

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE,1st COURT
DAKSHIN DINAJPUR AT
BALURGHAT**

Present : Ansuman Chattopadhyay
 Additional District Judge,1st Court
 Dakshin Dinajpur at Balurghat
 JO Code : WB00820

MATRIMONIAL SUIT NO. 302 OF 2025
Computer Regn.No. 302 of 2025
CNR : WBDD01-002248-2025

PETITIONER /WIFE	PETITIONER / HUSBAND
AMITA ROY D/O. Jayanta Roy Vill : Kanura ; P.O.Angina P.S.Kumarganj ; Dist.Dakshin Dinajpur	EYAKUB MOLLA S/O. Riajuddin Molla Vill. Krishnapur ; P.O. Samjhia P.S.Kumarganj ;Dist.Dakshin Dinajpur

O R D E R
Under Section : 27(1) of the Special Marriage Act

ORDER NO. 03
DT. 06/06/2026

- 1) Today is fixed for exparte hearing. Petitioner/wife is present by filing hazira. She has also produced one witness. No step, as usual taken by or on behalf of the respondent/husband.
- 2) The suit is heard exparte. Both the witnesses, namely, Amita Roy and Jamuna Roy were examined exparte in full and discharged. Record is now taken up for exparte order.
- 3) The factual matrix involved with the petitioner’s case, as transpiring from the plaint of this suit dt. 27/10/2025, is that she was married to the respondent/husband namely Eyakub Molla on 18/01/2018 by way of registration under the Special Marriage Act,1954. After the solemnisation of marriage, the petitioner went to the house of the respondent at village Krishnapur under the jurisdiction of Kumarganj P.S and started leading her conjugal life. In the said wedlock, the petitioner/wife purportedly gave birth to a female chid on 24/11/2018 and said child was named as Roshni

Aktar. It has been contended that said female child is presently residing with the petitioner.

4) It is furthermore the contention of the petitioner/wife that initially after marriage, she resided peacefully and happily with the respondent but thereafter, the latter started inflicting torture upon her physically and mentally on demand of dowry. She alleged that other members of the family also instigated the respondent in perpetrating said atrocities upon her. They used to create pressure upon the petitioner/wife for bringing money from her father's house. On some occasions, her father also tried his level best to meet the said monetary demands raised by the respondent/husband and his family members.

5) On 15/04/2023, the respondent came to the house in drunk condition and beaten the petitioner up mercilessly and indiscriminately. He tried to kill the petitioner but when the petitioner attempted to resist, the respondent had continued assaulting her brutally before finally driving her out of his house.

6) The petitioner/wife also mentioned that during the said period, when she was living at her matrimonial home, the respondent never provided her with sufficient food and clothing and other daily fundamental requirements required for even marginal subsistence. He also did not take care of their minor child. The atrocities upon the petitioner/wife aggravated on daily basis till the aforesaid date being 15/04/2023, when she was extruded from his house. It has been averred that since then, the petitioner/wife has been residing at her parental home in a destitute and vagrant condition.

7) She contended that the cruelty perpetrated upon her has never been condoned and the present application u/s.27 of the Special Marriage Act has not been presented in any collusion between the parties.

8) Based on the aforesaid contentions, by way of plaint dt.27/10/2025, the petitioner/wife has prayed for dissolution of her marriage with the respondent/husband by way of decree of divorce on the ground of cruelty and desertion along with other ancillary reliefs.

9) After institution of the suit, notices were sent to the respondent/husband by both ways. In spite of valid service of the said summons by registered post as well as through Process Server, the respondent/husband did not turn up before this court to contest the case, for which the matter was proceeded ex parte against him.

10) In the course of ex parte hearing, as already mentioned above, the petitioner/wife Amita Roy was examined as P.W-1 while her mother Jamuna Roy was produced as P.W-2. In their written examinations in chief on affidavit, both the aforesaid witnesses reiterated the contents of the plaint.

11) In addition, the following documents as produced by these witnesses were marked as exhibits :-

- i) photocopy of the Voter Identity Card of P.W-1.....Exbt-1
- ii) photocopy of Aadhar card of P.W-1.....Exbt-2
- iii) photo copy of Marriage registration certificate.....Exhibit-3
- iv) photo copy of the birth certificate of daughter.....Exhibit-4
- v) photocopy of Voter ID card of P.W-2..... Exbt-5
- vi) photo copy of Aadhar Card of P.W-2.....Exhibit-6

12) In the course of argument, Ld.Advocate for the petitioner drew attention of this court to the corroboration achieved by and between the pleadings, verbal evidence adduced by the witnesses and the documents submitted by them.

13) Considered the argument advanced on behalf of the petitioner/wife and carefully perused the materials on record as mentioned above.

14) By way of documents marked as Exhibits-3 & 4, the petitioner/wife had been able to sufficiently establish the factum of her marriage with the respondent/husband.

15) The fact of non-appearance of the respondent/husband, despite being validly served with summons of the suit, gives rise to adverse presumption against him and tantamounts to an indirect admission of the allegations labeled against said respondent/husband by the petitioner. Therefore, from that point of view, the ground of cruelty as well as desertion also get established.

16) In the absence of any pleadings, statement or evidence to the contrary, I do not find any justification to disbelieve the unchallenged testimony of the witnesses produced by the petitioner/wife.

17) In the light of the aforesaid discussion, I am of the considered opinion that the petitioner/wife had been able to prove the grounds of cruelty and desertion, thus entitling her to get the decree as prayed for.

18) In the result, the suit merits success.

19) C.F paid is correct.

Hence it is,

ORDERED

That the proceeding bearing Matrimonial Suit No. 302 of 2025 be and the same is hereby decreed exparte as against the respondent/husband, but in the attending facts and circumstances I pass no order as to cost.

The marriage registered between petitioner/wife Amita Roy and respondent/husband Eyakub Molla solemnised by registration on 18/01/2018 under the Special Marriage Act is hereby dissolved from this date by way of the present decree of divorce on the grounds of cruelty and desertion as envisaged u/s.27(1) of the aforesaid Statute of 1954.

B.C.-II to draw up the decree at once.

Dictated & Corrected by

A.D.J, 1st Court

**Additional District Judge,
1st Court, Balurghat**