

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE,
1ST COURT, SEALDAH, SOUTH 24-PARGANAS.**

Additional District Judge, 1st Court, Sealdah, 24 Pgs.(S), in charge

Mat. Suit No. 375 of 2025
(CNR No.WBSP070027662025)
(CIS- 375/2025)

Case U/s 28 of the Special Marriage Act, 1954

Ushna Sarkar Petitioner No.1(wife)

And

Neelambar Payne..... Petitioner No.2 (husband)

Order No. 02 dated 11.03.2026

The case record is taken up for appearance and reconciliation.

Both the petitioners are present before this court.

Both the parties are called upon by this court for reconciliation but they are not at all ready to reunite.

So, the process of reconciliation fails.

The case record is taken up for hearing.

The petitioners **Ushna Sarkar and Neelambar Payne** entered into a marital tie as per the provisions of Special Marriage Act, on 26.12.2022 and the Marriage Registration Certificate was proved as Exbt.1.

After marriage, the parties started to reside as husband and wife.

During the continuation of the marriage tie, difference of opinions cropped up between the parties and they failed to solve the same and darkness came down in their married life. The difference of opinion reached to such an extent that they started to reside separately on and from 10.06.2024 and as they have noticed that there were no chance of reconciliation, they have decided to put an end in their relationship by mutual consent and as such they have applied before this Court by filing a petition u/s.28 of Special Marriage Act, for getting decree of divorce on mutual consent.

The said petition was filed on 01.09.2025 and it came out for hearing on this day.

The basic elements required for getting the decree, are as follows:-

- 1. That the parties have been living separately for a period of one year or more before presentation of the petition.*
- 2. That the parties have not been able to live together as husband and wife*
- 3. That they have mutually agreed that the marriage should be dissolved*

In order to substantiate their case both the petitioners were examined on oath.

Contd. order No. 02 dated 11.03.2026

They have supported their versions as were mentioned in the petition. It was their version that they have been living separately on and from 10.06.2024 and after waiting they have filed the instant petition. It was also their version that there was no scope to live together as husband and wife and that they have mutually took conscious decision to put an end in their marital tie and obligations. It was also their versions that the petition was not a collusive one.

The expression "living separately" connotes not living like husband & wife. It has no reference to the place of living. The parties may live under the same roof or may live in different houses and yet they could live as husband and wife. What seems to be necessary is that they have no desire to perform marital obligations & with the mental attitude they have been living separately. Here in the instant case from the evidence of both the parties it appears that they started to live separately at separate places and they had no relationship between them as husband & wife. I did not find any material in their evidence to disbelieve their versions.

It also came out from the case record that during the waiting period of 6 months the petition was not withdrawn. The object of this time frame is to give an opportunity to the parties for reconciliation and if the petition be not withdrawn during this time span, it can easily be presumed that the parties were agreed to dissolve their marriage tie by mutual consent. Here in this case the same thing happened. From the evidence of the parties before this court I found that there is no scope to reunite the parties and as such I think it prudent to allow this petition of divorce by mutual consent.

As per the evidence of both sides, no issue was born from the said wedlock.

Hence it is,

O R D E R E D

That instant Mat Suit vide No. Mat 375/2025 be and the same is allowed on consent u/s.28 of the Special Marriage Act.

The marital tie between **Ushna Sarkar and Neelambar Payne** be and the same is dissolved from this day i.e from 11th day of March, 2026.

D/C by me,

Addl. District Judge,
1st Court, Sealdah

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