

**HIGH COURT OF TRIPURA
AGARTALA**

MAT App. No.03 of 2025

Sri Litan Hrishi Das, age..... years
S/O Lt. Purna Chandra Hrishi Das, resident of Ambasa Colony, P.S. & P.O. Ambassa, District Dhalai Tripura.
.....Appellant(s)

V E R S U S

Smt. Rupa Rudra Paul,
W/O Sri Litan Hrishi Das, D/O Sri Sunil Rudra Paul, Village of Dalak, Samatal Para, P.S. & P.O. Amarpur, District Gomati Tripura.
.....Respondent(s)

For Appellant(s)	:	Mr. Samar Das, Advocate. Ms. Rashmi Bhattacharjee, Advocate.				
For Respondent(s)	:	Ms. Piyali Chakraborty, Advocate.				
Date of hearing	:	<i>20th November, 2025.</i>				
Date of delivery of Judgment	:	<i>28th January, 2026.</i>				
Whether fit for reporting	:	<table border="1"><tr><td>YES</td><td>NO</td></tr><tr><td></td><td>√</td></tr></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

The appeal has been preferred by the appellant-petitioner (husband) against the judgment dated 09.12.2024 passed by learned Judge, Family Court, Ambassa, Dhalai in Title Suit (Divorce) No.01 of 2023 and related decree drawn thereupon, whereby the petition of the appellant-petitioner seeking divorce on the ground of cruelty and desertion was dismissed.

[2] The petitioner filed petition seeking divorce, inter alia, asserting that his marriage was solemnized with the respondent in the month of March, 2016 and on 02.11.2016, a son namely, Arjun Hrishi Das was born out of said wedlock. But, after one year of the birth of a son, respondent started exhibiting

unusual behavior and became reluctant in performance of her matrimonial duties. She would remain busy much of the time in calling and chatting with some unknown persons. Even she refused to provide food to his old mother and pressurized him for a separate stay from her mother-in-law. When the petitioner denied, she became furious and refused to share bed with him. She would also torture his mother. One day in the morning, she suddenly went elsewhere without informing anybody, for which he lodged one missing person information at the police station, but in the late night, she returned and on asking she informed the petitioner that she was in an illicit relationship with someone else.

[3] It is also stated by him that on 21.01.2021, the respondent left the matrimonial home, leaving her two-year-old son there without giving intimation to the petitioner and ultimately, it was learnt by him that she went to her paternal house at Amarpur. In the month of April, 2021, she returned to the house of the petitioner followed by a meeting held in this regard and in the said meeting, it was advised by the elders to them to lead a peaceful conjugal life along with their child. But, there was no change in the behavior of the respondent and even on the same day, she broke down all the furniture in the house of the petitioner and on the next day, left for Amarpur again without any intimation to him.

[4] The petitioner, according to him, on several occasions requested the respondent to join him and he also went to the house of the respondent on different occasions but she did not return rather, once he was even beaten there by the father of the respondent along with others.

[5] He also filed one petition for restitution of conjugal rights and as she was reluctant to join him, he ultimately withdrew the same. As there was no hope for rejoining of respondent with him, he filed the petition for divorce both on the grounds of cruelty and desertion.

[6] The respondent in her written statement submitted that their marriage was actually solemnized on 04.03.2018 and not in the year 2016. In her matrimonial home, she would be tortured physically and mentally by the petitioner and her mother on demand of money which her father, due to his poverty, could not meet. Moreover, the petitioner also grew illicit relationship with another lady and he pressurized her to allow said lady in his home. As she did not agree, she was driven out from the house in the first week of May, 2021 and therefore, having no other alternative, she took shelter in the house of her maternal uncle namely, Haru Paul of Ambassa. It is also grievance of the respondent that thereafter, the petitioner never tried to make any communication with her and though, several village level meetings were held in presence of respectable persons of the locality, due to adamancy of the petitioner, no settlement could be arrived at.

[7] According to the respondent, she did not willfully leave her matrimonial home; rather, she was forced to take shelter in her father's house to save her life and she was always ready to maintain her matrimonial relationship.

[8] In the trial, the petitioner submitted examination-in-chief on affidavit of himself and six others but one witness namely, Kamala Rudrapal did not appear to face cross-examination. He also proved his marriage

certificate as evidence. From the respondent side, the respondent and her father were examined as witnesses. Finally, learned Trial Court dismissed the petition, observing that there was no satisfactory evidence that the petitioner was subjected to cruelty by the respondent. Learned Trial Court also arrived at the conclusion that there was no element of animus deserendi on the part of the respondent.

