

**HIGH COURT OF TRIPURA
AGARTALA**

MAT App. No.25 of 2025

Dilip Kumar Sukla Das,
S/o Lt. Parimal Sukla Das, resident of Village Jalai,
P.O. Balehar, P.S. Kailashahar, District Unakoti, Tripura.

.....Appellant(s)

V E R S U S

Susmita Datta,
D/O Shri Manik Datta, resident of West Chawmanu Bazar, P.O. Chawmanu,
P.S. Chawmanu, District Dhalai, Tripura.

.....Respondent(s)

For Appellant(s)	:	Ms. Aradhita Debbarma, Advocate.				
For Respondent(s)	:	None.				
Date of hearing	:	29th October, 2025.				
Date of Judgment	:	28.11.2025				
Whether fit for reporting	:	<table border="1"><thead><tr><th>YES</th><th>NO</th></tr></thead><tbody><tr><td></td><td>✓</td></tr></tbody></table>	YES	NO		✓
YES	NO					
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**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

JUDGMENT & ORDER

(S.Datta Purkayastha, J)

सत्यमेव जयते

We have heard Ms. Aradhita Debbarma, learned counsel for the appellant.

[2] The judgment passed by learned Judge, Family Court, Kailashahar, Unakoti dated 07.08.2025 in TS (DIV) No.47 of 2023 and the related decree thereof are under challenge in this appeal whereby the petition of the appellant-petitioner for dissolution of his marriage with the respondent was dismissed.

[3] The marriage between the parties was solemnized on 10.12.2020 and thereafter, the respondent joined him in his residence at Jalai, P.S. Kailashahar. It is alleged by the appellant that she was not willing to stay in her matrimonial home for which the petitioner took a house on rent at Kumarghat

i.e. at the place of his posting but after shifting at Kumarghat, it was noticed by him that the respondent was not a lady of fair behavior and she was following some unscrupulous habits. She also used to ill behave with him and would torture him mentally.

[4] On 11.12.2022, the appellant came to his home at Jalai from Kumarghat to attend his ailing mother and on the next day, when he returned to Kumarghat, found his wife had left the residence keeping the door under lock and key. He later on came to learn that she had gone back to her paternal house at Chawmanu. Several times he tried to bring her back but she refused. Thereafter, he sent one advocate notice which also yielded no result.

[5] It was further alleged that the respondent was suffering from infertility problem and was unable to conceive. He consulted with some of the gynecologist but the doctors opined that she could not be able to conceive due to such problem. The respondent therefore pressurized him to go for test tube baby but due to high expenditure involved in the process, he could not avail the same. Thereafter, the respondent filed one criminal case claiming maintenance against him and also another case under the provisions of Protection of Women from Domestic Violence Act. On these grounds, he prayed for a decree of divorce.

[6] The allegations of the respondent, on the other hand, are that on her joining at her matrimonial home, the appellant and his family members started torturing her both mentally and physically without any reasonable cause and it was observed by her that the appellant would take his dinner at a very early hour at around 8 pm and would wake up at around 2 am daily and would

thereafter remain busy with his cell phone. On 17.04.2021, while going to attend the nature's call, she detected that the appellant was in the bedroom of his younger brother's wife. On her query thereto, the appellant forcefully took her to the 1st floor of the house and also shoved her in her room for which she fell down and sustained bleeding injury on her head. She had to attend the hospital also for that injury. The appellant thereafter continued with said habit of early rising at around 3.30/4 am and even he would talk with his previous wife whom he had divorced earlier. He also gave pressure for a pulsar motorcycle and Rs.1,00,000/- in cash to be brought from her parents and on her failure to do so, the extent of torture was increased. On 10.12.2022, he even forcefully captured some of her nude photographs to show it to some other persons and on her protest she was beaten severely with a belt and also by fists and blows. He did not even maintain her properly.

[7] During trial, the petitioner examined himself and another witness namely Sri Nani Gopal Deb (owner of said rented house). The respondent also examined herself and three other witnesses namely, Sri Ranju Dey, Smt. Anita Rani Das and Sri Saptorshi Das.

[8] Ms. Aradhita Debbarma, learned counsel for the appellant argues that after the marriage, the respondent started torturing the appellant mentally and ultimately, deserted him without any just and reasonable cause and started living in her paternal house. According to learned counsel, satisfactory evidences were led by the appellant in this regard but learned Trial Court failed to appreciate the same properly. Ms. Debbarma, learned counsel submits that such rude behavior and desertion by the respondent amounts to cruelty entitling

the appellant to get a decree of divorce but learned Trial Court failed to consider the same. Learned counsel further argues that the respondent even initiated multiple legal proceedings against the appellant causing his harassment. Moreover, the baseless and scandalous allegation of extra marital relationship of the appellant with the wife of his brother amounts to serious mental cruelty. Learned counsel, therefore, prays for admitting the appeal and for upsetting the judgment passed by the learned Trial Court.

[9] We have considered the submission of Ms. Debbarma, learned counsel and the materials placed on the record.

[10] The petition of the appellant seeking divorce, according to us, has been filed with some omnibus statements of mental cruelty caused upon him. No specific incident of any such cruelty was asserted by him in his petition. Law is no longer *res integra* that mere omnibus allegation does not establish cruelty. The Apex Court in the case of *Gurbax Singh vs. Harminster Kaur*, (2010) 14 SCC 301, at paragraph No.14 has held as under:

“14. Cruelty has not been defined under the Act. It is quite possible that a particular conduct may amount to cruelty in one case but the same conduct necessarily may not amount to cruelty due to change of various factors, in different set of circumstances. Therefore, it is essential for the appellant, who claims relief, to prove that a particular/part of conduct or behavior resulted in cruelty to him. No prior assumptions can be made in such matters. Meaning thereby that it cannot be assumed that a particular conduct will, under all circumstances, amount to cruelty, vis-à-vis the other party. The aggrieved party has to make a specific case that the conduct of which exception is taken amounts to cruelty.”

The burden always lies upon the appellant to prove the facts of cruelty and desertion on the touchstone of preponderance of probability through the pleadings and evidences adduced thereupon.

[11] Learned Trial Court, as it appears, has duly discussed and considered the evidences led by both the parties and also rightly observed that it is a natural instinct for a lady to attain motherhood and therefore, insisting for a test tube baby does not amount to cruelty. Moreover, no document was also placed in the evidence by the appellant regarding any sort of infertility problem of the respondent. Learned Trial Court also correctly observed that both the petition of the respondent submitted under Section 125 Cr.P.C. and also under Protection of Women from Domestic Violence Act were allowed by the concerned Courts and therefore, it also could not be said that to harass the appellant such litigations were initiated by the respondent frivolously without any basis.

[12] Considering all these aspects, we do not find any merit in the appeal. Consequently, the appeal is dismissed.

Registry is to prepare the decree accordingly and furnish copy of the decree to the parties free of cost. Copy of the respondent may be sent through registered post.

Pending application(s), if any, shall stand disposed of.8

(S.D. PURKAYASTHA), J

(M.S. RAMACHANDRA RAO), CJ