

**HIGH COURT OF TRIPURA
AGARTALA**

Mat.App. No.22 of 2025

Sri Parthajit Majumder, S/o Sri Ranjit Majumder, Resident of Vill. Madhya Bharat Chandra Nagar, P.O. Chittamara, PIN-799155, P.S. Belonia, District: South Tripura, presently residing at C/o Office of the Commandant, CISF Unit, BGTPP, Bangaigaon CISF Camp, P.O.: Salakati, Pin:783369, District: Kokrajhar, Assam

.....Appellant(s);

Versus

Smt. Anita Rani Barman, D/o Sri Rakhal Chandra Barman, resident of Vill. Kaiya Dhepa, P.O. Kamthana, PIN-799109, P.S. Bishalgarh, District: Sepahijala, presently residing at C/O Office of the Commandant, CISF Unit, BGTPP, Bangaigaon CISF Camp, P.O.: Salakati, Pin:783369, District: Kokrajhar, Assam

.....Respondent(s)

For Appellant(s) : Mr. Rana Gopal Chakraborty, Advocate,
Ms. Saswati Nag, Advocate.

For Respondent(s) : None.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

Date of hearing : **29.10.2025**

Date of Judgment & Order : **28.11.2025**

Whether Fit for Reporting : **NO**

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

1. This appeal is preferred against the judgment dated 03.06.2025 in T.S. (Div) 75 of 2024 of the Judge, Family Court, Belonia, South Tripura.
2. The appellant-husband had filed the said appeal. The respondent is his wife.
3. Previously, the appellant had filed T.S. (Div) 175 of 2016 on the file of the Judge, Family Court, Agartala, West Tripura for dissolution of the marriage with the respondent on the ground of her insanity. He had alleged

that the respondent suffers from schizophrenia, though she and he himself are both employed in the CISF.

4. The respondent was served with notice in the said divorce petition, but she did not file any written statement and she was set *ex parte* on 19.03.2018.

5. The appellant examined himself as a witness, and tried to prove that the respondent was suffering from insanity/schizophrenia.

6. But the Family Court, Agartala held that the evidence of the appellant was not corroborated by any other witness; that he had failed to produce any document/medical report/prescription to substantiate the fact that the respondent was suffering from any mental disorder; and he has thus failed to establish that the respondent has been suffering continuously from a mental disorder of such a kind, and to such an extent that he cannot reasonably be expected to live with her. It further held that even if the respondent did not contest the matter, it was the duty of the appellant to prove the allegation leveled by him against her, and mere making of allegation would not suffice if there is no evidence to support the plea. Thus, T.S. (Div) 175 of 2016 was dismissed on 04.09.2018.

7. The appellant then filed F.A. 03 of 2019 against the said judgment in this Court under Section 19(1) of the Family Courts Act, 1984.

8. The Appellate Court also concurred with the findings of the Family Court, and dismissed the appeal on 03.12.2021 noting that except the appellant giving evidence, no medical expert was examined as a witness, and also because from the evidence of the appellant himself, it is found that respondent was serving under the CISF. It held that she had not been declared

unfit by her employer, and if she was really suffering from any mental disorder, she would not have been allowed to continue in service. It is also held that the appellant could not prove cruelty of the respondent as well, as no ground for cruelty was made out in his entire petition.

9. Thereafter, the appellant waited for three years and then filed T.S. (Div) 75 of 2024 against the respondent.

10. In this application, he alleged that after the marriage, the respondent did not show any respect towards her in-laws, and she was not ready to take any responsibility towards her family including the husband. It is alleged that after the birth of their baby, she tried to kill the baby on many occasions, and threw the baby on the ground. It is also alleged that the respondent was not inclined to meet with the appellant, that during her pregnancy, the appellant's parents asked her to take transfer to the place of posting of the appellant, but she did not do so. He again reiterated his plea that the respondent was suffering from schizophrenia for a long period even prior to their marriage, and was taking certain medication, but her parents were avoiding to answer the questions.

11. The Family Court, by judgment dt. 03.06.2025, dismissed the Divorce petition stating that the issue of alleged unsoundness of mind had already been raised by appellant in the previous Divorce case and appeal therefrom and that the said plea had been rejected in those cases. So it concluded that the appellant is barred by principle of *res judicata* enunciated in Section 11 CPC to raise the said plea in this Divorce petition.

12. Challenging the said judgment, the instant Appeal has been filed by the appellant.

13. He contended that in his Divorce petition, certain other allegations are also leveled and these were not considered by the Family Court.

14. From a consideration of the pleading in the Divorce petition out of which the instant Appeal arises, it is clear that all the events mentioned in the petition (except one which we shall deal later), were within the knowledge of the appellant at the time when the previous Divorce petition was filed, and there was no mention of any of these events/allegations at that time. If the appellant had these grounds for divorce against the respondent available, and he had not done so in the previous Divorce petition, the appellant is precluded from raising the said grounds in view of the principle of constructive *res judicata* enacted in Explanation IV to Section 11 CPC.

15. No doubt, in para 26 there is a mention of an incident on 30.07.2024 when the appellant alleged that the respondent had assaulted their daughter, and that she was reluctant to recognize her daughter; but that single incident, even if true, cannot prove that the respondent is of unsound mind which is incurable. Also the finding in the previous Divorce petition adverse to the appellant binds him in this Divorce petition also.

16. We do not therefore find any merit in the Appeal, and it is accordingly dismissed. No costs.

(S. DATTA PURKAYASTHA, J) (M.S. RAMACHANDRA RAO, CJ)

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