

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE, 2ND COURT
SERAMPORE, HOOGHLY**

Present : Mr. Nayyar Azam Khan
Additional District Judge, 2nd Court,
Serampore, Hooghly,
J.O. Code No. WB01302.

Matrimonial Suit No. 620 of 2023

Smt. Chandra Basu Vs Sri Milan Kumar Basu

**Order No. 16
Dt 05.8.2026**

Today is fixed for argument and order.

Petitioner is present before this court and has filed her hazira.

The record is now taken up for hearing ex parte argument.

Argument is heard in full and final from the side of the Id Advocate for the petitioner.

The record is now taken up for passing order.

The present matter has germinated from an application under section 13(i)(ia) of the Hindu Marriage Act, 1955 for dissolution of marriage which has been filed by the petitioner-wife against her husband-respondent on 08.8.2023.

In the said application, it has been contended that the marriage between the petitioner and the respondent was solemnized on 20.02.2002 according to Hindu rites and customs at the father's house of the petitioner i.e. under P.S Serampore. After marriage, parties resided together as husband and wife at the matrimonial house of the petitioner i.e. under P.S. Chanditala, Dist. Hooghly and their marriage was duly consummated and, in their wedlock, two male children namely, Jit Kumar Basu and Amit Kumar Basu were born on 21.12.2003 and 29.11.2005 respectively. At the time of marriage negotiation, the father of the petitioner had to give several articles and ornaments as per the demand of the respondent and his family members but after marriage they were not satisfied with the quality and quantity of the Stridhan articles and started teasing the petitioner in several ways and they used to physically and mentally torture the petitioner without any proper cause and ask her to bring a lumpsum amount from her father and when the petitioner used to express her inability then the respondent used to become annoyed and use filthy languages with her. Thereafter the respondent and his family members started behaving rudely with the petitioner in various way and did not provide proper food and clothing to her and her minor children and when the petitioner raised protest against such rough behaviour of the respondent, he became more violent and inflicted physical and mental torture mercilessly upon the petitioner and also tried to oust her and her minor children from her matrimonial house on several occasions. Thereafter the respondent became dreaded drunker and used to loiter on the road in intoxicated condition every day and stopped coming home except for collecting money for purchasing alcohol and when his demand was not fulfilled then he started selling household articles for collecting money for consuming alcohol. Finding no other alternative with the help of

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her paternal relations, the petitioner was compelled to return to her paternal house on 08.8.2009 and since then she had been living at her paternal house along with her minor children but the respondent neither made any contact with the petitioner nor paid any maintenance for their survival after which the petitioner was forced to institute the present suit for divorce against the respondent.

After the filing of the case, notice was issued and sent to the respondent but the notice was unclaimed by the respondent which was held to be good service. Thereafter, by Order dated 07.4.2026, the case was fixed for ex-parte hearing against the respondent.

In support of the case of dissolution of marriage, the petitioner adduced her evidence on oath as P.W.1 by filing examination-in-chief wherein she stated the facts as to how she was subjected to torture by the respondent and how she was compelled to return to her paternal house, to the tune of her pleading and she prayed for a decree for dissolution of marriage. After the closure of evidence, learned advocate for the petitioner has submitted that the petitioner has proved the ground of divorce and prayed for a decree accordingly.

Having heard the counsel of the petitioner and after going through the materials on record, it appears that the petitioner stated in the petition for dissolution of marriage that she was subjected to cruelty by her husband/respondent after marriage and that the petitioner was compelled to return to her paternal house since 08.8.2009 after which the respondent deserted the petitioner, which facts have been proved by the evidence adduced by the petitioner/wife of herself as P.W.1. The oral testimony of the petitioner/P.W.1 has not been challenged by the respondent who did not bother to contest this suit. In this context, it is profitable to refer to one judgement on the evidentiary value of the unchallenged testimony of a witness.

In the case of **Rajinder Pershad (Dead) by LRs. Vs. Darshana Devi**, reported in **(2001) 7 Supreme Court Cases 69**, the Hon'ble Supreme Court discussed the scope of sections 138 and 146 of the Indian Evidence Act 1872, which is set out as follows :

"6. The law is well settled that where the evidence of a witness is allowed to go unchallenged with regard to any particular point it may safely be accepted as true ".

On careful scrutiny of the aforesaid enunciation of law as to the evidentiary value of the unchallenged testimony of a witness, it appears that the same can be accepted as true and can be relied upon in adjudicating the case. In the case in hand, the petitioner has categorically pleaded that she was subjected to mental and physical torture by the respondent after marriage and that the respondent deserted her on and from the date when the petitioner was compelled to

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return to her paternal house and the same has been proved by adducing evidence on the touchstone of preponderance of probabilities.

Under Section 13(1)(ia) of the Hindu Marriage Act, 1955, a marriage can be dissolved by a decree of divorce on a petition presented either by the husband or the wife on the ground that the other party has, after solemnization of the marriage, treated the petitioner with cruelty. As regards the ground of cruelty, the Hon'ble Apex Court in a series of judgements, has repeatedly stated the meaning and outlined the scope of the term 'cruelty'. Cruelty is evident where one spouse has so treated the other and manifested such feelings towards her or him as to cause in her or his mind reasonable apprehension that it will be harmful or injurious to live with the other spouse which cruelty may be physical or mental. In the present case, the elements of cruelty appear to have been established by the petitioner. The petitioner has also been able to prove that the respondent had deserted her for more than two years before filing of the plaint in this case.

Accordingly, the petitioner is entitled to a decree of dissolution of marriage on the ground of cruelty and desertion as enumerated under section 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955.

On consideration of the entire case, I do not find any scintilla of doubt as regards connivance between the parties and or any impediment under the law to decide the present case.

It is, therefore,

O R D E R E D

that Matrimonial Suit No. 620 of 2023 be and the same is allowed ex-parte against the respondent. However, there is no order as to costs.

The marriage tie between the petitioner **Smt. Chandra Basu** and the respondent **Sri Milan Kumar Basu** dated 20.02.2002 hereby stands dissolved from this day.

A copy of the order be supplied to the petitioner at free of cost.

The instant case is thus disposed of.

Dict. & corr. by me.

Sd/-

Addl. District Judge, 2nd Court,
Serampore, Hooghly.

Sd/-

Addl. District Judge, 2nd Court,
Serampore, Hooghly.

