

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

Mat. App. No.10 of 2024

Smti Sharmila Chowdhury (Debbbarman)

.....Appellant

_V_E_R_S_U_S_

Sri Rajib Debbbarman

....Respondent

For Appellant(s)	:	Ms. A. Debbbarma, Advocate.
For the respondent(s)	:	Mr. H. K. Bhowmik, Advocate.

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

22.01.2025

Heard Ms. A. Debbbarma, learned counsel appearing for the appellant also heard Mr. H. K. Bhowmik, learned counsel appearing for the respondent.

[2] This is an appeal filed under Section-19(1) of the Family Court's Act read with Section-28 of the Hindu Marriage Act, 1955 against the judgment and decree dated 29.02.2024 passed by the learned Family Court, Agartala, West Tripura in case No. T.S. (Div) 195 of 2018.

[3] The succinct pleading of the husband-petitioner, the respondent herein, Sri Rajib Debbbarman is that his marriage was solemnized with the respondent, the appellant herein, Smt Sharmila Chowdhury on 11.12.2011 as per Hindu rites and customs after observing all necessary formalities of Hindu marriage in presence of their relatives, well-wishers in the marriage ceremonial hall namely 'SOHAG situated at Bidurkarta Chowmohani, Agartala. After social marriage they also got their marriage registered before the Registrar of Marriage, West Tripura. After marriage they started living together as husband and wife in the house of the petitioner at Pandu, Maligaon, Guwahati. But after elapse of few days of their marriage, the petitioner found some untoward behaviour of the wife-respondent towards the petitioner and his family members. The petitioner further alleged that the respondent was reluctant to do her household works; rather she was very much busy with talking with some unknown persons in mobile phone. She used to misbehave with the petitioner and also with his in-laws, but the petitioner somehow managed to live with her. It is further submitted the petitioner on enquiry came to learn that the respondent is not interested to live with her in-laws in the common mess. The petitioner at the initial stage tried

to make her understand that his father was bed ridden due to paralysis for last 14 years and his mother is aged about 80 years and they cannot even move from one place to another, for which, the petitioner had to look after their all necessities. But inspite of cooperating with her husband, the respondent started to misbehave with the petitioner as well as with her in-laws and also started cruel treatment to them. The respondent often used to keep away the food that was being cooked for all. She used to use slang language towards the petitioner as well as the parents-in-law. She even used to assault the petitioner with fist and blows and started to threaten the petitioner and his parents to face dire consequence. It is also stated that in few occasions she also used to run away from his house at late night. On 23-07- 2012 the respondent told the petitioner that she received news that her father was ill and her visit to Agartala was very urgent. Hearing this, the petitioner on 25-07-2012 arranged air tickets for the respondent for her visit to Agartala to see her father.

[4] On 30-07-2012 he also came to Agartala to see his father-in-law and stayed there for some days. During his return to Guwahati the respondent expressed her willingness to stay for some more days in Agartala for taking care of her father to which the petitioner did not object. Accordingly, the petitioner alone returned to Guwahati and the respondent remained at Agartala. After expiry of some days as the respondent did not return back to Guwahati, the petitioner contacted her over phone and to his utter surprise, the respondent replied that she will not come to Guwahati and will not continue her conjugal life with the petitioner. She also threatened the petitioner to face dire consequence if he further requests the respondent to come to Guwahati.

[5] Thereafter, several attempts were being made from the side of the petitioner to return back the respondent but failed. Thereafter on 10-01-2014, the respondent filed one petition under Section-125 of Cr.P.C which was numbered as Misc. 13 of 2014 before the Judge, Family Court, Agartala, West Tripura, seeking maintenance from the petitioner alleging some different false, fabricated and baseless allegations. On 28.10.2014 this Court was also pleased to pass an order directing the petitioner to pay Rs.6,000/- per month as maintenance towards the respondent. However, the petitioner used to pay the money time to time for her maintenance after being deducted from his salary. Thereafter, the petitioner also took several attempts to return back the respondent to his house but she was very much reluctant to return back to her in-law's house. Thereafter,

the respondent filed a petition under Section-9 of the Hindu Marriage Act, 1955 seeking decree of restitution of conjugal rights before the learned Judge, Family Court, Agartala, West Tripura, vide TS (RCR) 219 of 2014. Accordingly, after contested hearing, the said suit was allowed. It is also stated that the petitioner is a resident of Guwahati and the respondent is residing within the jurisdiction of this Court. Moreover, marriage of the petitioner and the respondent took place at Agartala. It is also stated that the marriage of the petitioner and the respondent was broken down completely and as such the petitioner sought for divorce against the respondent on the ground of cruelty and desertion.

[6] After hearing the parties and having gone through the material evidence on record the learned Court below has observed as under:

“41. In the result, the petitioner-husband Sri Rajib Debbarman has successfully established the case of different types of cruelty including desertion for granting decree of divorce against the respondent-wife Smt Sharmila Chowdhury and so the prayer of the petitioner-husband under Section-13(10 (ia)&(ib) of the Hindu Marriage Act, 1955 is allowed. There shall be no marital bonding between petitioner-husband Sri Rajib Debbarman and respondent-wife Smt Sharmila Chowdhury from today i.e. from 29.02.2024 and hence the marriage is dissolved in between them.

As already discussed above, the petitioner is also directed to pay monthly maintenance allowance of Rs.18,000/- per month in the same mode of payment by which he is already paying the same to the wife-respondent until further order or until any other changed circumstances. No cost is imposed considering the relationship of the parties.

42.The case is disposed and decreed on contest.”

[7] Being highly aggrieved by and dissatisfied with the same, the present appeal has been preferred by the appellant herein.

[8] Today when the case is called, both the parties are present and are represented with their respective counsel and having heard the argument as advanced by the learned counsel for the parties, it appears to this Court that the husband and wife are not in a position to lead their conjugal life any further. For a lady to live her life all alone without the support of her husband considering all aspects is very difficult and the role of the Court is not to remain a spectator but to give justice without being partial to any party. Considering the sentiment of a female that she do not want to face the stigma as a divorcee and is inclined to remains although her remaining life with a hope that her husband would come back and considering the submission made before this Court that she could not

lead her life with a social stigma that she is a divorced lady and on the other hand husband submits he would continue as single and will not marry anyone and also retiring from service. So, in that view of the matter and protecting the dignity of a female and to maintain comfort levels amongst both the parties as an exception case, this Court is of the opinion that justice would be met if the dissolution of marriage granted by the learned Court below is set aside only keeping the monthly maintenance of Rs.18,000/- as ordered by the learned Court below. Accordingly, the same is ordered.

[9] However, Mr. H. K. Bhowmik, learned counsel appearing for the respondent has submitted that the husband-respondent is retiring on May, 2025 and it may not be possible for him to pay monthly maintenance of Rs.18,000/- to the appellant which he is presently paying as his pension would be only Rs.35,000/-. To this count, liberty is given to the husband-respondent for making appropriate application for reconsidering the maintenance at appropriate rate by giving cogent reasons, if so desired in future.

[10] With the above, the present appeal stands allowed and 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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