

In the Court of the Additional District & Sessions Judge

Fast Track 1st Court, Bongaon, North 24 Parganas

Matrimonial Suit No. 702 of 2025

CNR No. WBNP 06-002143-2025

Divorce on Ex parte

Present: Durga Sankar Rana [J.O. Code WB-00950]

Additional District & Sessions Judge, Fast Track 1st Court, Bongaon, North 24 Pdns.

Sri Biswajit Halder Petitioner / Husband

and

Smt. Hima Halder Respondent / Wife

Order No. 03, dated 16-03-2026

Today is fixed for appearance and hearing.

Petitioner files hazira and he is present in Court. He also files his respective evidence in chief by swearing affidavit.

This suit being one for dissolution of marriage by a decree of divorce on ex parte. I have made sincere effort to sort out his dispute. But the petitioner is found not willing to live with his wife together.

So, the suit is taken up for hearing.

The petitioner is examined on oath.

The self attested copy of the Aadhaar Card of the petitioner no.-1 is marked as **Exhibit-1** and the self attested Birth certificate of the child is marked as **Exhibit-2**. The father of the petitioner is examined and he filed photocopy of Aadhar Card marked as **Exhibit-3**.

Heard Learned Advocate for the petitioner. Perused the evidence-in-chief of the petitioner on affidavit.

This is an application u/s. 13 of Hindu rites and customs by which the petitioner has prayer before the court to pass an order of divorce in his favour. The facts of the case as stated by the petitioner is that after his marriage with the respondent, he gradually understood that the respondent is very ill-tempered, whimsical, demanding, adamant and person. She did not show any respect for the petitioner and his family members and she openly refused to do any household works and ordered her in laws members to do the same. She also treated the petitioner with extreme cruelty; she abused the petitioner in most filthy languages; she very often assaulted him with fists and blows and she is practically cruel by nature and she has no love for her child whom she beats even on slightest cause. The name of the child is Bihan Halder and he is at present 04 years of age. It has also been contended that the petitioner very often left her matrimonial home and went to her father's house or elsewhere without taking

permission of the petitioner or his family members. Ultimately after leaving her matrimonial house on 09.04.2024, the respondent did not return and when the petitioner went to the house of the respondent's father, the respondent flatly refused to come back and continue matrimony with the petitioner. Thereafter, several attempts were made to settle the dispute but no positive result evolved. Hence, the petitioner has understood that his marriage with the respondent has no future and he has filed this case to get divorce from his wife.

Considered.

Considering the ex parte evidence of the petitioner and his father namely Ashok Halder it is found that there no impediment to pass an ex parte order of divorce in favour of the petitioner, as it appears from the materials available on record that no fraud, coercion or collusion is there in between the parties in filing this suit.

In support of his case, the petitioner/husband has examined himself as P.W.1 and his father namely Ashok Halder has deposed as P.W. 2 in addition to filing their evidence in chief supported by affidavit.

Considering the case record, it appears that despite proper service of summons, Respondent did not appear to contest the suit so suit was directed to be proceeded ex-parte against her.

Petitioner has taken plea of cruelty as grounds of divorce. As per the Petitioner, the respondent deserted her matrimonial home on 09-04-2024 and since the said date, the respondent is living separated from her husband and has not resumed her cohabitation with his said husband / petitioner. But at the same time the another ground of divorce, i.e., cruelty is also pleaded by the petitioner and divorce be granted on that alone ground also. So, the matter is proceeded with.

Now, cruelty which is a ground for dissolution of marriage may be defined as willful and unjustifiable conduct of such character as to cause danger to life, limb or health, bodily or mental, or as to give rise to a reasonable apprehension of such a danger. The question of mental cruelty has to be considered in the light of the norms of marital ties of the particular society, to which the parties belong, their social values, status, environment in which they live. Cruelty need not be physical. If from the conduct of the spouse it is established or an inference can be legitimately drawn that the treatment of the spouse is such that it causes apprehension in the mind of the other spouse, about his or his/him mental welfare then this conduct amounts to cruelty. [**Maya Devi v. Jagdish Prasad, AIR 2007 SC 142**].

The expression "Cruelty" as envisaged under section 13 of the Act clearly admits in its ambit and scope such acts which may even cause mental agony to aggrieved party. Intention to be cruel is not an essential element of cruelty as envisaged under section 13 of

the Act. It is sufficient that if the cruelty is of such type that it becomes impossible for spouses to live together. [**Neelu Kohli v. Naveen Kohli, AIR 2004 All 1**].

In **Vishwanath Agrawal versus Sarla Vishwanath Agrawal [(2012) 7 SCC 288]** it was held that-

The expression 'cruelty' has an inseparable nexus with human conduct or human behaviour. It is always dependent upon social strata or the milieu to which the parties

belong, their ways of life, relationship, temperament and emotions that conditioned by their social status. The facts and circumstances are to be assessed emerging from the evidence on record and thereafter, a fair inference has to be drawn whether the petitioner in the divorce petition has been subjected to mental cruelty due to the conduct of others."

It has been alleged that Respondent/wife willingly left her matrimonial home on 09.04.2024 taking advantage of the absence of the petitioner from his house. Practically so far the evidence is available, she deserted the petitioner. i.e., her husband without any reasonable cause and there was no resumption of sexual relationship between the petitioner and his said wife for the last two years and thereby the respondent practically stopped any scope of sexual relationship with the petitioner.

On perusal of the un-rebutted evidence of the Petitioner and his father, this Court finds no reason to disbelieve it and from the materials on record it appears that the respondent/wife allegedly left her matrimonial home out of her own will on 09-04-2024 and no justifiable cause has been shown by the respondent regarding her withdrawal from the society from the petitioner and even from her daughter by appearing in this case after service of notice of this case to her. Side by side, it has been supported by the petitioner in his evidence that the respondent/wife subjected the Petitioner/husband to cruelty by refusing to cohabit with him without any lawful excuse and to erode the further scope of resumption of sexual intercourse, she left her matrimonial home. The respondent was very much cruel to the petitioner from the very inception of their conjugal life. The respondent was very cruel to the petitioner by beaten him several times and abused him by filthy languages.

In **Praveen Mehta v. Inderjit Mehta** reported in **AIR 2002 Supreme Court 2582**, the Hon'ble Apex Court has held that denying cohabitation without any lawful reason tantamount to cruelty. Side by side, it is directly averred that the respondent treated the petitioner with cruelty by humiliating him and abusing him.

The facts borne out in the application under consideration and unrebutted testimony of the Petitioner and his father suggest that Petitioner/husband has made out a good case and is entitled to get an ex-parte decree against the respondent/wife on the grounds of cruelty.

The Court Fee paid is correct.

Hence, it is,

ORDERED

that the Mat. **Suit No. 702 of 2025** under section 13 of the Hindu Marriage Act, 1955 be and the same is decreed on ex parte order.

The parties do get a decree of divorce on ex parte and the marriage subsisting between the parties **Sri Biswajit Halder and Smt. Hima Halder** solemnized on 13-02-2021 as per Hindu Rites and Customs stands dissolved by a decree of divorce ex parte decree and the marital tie between them do stand severed with immediate effect.

Decree be drawn up accordingly.

**Additional District & Sessions Judge,
Fast Track Court-1, Bongaon, North 24 Parganas
W.B. JO 00950**

Dictated & Corrected by me,

**Additional District & Sessions Judge,
Fast Track Court-1, Bongaon, North 24 Parganas**