

**IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSION JUDGE,  
FTC, CHANDERNAGORE, HOOGHLY.**

**Matrimonial Suit No. 389 of 2024**

**Smt. Tumpa Chowdhury (Saha)**

..Petitioner

Vs.

**Sri Partha Sarathi Chowdhury**

...Respondent

**Order No.09 dt.27.04.26**

The instant case is fixed today for passing ex-parte order.

Hazira filed for the petitioner.

The case record is taken up for passing ex-parte order.

The petitioner / wife has filed an application under section 13(1)(ia)(ib) of the Hindu Marriage Act 1955 praying for divorce against her husband (herein after called as respondent ) on the ground of cruelty and desertion. Respondent/husband did not turn up. As a result by an order dt.13.11.25 the suit was taken up for ex parte hearing and today is fixed for order.

In brief it is the case of the petitioner that she was married to the respondent and their marriage was solemnized and registered on **04.03.2013** and **26.03.2014** respectively as per Hindu Marriage Act. Their marriage was consummated and petitioner gave birth of her son on **10.12.14**.

During her stay at her matrimonial house her in-laws used to abuse her raising the issue of caste and her husband subjected to torture her mentally. However, she had endured it with an expectation that the respondent would amend his behaviour. In the mean time she became pregnant, but she failed to bear the same due to mental torture subjected to her. As a result in the month of June 2013 she had undergone miscarriage. In spite of that her husband and in-laws continued to torture her, but she had no other option to escape the situation and she had adjusted with the situation considering it, as her misfortune. Again she became pregnant and she gave birth of her son on 10.12.14. The respondent was totally indifferent about her and her minor son. Even he stopped to share bed with her. To get rid of the mental trauma she took shelter at her parent's house along with her minor son, but the

respondent did not take any initiative to reconstitute their conjugal life. Being compelled by the situation she has initiated the instant suit praying for dissolution of their marriage.

Hence, the suit.

The petitioner/wife was examined ex-parte as PW-1 . Examination-in- chief on Affidavit was tendered. The petitioner/wife while examining herself as P.W-1 in this case has testified on oath the material averments made in her application and almost reproduces the statements made in the petition for divorce and states that due to persistent cruelty she was compelled to file this suit. Further to substantiate her case she has produced following documents;

- a) Aadhar card of the petitioner (exhibit -P1)
- b) The marriage certificate (exhibit – P2).
- c) The birth certificate of her son (exhibit – P3).

There is nothing to disbelieve the unchallenged ex-parte evidence of the petitioner/wife regarding alleged cruelty. At this stage no collusion is forthcoming. Marriage was solemnized and registered on **04.03.2013** and **26.03.2014** respectively as per Hindu Marriage Act. After that the petitioner gave birth of her son on **10.12.14**. Further the instant suit was initiated on 14.08.24 i.e. more than one year from the date of solemnization of their marriage. The petitioner/wife at the time of presentation of the plaint as well as at present has been residing within the jurisdiction of this Court. So there is no bar on the ground of jurisdiction to grant the relief prayed for. However, it is interesting to note that the ground on which the petitioner has prayed for divorce is none other than “cruelty”. The term cruelty has not been defined in the Hindu Marriage Act. To get an idea about ‘cruelty’, we have to come across different judicial pronouncement. In Samar Ghosh v. Jaya Ghosh [ Appeal (civil) No.151 of 2004 dated 26.03.2007, before Supreme Court of India and before Bench B.N Agarwal, P.P Naolekar, Dalveer Bhandari] AIR online 2007 SC 347, the Hon’ble apex court has pointed out and categorized certain human conduct as mental cruelty, but the list is obviously not exhaustive because each case presents it’s own peculiar factual matrix and existence. For which in K. Srinivas Rao vs D.A. Deepa, AIR 2013 SUPREME COURT 2176 Hon’ble apex Court had again

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added certain other human conduct as mental cruelty. Moreover, respondent has failed and neglected his duty towards his wife and he failed to perform the marital obligations, which itself amounts to cruelty. Therefore, there is no impediment to grant the relief as the petitioner has prayed for.

C. F paid is sufficient.

Hence, it is

**ORDERED**

that the Matrimonial Suit No. **389 of 2024** be and the same is hereby decreed ex-parte under section **13(1)(ia)(ib)** of the Hindu Marriage Act 1955.

The petitioner **Smt. Tumpa Chowdhury (Saha)** do get the decree of divorce (ex-parte) of marriage as per provision of **under section 13(1)(ia)(ib)** of the Hindu Marriage Act 1955 against her husband **Sri Partha Sarathi Chowdhury**.

The alleged marriage between **Smt. Tumpa Chowdhury (Saha)** and **Sri Partha Sarathi Chowdhury** was solemnized and registered on **04.03.2013** and **26.03.2014** respectively as per Hindu rites and customs stands dissolve by a decree of divorce.

Handover a copy of this order to the petitioner free of cost forthwith.

The marital tie between the parties stands terminated with immediate effect.

Decree to be drawn up within a week from the date of this order.

Dictated & corrected by me

Addl. District Judge,  
F.T.C, Chandernagore, Hooghly  
(J.O. Code - WB00971)

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