

MHFC130011132022	Presented on :18.10.2022
	Registered on :18.10.2022
	Decided on :20.05.2024
	Duration : Y M D
	02 07 02

<u>IN THE FAMILY COURT, SOLAPUR</u>	
Present : Kavita D. Shirbhate - Judge, Family Court, Solapur. Date of the Judgment 20.05.2024.	
Petition No. A-551/2022 Ex. . CNR No. MHFC13-0011-13-2022	
<u>Petition U/s. 13 (1) (i-a) & (i-b) of the Hindu Marriage Act 1955.</u>	
PETITIONER	:
REPRESENTED BY	: Adv. Shri. S. R. Jamadar
RESPONDENT	:
REPRESENTED BY	: Exparte.

JUDGMENT(Dictated in open Court and delivered on 20th May, 2024.)

1. The petitioner has filed this petition for dissolution of marriage u/s. 13(1) (i-a) & (i-b) of Hindu Marriage Act 1955.

2. **Facts of the case in nutshell is as under ;**

Petitioner and respondent are husband and wife. Marriage between petitioner and respondent was solemnized on

16/04/2012 at Darganhalli, Tal. South Solapur, Dist. Solapur as per rites and customs prevailing in their Community. Marriage expenses were borne by her parents.

3. It is contended that after marriage respondent resumed cohabitation with petitioner. After marriage she came to know that respondent is a driver and he earns Rs.12,000/- to Rs. 15,000/- per month and also he is doing agricultural work from which he earns Rs.20,000/- per month. After 15 to 20 days of marriage respondent under the influence of liquor came to home and without reason picked up quarrel with her, abused and beat her. Due to his behaviour petitioner got shocked. At the time of settlement of marriage parents of respondent informed that respondent has no any bad vices.

4. It is contended that respondent, his parents and sister started to pick up quarrel with petitioner on the count of household work, used to tease and taunt, they treated her as maid servant. During the period of cohabitation petitioner remained pregnant. In the month of June 2013 respondent and his parents forcibly aborted her child. Then respondent and his family members physically and mentally harassed her. Petitioner tolerated their ill treatment with hope that in future there will be change in their behaviour.

5. It is further contended that in the month of April 2014 on the count of demand of money and gold abused her, beat her and drove her out of house with wearing clothes. Then she came to her parent's house. She had lodged complaint against respondent and his family members before Valsang Police Station u/s. 498-A, 323, 504, 506 r.w. Section 34 of I.P.C. Then in 2017 petitioner filed complaint before Tanta Mukti Samiti. On 05/03/2017 one meeting has been

held before Tanta Mukti President Shri. Channavir Sarsambe, Member Shri. Surendra Annarao Birajdar, Ganpati Iranna Mali, Mallinath Birajdar. Respondent gave assurance for proper cohabitation and executed one agreement. Thereafter both were started residing in rented room. In 2018 respondent compelled her to take loan of Rs.26,000/- from Ashirwad Micro Finance Ltd. and Rs.78,000/- from Ujjivan Small Finance Ltd., Bharat Finance. He has not repaid any loan installment therefore, petitioner started to work and repaid loan installment. On 31/10/2018 again respondent came under the influence of liquor and beaten her, threatened her. Petitioner had lodged NC bearing No. 1162/2018 before Vijapur Naka Police Station against respondent. Police gave understanding to respondent. Then for few days he behaved properly with petitioner and again started ill treatment to her. On 05/12/2019 respondent under the influence of liquor abused her, beat her and drove her out of the house. He has not provided anything to her towards her maintenance. Due to cruel attitude of respondent it become impossible for her to cohabit with him. Hence she has filed this petition for dissolution of marriage on the ground of cruelty and desertion.

6. It is contended that respondent is a Driver and earns Rs.12,000/- to Rs. 15,000/- per month. He has agricultural land at Village Darganhalli and from the said agricultural land he earns Rs.3,00,000/- to Rs. 4,00,000/- per year. He is able to pay maintenance of Rs.15,000/- per moth to her. She is claiming Rs.10,00,000/- towards compensation. She has prayed for dissolution of marriage and for maintenance and compensation.

7. Respondent duly served with summons by way of paper publication but he remained absent. Hence, petition proceeded against him exparte.

8. Heard Counsel for Petitioner.

9. Considering the averments of petition following points arise for my determination and I record my findings thereon for the reasons given below.

Sr. No.	<u>Points</u>	<u>Findings</u>
1)	Whether petitioner prove that respondent treated her with cruelty?	<u>Affirmative</u>
2)	Whether petitioner prove that the respondent has deserted her at least two years preceding presentation of petition?	<u>Affirmative</u>
3)	Whether petitioner is entitled for maintenance, as prayed for? If yes, what should be the quantum?	<u>Affirmative as per final order.</u>
4)	Whether petitioner is entitled for compensation as prayed ?	<u>Affirmative as per final order.</u>
5)	Whether petitioner is entitled for decree of dissolution of marriage ?	<u>Affirmative</u>
6)	What order and decree?	<u>As per final order.</u>

REASONS

As to Point No. 1 to 5 :-

10. All the Points are co-related with each other, for the sake of convenience and to avoid repetition I would like to discuss the same together.

