

HIGH COURT OF TRIPURA

A_G_A_R_T_A_L_A

Mat. App. No.09 of 2023

1. Smti. Priyanka Gan Choudhury (Sen), wife of Shri Pranab Kanti Sen, daughter of Shri Jiban Gan Choudhury, Village & P.O. Hrishyamukh, P.S. Belonia, District: South Tripura, Pin-799156.

.....Wife-respondent-appellant

-VERSUS-

1. Shri Pranab Kanti Sen, son of Shri Bimal Chandra Sen, Village & P.O. Debipur, P.S. Belonia, District: South Tripura, PIN-799155.

..... Husband-petitioner-respondent.

B_E_F_O_R_E

HON'BLE MR. JUSTICE T. AMARNATH GOUD

HON'BLE MR. JUSTICE BISWAJIT PALIT

For Appellant(s)	:	Mr. S. M. Chakraborty, Sr. Advocate. Mrs. P. Chakraborty, Advocate.
For Respondent(s)	:	Mr. P. Sahu, Advocate.
Date of hearing and delivery of judgment and order	:	19.06.2024
Whether fit for reporting	:	YES/NO

JUDGMENT & ORDER [ORAL]

[T. Amarnath Goud, JJ]

Heard Mr. S. M. Chakraborty, learned senior counsel assisted by Mrs. P. Chakraborty, learned counsel appearing for the appellant also heard Mr. P. Sahu, learned counsel appearing for the respondent.

[2] This is an appeal filed under Section-28 of the Hindu Marriage Act, 1955 against the judgment dated 16.05.2023 and decree dated 30.05.2023 passed by the learned Addl. Judge, Family Court, Agartala, West Tripura in connection with case No. T.S (Divorce) 354 of

2019 allowing the petitioner for divorce filed under Section-13(1) (i) (ia) (ib) of the Hindu Marriage Act, 1955.

[3] The facts leading to this case, in brief, are that prior to marriage, the petitioner, the respondent herein, had love affairs with the respondent-wife, the appellant herein, for a period of about one year. As per marriage proposal of the respondent-wife, the petitioner married her on 18.12.2006 at the "Temple of Goddess Kalimata," at Matai, South Tripura, famously known "Bura Kalibari", at Old Matai, by exchanging garlands. Thereafter again on 21.01.2007, socially the marriage of the petitioner and respondent was solemnized at the house of petitioner's parents at Debipur, PS-Belonia, South Tripura as per Hindu rites and Customs. It is stated that since marriage the petitioner and respondent lived together as husband and wife initially at the house of petitioner for a period of about of 3 years then at different places viz. in her parental home, Wadha in Maharastra; Belonia, South Tripura, again in the matrimonial home and presently at Quarter of Group Centre, CRPF, Shalbagan, West Tripura till date.

[4] It is stated that out of their wedlock on 15.06.2010 respondent gave birth to one daughter namely Miss Ishika Sen who is residing with the respondent in the Govt. quarter allotted to the husband-petitioner. The husband-petitioner has been bearing all the educational, medical, and all other expenditure of minor daughter as well as wife respondent till date. Here it is mentionable that the petitioner paying monthly quarter rent of Rs. 3,000/- (Three Thousand), also paying cash of Rs. 8,500/- ra. (Eight Thousand Five hundred) in the account of respondent wife towards monthly maintenance of both, also paying grocery goods shop bill and annual school Fess of Rs.19,370/ of the minor daughter. It is stated that the petitioner being Constable/GD in CRPF, he used to stay most of the time of every year in his place of posting cum battalion post/unit unless he granted leave for certain days to leave his unit. Being a Central Govt. force Department employee he is

frequently transferring from one place to other throughout the country. Initially, he was posted at J & K, then Maharashtra, then Group Centre, Agartala, then 124 Bn. CRPF, Chailengta, North Tripura, etc.

[5] Therefore, except particular period of leave days in a month/year, respondent wife used to stay signally with their minor daughter. The petitioner though had started his married life with a hope of maintaining marital relationship with the respondent forever and may pass rest of their life with full of joy and prosperity, but unfortunately since after 1½ years of marriage the respondent wife had started to show her nasty color and started misbehavior with the family members of the petitioner-husband and petitioner too on the issue of day to day household work and many more trifling issues. On being repeated request by the husband petitioner not to make quarreling and causing mental torture upon him and his parents, but she did not listen to him and used to continue her misbehavior, quarreling, mental torture with using slang languages. She also used to leave the matrimonial home very frequently without informing the petitioner husband and his parents. In this way she stayed in her matrimonial home for a period of about initial 3 (three) i.e. January, 2007 to February, 2010.

