enter the doctor's chamber. From the conversation between the appellant and his parents and father and brother of the respondent with the doctor, the appellant and his parents were convinced that the respondent is acquainted with Dr. Ashim Chowdhury prior to this. On examination of the respondent, the doctor gave her medicine to which she was feeling drowsy and unable to speak anything. The respondent was taken back by her father, brother and guardian in their house at Durjoynagar and consequently the "boubhat" ceremony was cancelled. On 09.03.2009 and 21.03.2009 respectively, the respondent was taken by her father, brother and other relatives for treatment at Modern Psychiatric Hospital, Narsingarh, Agartala. It is further alleged by the appellant that the respondent was periodically checked up by Psychiatrist and there are several medical documents. The respondent was thereafter treated by some other doctors w.e.f. 28.11.2010 to 17.01.2011. She was again treated at Narsingarh Psychiatric Hospital on 25.01.2011. On 06.03.2009, the respondent was again arrested by her abnormal behavior and she was taken to the chamber of Dr. Ashim Chowdhury in the evening of that day and this incident was informed to the Airport P.S. on 07.03.2009. A written complaint was also submitted to the Tripura Women Commission on 09.03.2009 by the mother of the appellant and thereafter, a Panchayat meeting was held in presence of Pradhan of both Nabagram and Gandhigram Panchayat in the house of the respondent. After discussion made by both the Gram Panchayat Pradhans on 12.04.2009, the respondent was taken back to the appellant's house again. On 16.04.2009, the respondent was again taken back by her father and brother to their house due to

her abnormal behaviour. The respondent did not allow the appellant to touch her body and also threatened her that she would commit suicide. The matter was informed to the father and brother of the appellant. On 20.04.2009, mother of the appellant informed the matter to the Tripura Women Commission and they advised the parties to attend doctor for treatment of the respondent. Several meetings were conducted on different dates in the house of learned Advocate Binoy Bhusan Saha and in those meetings one Sri Sadhan Basu, Swapan Deb, Uttam Saha, Rupak Deb, Haridas Bhowmik and Prabir Bhowmik were present along with guardians of both the parties and as per decision of the meetings, the respondent was taken back to the house of the appellant and during that period the respondent was treated by different doctors including Psychiatrist. On 26.01.2011, the respondent was taken back by her brother and father and she had again suffered with virulent behavior when she was taken to Dr. Ashim Chowdhury and while returning to her parental house she jumped from the bike of her brother and thereafter, she was taken to IGM Hospital wherefrom she was referred to AGMC & GBP Hospital. From 20.11.2010 to 26.01.2011, the appellant was away from his house at Chattisgarh to discharge his duties. On 31.01.2011, the father of the respondent took her to her matrimonial home and on 01.02.2011, the respondent left her matrimonial home without informing anybody and finding no other alternative, the appellant informed the matter to Airport P.S. on 11.02.2011. On 13.03.2013, the respondent came to her matrimonial home but on the same day, father and brother of the respondent took her back. On 17.07.2013, the brother of the respondent dropped her nearby the house of the appellant and she went to the

house of the appellant and again left his house. On 04.01.2015, meeting was held in the Bar Library Hall, Tripura Bar Association in presence of learned Advocate Haribal Debnath and Nirmal Ch. Paul and guardians of both sides but no settlement could be arrived at. The appellant then took initiative and took a house on rent at Ushabazar and from 09.06.2015 they started living together but again the respondent was arrested by her abnormal mental behavior and started shouting and assaulting the appellant and threatened that she will commit suicide. On 28.06.2015, the appellant tried to convince the respondent to consummate their marriage but she threatened her not to touch her body and started hue and cry and ultimately the owner of the house asked them to leave the house. Finding no other alternative, the appellant informed the matter to the father and brother of the respondent and they took the respondent along with them. On 13.11.2010, the respondent filed a case against the appellant and his family members under Section 498(A) of IPC and on 21.03.2011, the respondent filed another case to take back her Streedhan. It is also stated that the respondent is a Type II schizophrenic patient and there is no chance of their reunion and therefore, the appellant prayed for dissolution of their marriage by a decree of divorce.

