

Smt Protima Mallick -Vs- Sri Mrinmoy Biswas .

Present: **Sri Somnath Bhattacharyya.**
Additional District Judge, 3rd Court,
North 24 Parganas, Barasat.
[J.O Code No.WB-00726]

Order No. 11
dated 31.01.25

Petitioner files hazira.

Respondent is absent on call without steps.

Ld Advocate for the petitioner is present. No one appears to represent the respondent.

This day is fixed for ex parte hearing.

The record is taken up for ex parte hearing accordingly.

The petitioner/wife Protima Mallick has filed this matrimonial suit under Section 27 (1) of Special Marriage Act against the respondent Mrinmoy Biswas on 08.08.23 alleging, inter alia, that the petitioner hails from a well educated family having high moral values. She is working as an Assistant Teacher in S.M Institution, Madhyamgram. She possesses Master Degree in Economic along with B.Ed from a recognized university. Her marriage with the respondent was fixed by way of negotiation through some contacting person and phone calls. The respondent is a B.Tech Engineer and employed in O.I.C, Panipath. The family of the petitioner had clearly divulged that they are not in favour of any intoxication or habit of any intoxication. Their marriage was solemnized on 04.08.22 according to Special Marriage Act before the Marriage Officer Rupali Dey, P.S-Airport, District-North 24 Pgs. On the self same day social marriage according to Hindu rites was also performed followed by Bhowbhat ceremony on 06.05.22. They then started residing together as husband and wife and their marriage was duly consummated. Within a short stay, the petitioner could find that the respondent is highly habituated to intoxication and other bad habits like taking alcohol, chewing Gutkha saying vulgar. He is also fond of having sexual pleasure at odd hours in unnatural ways. The petitioner had expressed her disliking regarding such sexuality, vulgarity and intoxication. She called upon her to quit such bad habits but instead of the respondent asked and tried to administer her with intoxicant. She was also subjected to abnormal carnal sexual activities. The petitioner had become terrified at his posture, gesture gait. The petitioner was thus dealt with very cruelly. The respondent has no honour towards the personality and education and behaved cruelly. He never honoured the desire/expectation of the petitioner, rather he attempted to glorify his bad habits with a further attempt to impose those upon the petitioner and to vitiate her

own immorality. The respondent has no love, respect and compassion towards the petitioner and he is a heartless mechanical male. The petitioner and the respondent had last resided together on 28.05.2023 at Gangtok and since then they are residing separately at their respective residences due to cruelty and misbehaviour of the respondent. The petitioner has never condoned the acts of cruelty done by the respondent. The cruel and heartless attitude of the respondent has rendered the marriage infructuous and emotionally dead. The petitioner is not in a position to continue the marital tie or to condone the cruelty faced by her. The cause of action arose on 04.08.22 on the date of marriage and it subsisted on each subsequent days and lastly on 20.06.23 when the respondent's parents came to Kolkata residence within P.S-Baguiati and finally admitted regarding the state of mental perversity of the respondent. There is no collusion or connivance in between the parties in presenting the divorce petition.

To substantiate her case, the petitioner examined herself as PW-1 and tendered original Marriage Certificate and xerox copy of Aadhaar Card [original returned after comparison] which have been marked as Exhibit- P-1 and P-2 respectively.

Ld Advocate for the petitioner has relied upon several decisions of different Hon'ble High Courts, explained the nature of conduct and attitude which can be classified as cruelty. It is relevant to mention in those decisions the Hon'ble High Courts have spelt out that unnatural sexual activity done upon the petitioner by the respondent inspite of her protest is a serious cruelty. So is in the case of intoxication by one spouse inspite of objection by the other spouse.

In view of the above discussion, I am constrained to hold that the petitioner has been able to prove her case and is entitled to get relief as prayed for.

In the result the suit succeeds. C.F paid is sufficient.

Hence, it is

ORDERED

that the instant Mat. Suit No. **1722 of 2023**, titled **Smt Protima Mallick -Vs- Sri Mrinmoy Biswas** be and the same is decreed ex parte against the respondent on the ground of cruelty but without any order as to costs. Petitioner do get a decree of divorce as prayed for.

The marriage-tie between the petitioner, **Smt Protima Mallick** and the respondent **Sri Mrinmoy Biswas** is hereby dissolved by a decree of divorce. The Marriage Certificate bearing ID No.**WB -33700600010600002297** dated 04.08.22 is hereby cancelled from this date of order. Decree be prepared in separate sheet.

Let a copy of decree be sent to the respondent through speed post at the cost of the petitioner.

B.C is directed to note it in the relevant register. The case record be consigned to record room after necessary compliance.

Upload in CIS.

Dictd & Corrtected by me,-

Sri. S.Bhattacharyya

A.D.J, 3rd Court,
Barasat

Sri. Somnath Bhattacharyya,

Addl District Judge,
3rd Court, Barasat.
[J.O Code No.WB-00726]