

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, 1ST COURT,
BURDWAN

Mat Suit No. 949 of 2024

(CNR No.WBBD01-005064-2024)

Present : Sri Bibhas Chatterjee

Additional District Judge, 1st Court, Burdwan

Keya Mondal (Ghosh)Petitioner-wife

V/S

Ramkrishna Mondal Respondent-husband

Order no. 09 dated 19.06.2026

This day is fixed for exparte argument.

The petitioner-wife namely Keya Mondal (Ghosh) is present by filing her
hazira.

Heard. Ld. Advocate for the Petitioner-wife.

The case is taken up for passing order.

This is an application u/s. 13 of Hindu Marriage Act, 1955 filed by the
Petitioner-wife praying for dissolution of her marriage solemnized on 17/10/2017 by
granting a decree of divorce on the grounds stated therein.

Be it mentioned here that hereinafter, the petitioner-wife will be referred as
“Petitioner” and the respondent-husband will be mentioned/referred as
“Respondent” only.

The case of the petitioner-wife in gist is that her marriage with the respondent-
husband was solemnized on 17.10.2017 according to Hindu Rites and Customs.

After the marriage she started residing in her matrimonial house and discharged all her marital obligations sincerely.

According to the petitioner, soon after the marriage, the respondent and his family members subjected her to mental and physical cruelty on various pretext and also demanded money from her paternal family. Despite efforts on her parts and by her relatives to maintain the matrimonial relationship, the ill-treatment continued unabated.

The petitioner further alleged that finding it impossible to bear such torture and humiliation, she was compelled to leave the matrimonial house and take shelter at her paternal house along with her minor daughter namely Namatra Mondal. Thereafter, the respondent neither took any sincere step to bring her back nor provided proper maintenance and support to the petitioner and their minor child.

As a result of the continuous acts of cruelty and prolonged separation since 25.08.2018, their marital relationship between the parties completely broke down. Having no other alternative, the petitioner filed the present suit seeking dissolution of marriage by a decree of divorce on the grounds of cruelty and desertion under Section 13(1)(ia) and Section 13(1)(ib) of Hindu Marriage Act, 1955.

POINT FOR DETERMINATION

Whether the petitioner is entitled to a decree of divorce under Section 13(1)(ia) and Section 13(1)(ib) of Hindu Marriage Act, 1955 on the grounds of cruelty and desertion?

DISCUSSION, DECISION AND ORDER

The petitioner examine herself as P.W1 and adduced evidence by way of affidavit under Order 18 Rule 4 CPC. She has categorically deposed in her evidence (examination-in-chief) that after the marriage she was subjected to mental

and physical cruelty by the respondent and his family members. She further stated that a demand for money was made from her paternal family and despite substantial payment thereof, the ill-treatment continued. She has also deposed that she ultimately left the matrimonial house on 25.08.2018 with her minor daughter and started residing at her paternal house.

To substantiate her case, the petitioner produced documentary evidence including the Marriage Certificate (Exhibit-2) and other relevant documents. The father of the petitioner was examined as P.W.2 who corroborated the material particulars of the petitioner's case.

The record reveals that despite service of repeated summons upon the respondent, he neither appeared before this Court nor filed any written statement to contest this suit. Consequently, the evidence adduced by the petitioner remain wholly unchallenged and unrebutted.

It is well settled that an ex-parte decree cannot be granted merely because the respondent has chosen to remain absent. The Court is still required to scrutinize the evidence adduced by the petitioner and satisfy itself that the statutory grounds are established. Upon careful consideration of the testimony of P.W.1 and P.W.2 and the documentary evidence on record, this Court finds no reason to disbelieve the version of the petitioner.

The evidence of P.W.1 establishes that the petitioner was subjected to continuous mental agony and harassment in her matrimonial house. Such conduct, viewed in its entirety, amounts to matrimonial cruelty within the meaning of Section 13(1) (ia) of the Hindu Marriage Act.

It is trite the law that in view of the section 13(1)(ia)(ib) of Hindu Marriage Act, 1955, that either spouse can present a petition for divorce on the following grounds :

- i) If the other party has, after solemnization of the marriage has engaged in sexual relation with some outside the marriage,
- ii) If the party has treated the petitioner with cruelty
- iii) If the other party deserted the petitioner for a continuous period of 2 years or more
- iv) If the other party has converted another religion
- v) If the other party is incurably of unsound mind, or has a mental disorder that makes it unreasonable to live with him
- vi) Other ground include venereal disease in a communicable form, renunciation of the world or being unheard of 7 years.

I would also like to mention here that the principles laid down in **Samar Ghosh Vs Jaya Ghosh (2007) 4 SCC 511**, which makes it clear that mental cruelty has to be assessed from the cumulative effect of the conduct of the parties and not from isolated incidents.

The evidence of P.Ws further shows that the parties have been separately for a considerable period i.e. for more than 07 (seven) years. The respondent made no positive, sincere effort to resume cohabitation or restore the matrimonial relationship. The conduct of the respondent clearly demonstrates and intention to bring cohabitation permanently to an end. Thus, both the factum of separation and intention to desert stand proved the ingredients of desertion as explained by the

Hon'ble Supreme Court in a case reported in **Lachman Utamchand Kirpalani Vs Meena (AIR 1964) S.C. 40.**

The Court is also mindful of the fact that the matrimonial bond between the parties has become irresistibly broken down. All efforts of reconciliation appeared to have failed. The petitioner has been residing separately for years together and there is no material on record to indicate any possibility of restoration of matrimonial life.

Accordingly, this Court is satisfied that the petitioner has successfully proved the ground of cruelty and desertion as contemplated under Section 13(1)(ia) and Section 13(1)(ib) of Hindu Marriage Act, 1955.

The point for determination is therefore decided in favour of the petitioner.

Hence, it is

O R D E R E D

That the Matrimonial Suit being no.949 of 2024 be and same is decreed ex-parte against the respondent.

It is hereby declared that the marriage solemnized between petitioner-wife, Keya Mondal (Ghosh) and respondent-husband, Ramkrishna Mondal on 17.10.2017 according to Hindu rites and customs stands dissolved by a decree of divorce under Section 13(1)(ia) and Section 13(1)(ib) of Hindu Marriage Act, 1955.

Let a copy of this order be handed over to the petitioner free of cost. The petitioner is directed to send a copy of this order to the respondent-husband at her own cost.

Dictated & Corrected

Sd/-

Additional District Judge,

1st Court, Burdwan.

Sd/-

Additional District Judge,

1st Court, Burdwan (J.O. No.WB00702)

