

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, 1ST COURT AT  
ALIPORE, SOUTH 24-PARGANAS**

**Present:** Sri Rajesh Chakraborty (JO Code : WB00764)  
Additional District Judge,  
1<sup>st</sup> Court, Alipore (South 24-Parganas)

**MAT SUIT No. 2363 OF 2025**

**Smt. Jayeeta Das...Petitioner / Wife**

Versus

**Sri Bappa Banerjee...Respondent / Husband**

**Order No. 08 dated 10.04.2026**

This is an application instituted by the Petitioner under Section 27 of the Special Marriage Act, 1954 seeking a decree of divorce on the ground of cruelty.

At the outset, it is evident from the records that summons of the suit was duly served upon the Respondent through the court bailiff, and the report submitted by the bailiff clearly indicates that the Respondent accepted the summons. Despite such effective service, the Respondent failed to enter appearance or contest the proceeding. By Order No. 4 dated 08.12.2025, this Court granted a clear opportunity to the Respondent to appear on 21.02.2026 with a specific direction that in default, the suit would proceed ex-parte. The Respondent, however, did not avail himself of such opportunity and remained absent without any explanation.

In such circumstances, this Court is satisfied that the Respondent had due notice of the proceeding and has willfully abstained from contesting the same. The matter has, therefore, proceeded ex-parte in terms of the principles embodied in Order IX Rule 6 of the Code of Civil Procedure. The law is well settled that where a defendant, despite due service, fails to appear, the Court is competent to proceed ex parte; however, the Court must still scrutinize the evidence adduced by the plaintiff to determine whether a case for granting relief has been made out.

The Petitioner has adduced her evidence on oath by way of affidavit, which remains wholly unchallenged and unrebutted. She has also produced documentary evidence including the original marriage certificate marked as Exhibit 1, which conclusively proves that the marriage between the parties was solemnized and registered on 24.01.2024 under the Special Marriage Act, 1954.

From the un rebutted testimony of the Petitioner, it emerges that the matrimonial life between the parties became disturbed shortly after the marriage. The Petitioner has consistently deposed that the Respondent was a habitual drunkard and, under the influence of alcohol, subjected her to repeated acts of physical assault and mental cruelty. The evidence reveals that such acts were not isolated but formed a continuous pattern of behavior marked by brutality, abusive language, intimidation, and threats to life.

The Petitioner has further stated that she was compelled to lodge a General Diary and subsequently an FIR with the concerned police station due to the unbearable torture inflicted upon her and her daughter. Such conduct of approaching the police authorities lends assurance to the truthfulness and seriousness of her allegations. It also appears that the Respondent assaulted not only the Petitioner but also her minor daughter and threatened their lives, thereby creating a situation of constant fear and insecurity.

The evidence further shows that the Petitioner was ultimately compelled to leave the matrimonial home on 03.05.2025 and has since been residing separately to protect herself and her daughter from further harm. The continued neglect of the petitioner by the respondent and his reckless lifestyle, as stated by the petitioner, further aggravated the cruelty suffered by her.

Cruelty, as a ground for divorce under Section 27 of the Special Marriage Act, includes both physical and mental cruelty. The conduct of the Respondent, as established on record, clearly falls within the ambit of such cruelty. Repeated physical assaults, habitual intoxication leading to violent behavior, verbal abuse, threats to life, and conduct causing mental agony and fear are sufficient to constitute cruelty of a grave nature. The standard of proof in matrimonial cases being that of preponderance of probabilities, the unchallenged and consistent testimony of the Petitioner sufficiently establishes her case.

There is no material on record to suggest any collusion between the parties. On the contrary, the facts and circumstances disclose a genuine grievance on the part of the Petitioner. The Court also finds that the matrimonial bond between the parties has completely broken down and there is no possibility of reconciliation. While irretrievable breakdown of marriage is not an independent statutory ground under the Special Marriage Act, it is a relevant factor supporting the conclusion that the Petitioner cannot reasonably be expected to continue in the marital relationship.

Upon careful consideration of the pleadings, evidence, and the applicable legal principles, this Court is of the considered opinion that the Petitioner has successfully proved that she has been subjected to cruelty by the Respondent within the meaning of Section 27 of the Special Marriage Act, 1954, and is entitled to a decree of divorce.

Accordingly, the suit succeeds ex parte.

Court fees paid, is sufficient.

Hence, It is,

ORDERED

that the marriage between the petitioner, Smt. Jayeeta Das, and the Respondent, Sri Bappa Banerjee, solemnized and registered on 24.01.2024 under the Special Marriage Act, 1954, is hereby dissolved by a decree of divorce on the ground of cruelty.

Considering the facts and circumstances of the case, there shall be no order as to costs.

Let the decree be drawn up accordingly.

The instant Mat Suit is, thus, disposed of.

Note in the relevant register.

D/C by me

Additional District Judge,  
1<sup>st</sup> Court, Alipore

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