

IN THE COURT OF THE ADDITIONAL DISTRICT & SESSIONS JUDGE,
FAST TRACK COURT-1, BONGAON, NORTH 24 PARGANAS



Present: Sri Durga Sankar Rana

Matrimonial Suit No. 162 of 2025

In the matter of:

Smt. Purnima Debnath ... **Petitioner**

-Versus-

Sri Sagar Kundu... **Respondent**

Order No – 09 Dated 02-06-2026

The petitioner, Smt. Purnima Debnath, has instituted this matrimonial suit against her husband, the respondent, Sri Sagar Kundu, praying for a decree of dissolution of marriage by divorce under Section 13(1)(ia) [Cruelty] and Section 13(1)(ib) [Desertion] of the Hindu Marriage Act, 1955.

Case of the Petitioner in Brief

The case of the petitioner, as emanated from the petition as well as the oral testimony, is that the marriage between the petitioner and the respondent was solemnized on 09.05.2014 according to Hindu rites and customs. The marriage was subsequently registered under the Hindu Marriage Act on 27.07.2015. After solemnization of the marriage, the petitioner went to her matrimonial home at Habra Manasabari and started living with the respondent as husband and wife. The marriage was consummated, and a daughter named Priyanka Kundu (now 11 years old) was born out of the wedlock.

It is alleged that shortly after the marriage, the respondent's behavior changed drastically. He became habitually addicted to alcohol, returning home in an inebriated state almost every night. He routinely subjected the petitioner to filthy verbal abuse, inhumane mental agony, and brutal physical torture. Despite the petitioner's father providing substantial dowry articles during the marriage, the respondent gradually misappropriated all of them and began pressuring the petitioner to grant him a divorce. The respondent also neglected his familial duties, remained glued to his mobile phone, refrained from stable employment, and completely refused to maintain the petitioner and their minor daughter.

Despite multiple social mediation attempts by local elders, the respondent failed to rectify his behavior. Ultimately, on 10.05.2018, the respondent severely assaulted the petitioner, forcefully retained all her personal belongings, and ousted her along with their minor daughter from the matrimonial home.

Since then, the petitioner has been residing at her paternal home under the care of her father. The respondent has neither provided any maintenance nor made any attempts at reconciliation for the last seven years.

Procedural History & Ex-Parte Orders

The record reveals that despite due service of summons through regular modes as well as substitution, the respondent chose not to appear before this Court or file any written statement to contest

the claims. Consequently, vide Order dated 15-05-2026, the suit was ordered to be heard *ex-parte* against the respondent.

Evidence Adduced

To prove her case, the petitioner examined herself as **PW-1** and filed her evidence via Affidavit-in-Chief. She corroborated all the facts stated in the plaint and produced the following documentary evidence:

- **Exhibit-1:** Self-attested copy of her Aadhaar Card (compared with original).
- **Exhibit-2:** Birth Certificate of her minor daughter, Priyanka Kundu.

The petitioner's father, Sri Swapan Debnath, was examined as **PW-2**. He fully supported his daughter's case, testifying to the torture, misappropriation of dowry, total financial abandonment by the respondent since 10.05.2018, and the fact that the petitioner and granddaughter have been entirely dependent on him for the last seven years. He produced:

- **Exhibit-3:** Self-attested copy of his Aadhaar Card.

Points for Decision

1. Is the suit maintainable in its present form and law?
2. Has the respondent treated the petitioner with cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act, 1955?
3. Has the respondent deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of this petition under Section 13(1)(ib) of the Act?
4. Is the petitioner entitled to get a decree of divorce as prayed for?

Decision with Reasons

Point No. 1

The marriage was solemnized and registered within the territorial jurisdiction of this Court, and both parties resided within the jurisdiction of North 24 Parganas. The suit has been filed well within time, and the statutory requirements under the Hindu Marriage Act are fulfilled. Hence, the suit is maintainable.

Points No. 2 & 3

Since both these points are interlinked, they are taken up together for the sake of brevity and convenience.

