

**HIGH COURT OF TRIPURA  
AGARTALA**

**FA 4 of 2023**

**Chandan Kanti Dhar,**  
S/o- Lt. Sankar Dhar,  
R/o- Ramnagar Road No.7  
PO- Ramnagar, PS- West Agartala, West Tripura

**----- Appellant-Husband**

**Versus**

**Ratna Poddar**  
W/o- Sri Chandan Kanti Dhar,  
D/o- Late Banbehari Poddar, Vill- Subhash Nagar,  
Near Sadhu Tilla School, PO- Renters Colony,  
PS- West Agartala, District- West Tripura

**---Respondent-Wife**

|                                                |   |                                 |
|------------------------------------------------|---|---------------------------------|
| For Appellant (s)                              | : | Mr. S. Bhattacharjee, Advocate. |
| For Respondent(s)                              | : | Mr. D. Debnath, Advocate.       |
| Date of hearing and date of judgment and order | : | 25.09.2024                      |
| Whether fit for reporting                      | : | No                              |

**HON'BLE MR. JUSTICE T. AMARNATH GOUD  
HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Judgment & Order (Oral)**

**T.Amarnath Goud, J**

Heard Mr. S. Bhattacharjee, learned counsel appearing for the appellant-husband also heard Mr. D. Debnath, 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 dated 14.06.2023 passed by the Ld. Addl. Judge Family Court, Agartala, West Tripura in TS(Divorce) 392/2019

[3] The facts of the case of husband-petitioner, in brief, is that his marriage was solemnized with respondent was solemnized in on 10.03.2016 in her parental house as per Hindu rites and customs. After marriage petitioner lived together with the respondent as husband and wife in his house. After three years of marriage and conjugal life no child was born due to their wedlock. It is alleged by the petitioner that after two months of

marriage, the respondent started quarrel with her husband and complained that her husband is not good looking as he has a white spot on his lip and he is not so educated than her. The respondent also complained against her husband that she was forced to marry the petitioner by her mother, brother and elder sister. The respondent was not agreed to marry the petitioner at all. So, the respondent used to misbehave with the petitioner with slang languages regularly. Respondent also forced the petitioner to be separated from his mother and brother so that petitioner and his wife can stay alone in a rented house. But the petitioner was not agreed with her to stay separately. Due to this dissatisfaction, the respondent frequently abused her 87 years old mother-in-law, brother-in-law and her husband with slang language. Respondent also blamed and spread out false information in the local area about the petitioner that he used to torture her severely everyday.

[4] It is also pleaded by petitioner that respondent went away from his house without any information in the month of August, 2017 to her father's house and after staying there for 5 months she came back with her mother to his house. Respondent then again went to her parental house and stayed there upto January, 2018 while her mother sent respondent to her husband's house in February, 2018. Then again she came back to her father's house. In this way, the respondent went to her father's house several times upto June, 2018 demanding for separation and making quarrel several times in her husband's house. Finally respondent left her husband's house with her all gold ornaments and other valuable clothing and is permanently staying in her parent's house since 11-12-2018. But she made no contact with petitioner and also did not want to return to her husband's house. Petitioner also agreed to return her all stridhan articles willfully. Respondent also lodged a complaint to Mahila Commission, Agartala showing so may disputes against her husband and after final counseling the Mahila Commission ordered the petitioner to pay Rs.3,000/- only per month to the respondent on 17.07.2019 and the

petitioner already paid the said amount to the respondent as maintenance allowance on 20.07.2019.

[5] It is also narrated that on several occasions petitioner and his relatives went to the parental house of the respondent to take back her but respondent flatly denied to come back. The respondent even expressed that she was not willing to restore the conjugal life with the petitioner for a single moment and she did not want to live with the petitioner. Petitioner being a small businessman of electrical goods he earns monthly income of Rs.10,000/- only but respondent was not satisfied with his such income. The respondent also used to threat to cause physical torture to her old mother-in-law. Thus the cause of action for the suit arose on and from August 2017 when respondent left the house of petitioner. Hence petitioner prayed to grant decree of divorce in his favour.

[6] Upon issuance of process, respondent appeared and reconciliation process initiated but ultimately same failed. Then respondent contested the suit by filing written statement wherein she denied all the assertion of petitioner except the marriage. Respondent took the plea that after few days of marriage the husband-petitioner and his relatives started immoral comments regarding her physique and her complexion. They also uttered filthy language on the pretext of giving no cash dowry by her mother. They warned respondent that unless she could collect dowry of Rs. 2,00,000/- from her paternal house they would not accept her in their family. The wife-respondent tried to convince them inability of her poor widow mother to meet their demand. On the next day of Chaturtha Mangal respondent was mentally tortured by her husband and in-law's even she was not given sufficient food and her mother in law also forced her to take milk mixing with suspicious materials in it.