11. In support of contention petitioner has filed his affidavit of evidence at Ex. 26. I have gone through the contents of affidavit.

Petitioner has narrated about the incident whatever mentioned in her petition. Their marriage was solemnized on 16/04/2012 at Darganhalli, Tal. South Solapur, Dist. Solapur. After marriage respondent resumed cohabitation with petitioner. After 15 to 20 days of marriage respondent under the influence of liquor came to home and without reason picked up quarrel with her, abused and beat her. Due to his behaviour petitioner got shocked. At the time of settlement of marriage parents of respondent informed that respondent has no any bad vices. His parents and sister started to pick up quarrel with petitioner on the count of household work, used to tease and taunt, they treated her as maid servant.

12. It is her evidence that during the period of cohabitation petitioner remained pregnant. In the month of June 2013 respondent and his parents forcibly aborted her child. Then respondent and his family members physically and mentally harassed her. Petitioner tolerated their ill treatment with hope that in future there will be change in their behaviour. In the month of April 2014 on the count of demand of money and gold abused her, beat her and drove her out of house with wearing clothes. Then she came to her parent's house. She had lodged complaint against respondent and his family members before Valsang Police Station u/s. 498-A, 323, 504, 506 r.w. Section 34 of I.P.C. Then in 2017 petitioner filed complaint before Tanta Mukti Samiti. On 05/03/2017 one meeting has been held before Tanta Mukti President Shri. Channavir Sarsambe, Member Shri. Surendra Annarao Birajdar, Ganpati Iranna Mali, Mallinath Birajdar. Respondent gave assurance for proper cohabitation and executed one agreement. Thereafter both were started residing in rented room. In

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13. The respondent had not made efforts to provide the maintenance to her in spite of having sufficient means. According to her respondent is working as a Driver and earns Rs.12,000/- to Rs. 15,000/- per month. He has agricultural land and his Annual income is Rs.3,00,000/- to Rs. 4,00,000/- per year. Therefore, she is claimed maintenance of Rs.15,000/- per month. She is also claiming Rs.10,00,000/- towards compensation and filed this petition for dissolution of marriage.

14. In addition to oral evidence petitioner has relied on documentary evidence. She has produced one Agreement at Ex. 20, Loan repayment extract of Ujjivan Small Finance Ltd. at Ex. 21, Loan Pass book at Ex. 22, Copy of F.I.R. of Valsang Police Station at Ex. 23,

Copy of F.I.R. of Vijapur Naka Police Station, Solapur at Ex. 24, Copy of NC at Ex. 25.

15. I have scrutinized the entire evidence on record carefully. The testimony of petitioner remains unchallenged. There is no reason to disbelieve her testimony. The respondent in spite of service of summons did not appear before the Court and not challenged the claim of petitioner. Moreover, he has not filed any petition for restitution of conjugal rights. He had not made any efforts to settle the matter. There is nothing on record that he had made efforts, provide maintenance amount to the petitioner. He has not challenged his income. He has not challenged the claim of petitioner. He has not challenged the fact of agricultural land and income out of the said agricultural land. Therefore, considering the evidence of petitioner and considering the fact that respondent had not challenged her evidence. I have no hesitation to hold that petitioner is entitled for the order of dissolution of marriage on the ground of cruelty, for maintenance amount and compensation to some extent accordingly.

16. So far as ground of desertion is concerned, there must be continuous period of desertion for 2 years at the time of filing of petition. The story put forth by petitioner that since 05/12/2019 respondent is not cohabiting with her. The present petition is filed on 18/10/2022. As there is continuous period of 2 years as contemplated in Section 13(1) (ib) of Hindu Marriage Act, 1955. So taking into consideration the circumstances on record the ground of desertion is also available for her. Hence, in view of above discussion I record my findings to Point No. 1 to 5 in affirmative.

In the result, I proceed to pass the following order.

ORDER

- 1) Petition is allowed.
- 2) The marriage between Sou. Vaishali Sachin Sarsambe (Birajdar) (Petitioner) and Shri. Sachin Prabhakar Sarsambe (Birajdar) (Respondent) dtd. 16/04/2012 is hereby dissolved by decree of divorce under Section 13 (1) (i-a) & (i-b) of the Hindu Marriage Act 1955 from the date of this order.
- 3) Respondent shall pay Rs,7,000/- (Rs. Seven Thousand) per month to petitioner towards her maintenance from the date of petition i.e. 18/10/2022.
- 4) Respondent shall pay Rs. 1,00,000/- (Rs. One Lakh) lump sum amount to petitioner towards compensation.
- 5) Parties to bear their own costs.
- 6) Decree be drawn up accordingly.
- 7) The copy of decree be sent to the respondent by R.P.A.D. on Court motion.

(Pronounced and dictated in open Court.)

Place : Solapur
Date: 20.05.2024

(**Smt. K. D. Shirbhate**)
Judge,
Family Court, Solapur.

C E R T I F I C A T E

I affirm that the contents of this PDF file order is same word to word as per the original Judgment.

(a) Name of the steno	:	P M. Pardeshi
(b) Name of the court	:	Family Court, Solapur Smt. K. D. Shirbhate
(c) Judgment signed by P . O. on	:	20/05/2024
(d) Judgment uploaded on	:	20/05/2024