[4] The Family Court had issued notice upon the respondent and on receipt of the said notice, the respondent appeared and filed her written statement.

[5] On receiving notice, the respondent appeared before the Family Court, Agartala and filed her written statement. It is stated in her written

statement that the divorce petition that has been filed by the appellant on the ground of cruelty, desertion and mental disorder is fallacious. It is stated that prior to solemnization of marriage, the appellant and the respondent met with each other and the appellant also visited the house of the respondent and at the time of their marriage, the father of the respondent gave Rs.90,000/- cash to the appellant along with other articles as per demand of the appellant. The respondent alleged that after the day of solemnization of marriage on 04.03.2009, the respondent went to her matrimonial home and on 05.03.2009 dispute started. She stated that on that night, the appellant entered the room in intoxicated condition and he had affairs with another person to which the respondent protested and during that night she was mentally tortured. On the subsequent day, the family members of the appellant sent message to the parental home of the respondent for providing treatment to the respondent who is mentally not fit and should be given medical aid by a Psychiatrist. Having no other alternative and considering the fact that she was under mental pressure and depression, the father of the respondent took her to Dr. Ashim Chowdhury. Owing to the situation, the respondent was compelled to return to her parental house as the in-laws of the respondent refused to take her to her matrimonial home. It is also alleged by the respondent that as a conspiracy, the appellant and his in-laws cancelled the "boubhat" ceremony. It is further asserted that on 05.03.2019, the appellant and his family members assaulted the respondent which caused fear and panic upon the respondent. As the respondent was not taken back to her matrimonial home, a meeting was convened in presence of family members of both sides in the residence of the respondent where it was

decided that she would be taken back to her matrimonial home for resumption of her conjugal life. She was able to stay there for only four days and during that period a new demand of Rs.50,000/- was made to the father and brother of the respondent and on their arrival, the appellant and his family members behaved roughly with them. It is further stated that the appellant without informing the respondent had left for his place of service and did not even enquired about her health condition. On his return from service on 12.04.2009, the appellant once again started to torture upon the respondent both physically and mentally due to which the respondent fell ill. The father of the respondent was, thereafter, called and on his arrival with other family members, the appellant and his family members started abusing them stating that respondent is mad. It is further stated in the written statement that the complaint lodged by the mother of the appellant is based with false allegations. The respondent appeared in the counseling where the appellant stated that he was ready to restore his conjugal life if the medical board gives report which is evident from the counseling report dated 26.07.2010 in which it was opined that the respondent has no symptom of psychopathology and the said report was narrated to the appellant on 11.09.2010 but inspite of that the appellant was not agreeable to live with the respondent. He even stated that he was ready to return all 'streedhans' and pay compensation to the respondent and he wants divorce and as such no settlement took place before the Tripura Women Commission. Being compelled, she filed a complaint before the learned C.J.M., Agartala against the appellant and his in-laws as they were trying to establish her as mental patient and the said complaint was forwarded to Airport for

investigation and a case was registered under Section 498(A) of IPC wherein the police filed charge sheet against the appellant and other. After recording of evidence of the respondent by the learned Magistrate, the respondent stated that the appellant and his family members proposed to restore conjugal life and on that basis she went to her matrimonial home and stayed there for two months. During that period also, the appellant again started mental and physical torture upon the respondent and the appellant left the respondent in front of her parental house and since then she is staying at her parental house and the appellant did not enquire about her. During pendency of the case, proposal came for settlement of dispute and accordingly document was prepared for filing in that case but subsequently the respondent realized that the documents were prepared for withdrawal of the case not to lead conjugal life. Thereafter, the appellant took her to a rented house at Ushabazar where they started living. The respondent there understood the motive of the appellant to take her to a rented house was just to create scenario that the respondent was mentally ill and he was practically searching for evidence to show to the public and to produce before the learned Court. Ultimately, she had to leave the rented house as the appellant remained absent from the rented house for day and night. Thereafter, the respondent made a prayer for maintenance allowance before the Family Court.