[6] During the aforesaid period of stay, the family members of petitioner and petitioner himself noticed most of the time respondent wife remains busy in talking over her mobile phone to some boys, but on being repeated request to stop talking, she became annoyed and did not bother and keep continued talking, and over that issue between the petitioner and respondent there was altercation and centering same respondent wife went to her parental home for some days. Then, the parents of the petitioner informed the matter to the parents of the respondent and brought her back to her matrimonial home. But, after some days she again went to her parent's house without informing the family members of petitioner. Thereafter, she used to start residing regularly in her parental home since March, 2010 to June, 2014, as per her own desire without the consent of

petitioner husband and his parents and only used to come in her matrimonial home when the husband petitioner come home on leave. The respondent wife even during stay in her parental house did not change her ill-behavior, leading indisciplined life too, but the petitioner considering the future of the minor daughter and his life, wife petitioner made convinced to come at Maharashtra, by taking house on rent.

[7] The husband petitioner always wants to lead happy conjugal life with wife respondent, but even at Maharashtra also she did not change her miss-behaviour, attitude, ill-treatment, towards husband petitioner and subjected the petitioner to mental cruelty. After returning from Maharashtra in November 2014, the respondent wife directly went to her parental home and stayed for 2 (two) months and then after repeated request by the petitioner she came from her parental house on condition she will not stay in her matrimonial home anymore and on her said condition petitioner being agreed take a house on rent at Belonia, South Tripura, in the month of January, 2015. She stayed Belonia in a rented house for a period of 1 year with their only daughter, and the daughter was got admitted in Nursery at Ananda Marg School, Belonia, South Tripura. Within said period whenever petitioner visited rented house she used to start quarreling with the husband petitioner by saying don't like you, you don't come, etc. However, petitioner loved her and always tried to maintain his marital tie by taking all sorts of responsibility of wife respondent and by fulfilling her all demands.

[8] Thereafter, while the husband petitioner on being transferred from Maharashtra and posted at Group Centre CRPF, Adni, Salbagan, Agartala, in the month of December-2014, then applied for quarter and got quarter in the month of April-2015 and then he brought the wife respondent with his daughter in the said quarter in the month of April, 2015, and got admitted their only daughter at Army Public School, Lichubagan, Agartala. Since then to till today the respondent wife is residing in the said quarter. During stay of aforesaid govt. quarter, after

about 6/7 months she started to talk with different boys over her mobile phone and the petitioner considering his future as well as their minor kid, he tried to make her understood but did not take any legal step. In the aforesaid way the life of the petitioner became miserable day by day and full of only mental cruelty by the respondent since one and half years of marriage and he passed his every day, every minute with a tension/apprehension that when the respondent wife will again start quarrelling with the petitioner start abusing him with slang languages and that quarrelling may use to continue for even 1/2 days non-stop and during continuance of quarrel, often she used to give threat of committing suicide.

[9] This way the life of the petitioner became hell. It is also mentionable that in the last week of the month of April, 2019, said Saikat Pal has made a false written complaint with the authority of petitioner by citing the respondent wife as witness of said Saikat Pal, and while the authority called the respondent wife, she supported said Saikat Pal and gave her statement against her husband petitioner. Therefore, every moment the petitioner apprehending that anything may be happened with him and as such in this situation it is impossible on the part of the Petitioner to live with the respondent wife anymore and to keep alive their marital relationship. Hence, the petitioner wants to get rid of this situation which is completely unbearable on the part of petitioner husband. In spite of petitioner's all effort to adjust with his wife, make her understood, neither she changed herself nor left her illicit relationship and as a result the distance between them reached in such a condition which cannot be bridgeable due to willful desertion, separation, mental and physical gap, for a period of more than 2 years since June, 2017 to till today. Accordingly, the petitioner prays before this Ld. Court to may pass a decree of divorce by dissolving their marriage.

[10] In view of above and after hearing both the parties, the learned Court below has observed as under:

“The petitioner-husband has proved the fact of cruelty and desertion against the wife-respondent. Thus, the petition filed by the petitioner, Sri Pranab Kanti Sen against the respondent, Smti. Priyanka Gan Choudhury (Sen) is allowed as per Section-13(1)(i)(ia)(ib) of the Hindu Marriage Act, 1955. Petitioner is entitled to get decree of divorce. Marriage between the petitioner and the respondent held on 21.01.2007 is now hereby dissolved from today i.e. from 17.05.2023.

[11] In view of above observation made by the learned Court below and also gone through the entire material evidence on record this Court is of the opinion that they cannot live together as they are living separately for several years and also there are serious allegations against each other. Thus, we are of the opinion that the maintenance of Rs.13,000/- per month as awarded by the Court below is a meagre amount to maintain two persons i.e. the appellant herein and her minor daughter who is a student of Class-VII. As such, after taking consent from both the parties, the amount of maintenance is increased from Rs.13,000/- to Rs.18,000/- per month as maintenance. Insofar as the allegations and counter allegations made against each other stands, set aside. However, except the maintenance amount as modified above, rest of the order of the learned Court below shall remain unaltered.

[12] In that view of the matter, the present appeal stands disposed of. As a sequel, miscellaneous application, pending if any, shall stand closed.

B. PALIT, J

T. AMARNATH GOUD, J

A.Ghosh

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