[7] Respondent digested all such torture and humiliation of husband-petitioner's house. Being driven out by the petitioner the respondent came to her paternal house and narrated everything to her mother and her brother. Being very poor it was

impossible for her mother & brother to arrange the money for payment of dowry. However, after some days staying in her paternal house, her mother took back respondent to her matrimonial house and requested her husband and others to take back her in their house. Thereafter, respondent remained in her matrimonial house. But her fate was not changed as tortures and mental abuse were again started on the respondent for dowry. Moreover, wife-respondent had noticed a new thing that, eldest brother-in-law of the husband-petitioner, who is unmarried had tried to take the sexual advantage by his gestures and postures from the wife-respondent. When the respondent had informed it to her husband, he instead of taking any step against his brother, encouraged the respondent to fulfill the wishes of his unmarried brother.

[8] Moreover, again on 07/09/2017 the respondent was driven out from her matrimonial house by the petitioner and his elder brother for taking dowry of Rs.2,00,000/- from her parental house which they required for their business purpose. After driving out from the marital home respondent took shelter to her paternal house and narrated all the tortures ushered on her by her in-laws for payment of dowry. However, the mother of the wife-respondent has pacified her and told her to adjust with her husband and her in-laws. Then in December, 2017 her mother brought the respondent to her husband's house and requested petitioner and his eldest brother and mother to accept the respondent in their family and left. But nothing was changed, as petitioner and his relatives intensified mental and physical torture on the respondent. She could not bear all such torture and abuse and ultimately on 11/12/2018 the respondent was forced to leave her husband-petitioner's house and thereafter staying at her paternal house with her widowed mother. This incident was aired in a local electronic media viz. News Vanguard on 17/07/2019.

[9] Respondent also alleged that the husband-petitioner has extra-marital affairs with one widowed lady and almost all the days he returns home at late night.

Petitioner could not sleep with the wife-respondent and she was forced to sleep on the floor and whenever she demanded to sleep with the petitioner, he replied to give her divorce and that he would marry that widowed lady with whom he is maintaining illicit relationship. After returning back to the paternal home respondent lodged an FIR on the allegation of physical and mental torture against the husband-petitioner, his eldest brother Sri Nirmal Dhar, his mother, Smt. Kiran Bala Dhar, and her in-laws namely Smt. Jhuma Dhar, Smt. Swapna Dhar & Sri Ashu Banik and a case No- PRC (WP) 423/2020 is pending in the Court of Judicial Magistrate, 1 Class, Agartala, West Tripura.

[10] It is also submitted that the respondent has filed a complaint before the Women's Commission, Tripura, Agartala, against the petitioner and others and on hearing of both the parties the Women's Commission has awarded Rs.3,000/- as maintenance for livelihood of the wife-respondent and ordered the husband petitioner for payment of maintenance to the wife-respondent. But the husband- petitioner has paid only one month maintenance of Rs.3,000/- and thereafter the husband-petitioner has not paid any amount to the wife-respondent. It is also stated that respondent is willing to come back to her matrimonial house and to restore her conjugal life if the petitioner gives undertaking that he or any member of his family would not torture the respondent anymore and that petitioner will not maintain any extra-marital affairs henceforth. With these grounds respondent prayed to dismiss the petition for divorce.

[11] During trial husband petitioner though submitted affidavit-in-chief of 9 PWs but ultimately examined 7 PWs including himself but exhibited no document. Respondent, on the other hand, examined 3 DWs and exhibited one document which are noted in the appendix. Thereafter argument of both parties was heard at length.

[12] After hearing both sides, the learned Court below delivered the judgment and order of conviction and sentence in the following manner:

*“In the result, the petition dated 30.07.2019 lodged by the husband-petitioner to dissolve the marriage solemnized between himself and respondent on 10.03.2016 is not allowed and the suit is hereby dismissed on contest with cost.”*

[13] Being aggrieved by and dissatisfied with the judgment and order of conviction, the present appeal has been preferred by the appellant.

[14] At the very outset when this court asked the appellant whether he will continue to live with his wife after all had happened in the past. On asking, the appellant informed this court he will only accept his wife when she can only conceive a baby. On the last occasion, the court has also asked the registry to produce the medical report of the respondent-wife to ascertain whether she can still become a mother. But such report has not been placed today. On asking, it has been revealed that the respondent wife is already in her forties. This court has come to the conclusion that from here it would become difficult for a woman to conceive. This biological inefficiency of her has come in her way of leading a conjugal life with her husband.

[15] This court has perused the record and is of the opinion that the present marriage in hand has a chequered history and is beyond reparable stage. A marriage which is still believed to an institution flourishes when a baby is born out of the wedlock. Here is the case, where this court feels no child can be borne at this stage. Under no circumstances is the appellant husband ready to live with the respondent wife. Nevertheless, this court also cannot shut its eyes for a lady who is before this Court seeking nothing but urging to unite with her husband. The unison seems impossible at this stage but this court, having no alternative and for the better future for the parties, grants divorce to them and directs the appellant-husband to pay a sum of Rs.10,00,000/- (Rupees ten lakh) as permanent alimony in three equal installment. Hence, the appellant and respondent are no longer legally married husband and wife and their marriage stands dissolved. It is made also clear that the respondent wife shall also withdraw all the cases

pending against the appellant-husband listed before different forum with immediate effect.

[16] With the above observation and direction, this present writ petition stands allowed and disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

***B.Palit, J***

***T. Amarnath Goud, J***

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