[6] On the basis of the pleadings, the Court below has framed the following issues for adjudication of the case:

I. Whether the petition is maintainable?

- II. Whether the petitioner Biswajit Debnath was treated with cruelty by his wife Smt. Paramita Debnath?*
- III. Whether the petitioner was deserted by his wife for a minimum period of 2 years prior to the filing of the petition?*
- IV. Whether the respondent wife suffers from insanity or such mental disorder that the petitioner cannot reasonably be expected to live with his wife?*
- V. Whether the petitioner is entitled to the decree, as prayed for and to what other relief/reliefs?*

[7] On appreciation of the evidence, the Family Court dismissed the suit as the appellant-husband failed to prove his case for obtaining a decree of divorce.

[8] Being aggrieved and dissatisfied with the impugned judgment, the appellant-husband has approached this Court and preferred the instant appeal and prayed for the following reliefs:

- (i) Admit the appeal;*
- (ii) Call for records;*
- (iii) Issue notice upon the respondent; and*
- (iv) After hearing the parties set aside the Judgment & Decree dated 16.03.2022 passed by the Ld. Court of the Judge, Family Court, Agartala, West Tripura (Smti. S. Choudhury), in T.S.(DIV) 357 of 15, and thereafter, pass a decree dissolving the marriage in terms of the prayer made in the plaint, and pass any order/orders as to give for fair ends of justice.*

[9] In terms of order of this Court dated 04.04.2024, both the parties are present with their respective counsel before us. On a query to the appellant, it has come to light that the appellant-husband is a constable in CRPF and his monthly salary is Rs.65,000/-.

[10] Mr. S. Lodh, learned counsel for the appellant has contended before this Court that the impugned order dated 16.03.2022 passed by the Judge

Family Court is illegal, erroneous and not tenable in the eye of the law and as such the same is liable to be set-aside. Mr. Lodh, learned counsel further submits that there is no chance for restitution of conjugal life between the couple and hence, decree of divorce may be granted in favour of the appellant-husband. Mr. Lodh, learned counsel submits that the appellant-husband is ready to pay permanent alimony of Rs.8,00,000/- to the respondent-wife.

[11] To controvert the submission of Mr. Lodh, learned counsel, Mr. H.K. Bhowmik, learned counsel for the respondent has contended that the husband has failed to make out his case and as such the judgment passed by the Family Court is unreasonable and thus not sustainable. Learned counsel appearing for the respondent-wife has submitted that she is not an earning lady and therefore, she would need Rs.12,00,000/- as permanent alimony for maintaining herself.

[12] We have considered the submissions advanced by both the learned counsel for the parties. After hearing both the parties and on perusal of the evidence on record, we are of the considered opinion that judgment and decree dated 16.03.2022 passed by the Judge, Family Court, Agartala, West Tripura is to be set aside. Accordingly, judgment dated 16.03.2022 is set aside and quashed. Considering the fact that the appellant-husband is drawing a monthly salary of Rs.65,000/-, permanent alimony is fixed at Rs.11,00,000/- (Rupees eleven lakhs) which has been agreed upon by the respondent-wife out of one-time settlement. The said amount is to be paid by the appellant-husband to respondent-wife within a period of 3(three) months from today by way of

demand draft. Accordingly, the marriage of appellant-husband and the wife-respondent is hereby dissolved. This Court also directs that the 'streedhans' which includes one chain of the husband that was gifted at the time of marriage, one finger ring and one bangle gifted to wife, furniture, sofa, TV, fridge etc must be returned by the appellant-husband to the respondent-wife at the place where she resides. The maintenance order passed by this Court earlier in a revision petition is recalled.

Registry is directed to prepare the decree of dissolution of marriage between the appellant-husband and wife-respondent.

With the aforesaid directions, the appeal stands allowed in the above terms.

Pending application(s), if any, also stands disposed of.

JUDGE

JUDGE