[9] Mr. Samar Das, learned counsel for the petitioner argues that learned Trial Court has failed to appreciate the evidence adduced from the side of the petitioner and also has not properly appreciated the evidence of the respondent, who in her cross-examination, admitted that her husband visited her father's house on few occasions to reconcile but was not successful as she did not agree. Mr. Das, learned counsel also submits that though the respondent alleged that she was tortured by her husband in her matrimonial home, no document regarding institution of any criminal case against him was submitted in the proceeding. According to learned counsel, all the witnesses of the petitioner corroborated with each other on material particulars and therefore, decree of divorce ought to have been granted in his favour by the learned Court below.

[10] Ms. Piyali Chakraborty, learned counsel of the respondent, however, contends that the respondent was subjected to both mental and physical torture on demand of money by the petitioner and his mother, and the petitioner also developed an extra-marital relationship with another lady and was pressurizing the respondent to accept her. Learned counsel also submits that willfully the respondent did not leave her matrimonial home; rather, she

was driven out therefrom and as her life was not safe in her matrimonial home, she did not further join the petitioner there. According to learned counsel, the learned Trial Court was completely justified in rejecting the claim of the petitioner.

[11] We have considered the submissions of both sides and have also gone through the evidence adduced by the parties in the proceeding.

[12] As it appears, the examination-in-chief on affidavits submitted by all the witnesses are the replica of what were stated by the petitioner in his petition for divorce. Except PW-1 i.e. the petitioner and PW-2, his mother, all other witnesses have claimed that they are the next-door neighbours of the petitioner, but they did not clarify whether they have witnessed personally any incident between the parties or they have heard it from someone else. Even they have also contradicted the assertion of the petitioner made in his petition for divorce to the effect that according to them, in the village meeting it was advised by the local people to both the parties to stay separately and peacefully, whereas according to the petitioner, they were advised to stay jointly and peacefully. They have also stated the facts that the respondent would refuse to provide food to the mother of the petitioner; would pressurize the petitioner for a separate stay; would refuse to share bed with the petitioner; would maintain an illicit relationship with some other person and that the respondent would be found engaged in talking with others on her mobile phone; petitioner would call her; and at Amarpur once he was beaten but they did not clarify as to how they would know all these facts. They did not even name the person with whom the respondent was residing at Agartala pursuing her illicit relationship, if any.

Therefore, their evidence does not inspire any confidence. The petitioner also did not disclose the name of the person with whom the respondent had such alleged extra-marital relationship. Aspersion on the chastity of a married woman without sufficient basis itself amounts to cruelty.

[13] The petitioner in his cross-examination also admitted that his mother i.e. PW-2 had filed one petition under Section 125 of the Cr.P.C. claiming maintenance for herself and her grandson i.e. the son of the petitioner and the Court also granted such maintenance to them and that they were staying separately from him. Thus, it appears that the treatment of the petitioner to his mother and his son has also not been appreciable. Nowhere he has disclosed about any specific date or month or year of any maltreatment caused by the respondent to him.

[14] The respondent [DW-1] on the other hand, in her cross-examination, has confirmed the fact that she was physically tortured by the petitioner in his house for which she had informed the police. She also explained in her cross-examination that when the petitioner requested her for reconciliation, she and her family members asked him to come with his family members and local people, as her family members were not willing to let her go with him alone. She also confirmed the fact that she had filed a petition for maintenance against the petitioner and she is also receiving such maintenance regularly. In her cross-examination, she also stated that she was forced to leave her matrimonial home.

[15] It also came out in the evidence through her cross-examination that because of love affair she eloped with the petitioner, even going against the

decision of her parents and more particularly, when the petitioner was unemployed. Thus, it appears that during the unemployed condition of the petitioner also, she did not leave him.

[16] Regarding the plea of desertion, learned Trial Court has also found that before completion of 2 (two) years of alleged desertion, the petition for divorce was filed. When the petitioner has approached the Court seeking divorce on the ground of cruelty and desertion, burden lies on him to prove the same under Section 101 of the Indian Evidence Act, 1872 which he has failed to prove in this case.

[17] Considering thus, we do not find any merit in the appeal. Accordingly, the appeal is dismissed and the judgment and decree of the learned Trial Court are hereby affirmed.

Registry is to prepare the decree accordingly and furnish a copy of the same free of cost to the parties.

The record of the learned Trial Court may be sent back with copy of this judgment and decree.

The appeal is disposed of accordingly.

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

(S.DATTA PURKAYASTHA), J

(M.S. RAMACHANDRA RAO), CJ