The oral testimonies of PW-1 (Purnima Debnath) and PW-2 (Swapan Debnath) remain completely unchallenged and un-rebutted as the respondent chose not to cross-examine the witnesses or produce any counter-evidence.

Anent the ground of Cruelty [Section 13(1)(ia)]

The petitioner testified that the respondent was a habitual drunkard who inflicted regular physical violence and mental humiliation on her, alongside demanding a divorce and misappropriating her dowry.

- In the landmark case of **Samar Ghosh v. Jaya Ghosh (2007) 4 SCC 511**, the Hon'ble Supreme Court enumerated illustrative instances of mental cruelty, observing that a sustained course of abusive behavior, neglect, and total indifference making it impossible to live together falls squarely within the ambit of matrimonial cruelty.
- Furthermore, the Hon'ble Calcutta High Court in **Joydeep Majumdar v. Bharti Misra Majumdar (2021) SCC OnLine SC 313** reiterated that continuous physical assault combined with financial abandonment causes sustained apprehension in the mind of the spouse that it is harmful or injurious to live with the other. The unchecked testimony of PW-1 establishes that the respondent's physical violence was so severe that it could have been fatal. Thus, the ground of cruelty stands proved.

Anent the ground of Desertion [Section 13(1)(ib)]

To establish desertion, two essential conditions must be fulfilled - the *factum* of separation and the intention to bring cohabitation permanently to an end (*animus deserendi*), without reasonable cause, for a continuous period of at least two years.

- In **Bipinchandra Jaisinghbai Shah v. Prabhavati (AIR 1957 SC 176)**, the Hon'ble Apex Court held that desertion means the intentional permanent forsaking and abandonment of one spouse by the other without that spouse's consent and without reasonable cause

In the present case, the uncontroverted evidence shows that the respondent forcefully drove the petitioner and their minor daughter out of the matrimonial home on 10.05.2018. Since then—for a continuous period of over seven years—the respondent has completely severed all marital ties, failed to provide a single penny for maintenance, and made zero attempts to bring his wife back. This absolute lack of care and constructive eviction clearly demonstrates both factum of separation and animus deserendi on the part of the respondent.

Therefore, this Court holds that the petitioner has successfully proved that she was subjected to both severe cruelty and prolonged desertion by the respondent. Points No. 2 and 3 are decided in favor of the petitioner.

Point No. 4

As the grounds of cruelty and desertion have been proven on the scale of a preponderance of probabilities through un-rebutted testimonies and supporting documentary exhibits, the petitioner is fully entitled to a decree of dissolution of marriage. Regarding the custody of the 11-year-old minor daughter, Priyanka Kundu, it is established that she has been under the sole care, protection, and financial guardianship of the petitioner and maternal grandfather since 2018. Keeping the paramount welfare of the child in mind, her custody shall remain with the mother.

Hence, it is,

Ordered

That the **Matrimonial Suit No. 162 of 2025** be and the same is hereby **allowed ex-parte** against the respondent.

The marriage between the Petitioner, Smt. Purnima Debnath, and the Respondent, Sri Sagar Kundu, solemnized on 09.05.2014 and registered on 27.07.2015, stands dissolved by a **Decree of Divorce** under Sections 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955.

The permanent custody of the minor daughter, Priyanka Kundu, is hereby granted to the petitioner-mother. The respondent is strictly directed to refrain from interfering with the peaceful custody and upbringing of the minor child.

Let a decree be drawn up accordingly.

The copy of this Judgment and Decree be provided to the parties free of cost in compliance with Section 23(4) of the Hindu Marriage Act, 1955.

Anga Sanjiv Kumar
Additional District & Sessions Judge,
Fast Track Court-1, Bongaon, North 24 Parganas

02-06-2026
Additional Dist and Sessions Judge
Fast Track Court-I
Bangaon, North 24 Pgs.

Typed & Corrected by me,

Anga Sanjiv Kumar
02-06-2026

Additional District & Sessions Judge,
Fast Track Court-1, Bongaon, North 24 Parganas
Additional Dist and Sessions Judge
Fast Track Court-I
Bangaon, North 24 Pgs.

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