

**HIGH COURT OF TRIPURA  
AGARTALA**

**MAT. APP.NO.16 OF 2025**

**Sri Abhinash Das**, son of Late Jagabandhu Das of  
Village Bilashpur, P.O. Dalugaon, P.S. & Sub-Division-Kailashahar,  
District-Unakoti, Tripura-799280.

--- Appellant.

**Versus**

**Smt. Swapna Suklabaidya (Das)**, wife of Sri Abhinash Das,  
Daughter of Late Adhir Suklabaidya of village Bilashpur,  
P.O.-Dalugaon, P.S. & Sub-Division-Kailashahar,  
District-Unakoti, Tripura 799280.

--- Respondent.

**BEFORE  
HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO  
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

For the Appellant : Ms. Paramita Dhar, Advocate.

For the Respondent : None.

Date of hearing : 02.09.2025

Date of delivery of Judgment and Order: **25.09.2025**

Whether fit for reporting : 

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| YES | NO |
| ✓   |    |

**JUDGMENT AND ORDER**

**(S. Datta Purkayastha,J)**

We have heard Ms. Paramita Dhar, learned counsel for the appellant.

2. The judgment dated 10.02.2025, passed by learned Judge, Family Court, Kailashahar, Unakoti Tripura in TS (Divorce) 77 of 2022 rejecting the petition of the appellant, praying for a decree of divorce and the related decree thereof, are under challenge in this appeal.

3. The appellant as the petitioner filed the petition for divorce on the ground of cruelty and desertion by the respondent. His marriage with the

respondent was solemnized in the year 1994 and in their conjugality two daughters and one son were born. Both the daughters were given marriage earlier and the son is now aged about 22 years.

4. The grievances of the petitioner are that, since last 10 years, there were changes in the behavioural pattern of the respondent. She started frequent quarrelling with him without any reason and basis, and gradually the extent of her cruelties also increased. She also stopped performing regular domestic works, cooking, etc. and even filed case falsely implicating him. Lastly, on 20.07.2007 she willfully separated herself from the petitioner and started residing in separate mess with her son. She also stopped maintaining any sort of communication with him. It is also the grievance of the petitioner that the respondent used to remain busy on her mobile handset and social media platform like WhatsApp, Messenger, etc. in talking with the strangers. According to the petitioner, he tried his level best to restore the situation, but, the respondent denied to rejoin him. Therefore, he presented the petition for divorce.

5. The respondent, in her written objection stated that after marriage, both the petitioner and his family members were cruel towards her and even, on the day of marriage, they demanded Rs.7000/- from the respondent followed by a threat that unless said payment was made, the petitioner would withdraw himself from going through the ceremonials of marriage. However, the brother of the respondent somehow managed the amount and paid it to the petitioner and, thereafter, the marriage was solemnized. She has been subjected to both mental and physical torture after her marriage in the groom's house and

it increased day by day. The well wishers and the relatives of the parties attempted to mitigate the dispute by amicable settlement, but failed.

6. It is also contended by her that about 3 years ago, once she became ill as one tumour was detected in her uterus but, the petitioner denied to arrange any treatment for her. She also heard that the petitioner was engaged in extramarital relationship with another lady. According to her, the petitioner several times tried to oust her from the house to marry that woman, and lastly, after causing physical torture upon her, he forcefully separated himself from the association of the respondent and since then, he has been living separately from her and her son. Therefore, she was compelled to file a petition against him seeking maintenance.

7. During trial, the petitioner from his side, examined 3(three) witnesses including himself and the respondent also examined herself and another witness, namely, Narayan Bhowmik. The respondent also proved few documents in the evidence relating to her treatment. Finally, learned Judge, Family Court, after appreciating the evidences came to the conclusion that the petitioner himself was responsible for such separation and he was trying to take advantage of his own wrong and, therefore, learned Court below denied the relief to the petitioner.

8. Being aggrieved and dissatisfied with the findings returned by learned Judge, Family Court, the petitioner being the appellant has filed the instant appeal.

9. During the course of hearing, learned counsel, Ms. Dhar submits that for more than 8(eight) years i.e. from the year 2017, the respondent has deserted the appellant and he is residing separately from her. Despite he being

an old person, the respondent did not perform her marital obligations towards him. Learned counsel further argues that the learned Court below has misappreciated the evidences leading to a wrong decision.

10. The copies of the testimonies of the witnesses of both sides are submitted by the appellant and on consideration of the same, it is found that both the appellant and his witnesses, namely, Bhabotosh Baidya and Bipul Majumder have given omnibus statements that since last 10 years, the respondent would frequently quarrel with the appellant without any reason and her cruelties upon the appellant increased gradually. She also stopped herself from performing regular domestic works, cooking etc. and even filed case falsely implicating the appellant. Not a single incident of cruelty, either mental or physical, has been stated by the appellant in his petition or in the evidences of himself or his witnesses. Though he stated that the respondent had filed case against him but, no document in this regard was also submitted.

11. In fact, there is no fixed parameter for determining cruelty in matrimonial dispute inasmuch as the concept of cruelty differs from person to person depending on their social status, level of upbringing, extent of sensitivity, educational, societal and cultural background, financial status, etc. What is cruelty for a woman in a particular case may not be cruelty for a man and *vice versa*. Therefore, appreciation of evidences generally blends with some amount of subjectivity, nevertheless, the ingredients which constitute the cruelty are objective. The burden always lies on the petitioner to prove the cruelty and desertion on the touchstone of preponderance of probability.

12. Relevantly, a recent decision of the Supreme Court in the case of ***Smt. Roopa Soni Vrs. Kamalnarayan Soni, (2023)16 SCC 615*** deserves

reference in this context and the relevant paragraph no.7 is extracted here-under :

*“7. We would like to emphasize that an element of subjectivity has to be applied albeit, what constitutes cruelty is objective. Therefore, what is cruelty for a woman in a given case may not be cruelty for a man, and a relatively more elastic and broad approach is required when we examine a case in which a wife seeks divorce. Section 13(1) of the Act of 1995 sets contours and rigours for grant of divorce at the instance of both parties. Historically, the law of divorce was predominantly built on a conservative canvas based on the fault theory. Preservation of marital sanctity from a societal perspective was considered a prevailing factor. With the adoption of a libertarian attitude, the grounds for separation or dissolution of marriage have been construed with latitudinarianism.”*

13. According to the petitioner, on 20<sup>th</sup> July, 2017 the respondent had separated herself from him whereas in his cross-examination, the appellant admitted that the respondent was still residing in his own house, rather he was residing in the house of witness Bhabotosh Baidya. Said fact itself indicates that the respondent never left her matrimonial home abandoning the appellant. He also admitted that he had no contact with his children who are now well grown up. This fact shows that his children are also hostile towards him and not towards their mother. Despite his assertion that local people and relatives including Panchayat members tried to restore their conjugal life by way of settlement, but no satisfactory evidence has been led by him in this regard.

14. The testimonies of his other two witnesses are also not satisfactory. According to PW-2, Bhabotosh Baidya, he heard such story of torture from the appellant but he did not personally witness the same. PW-3, Bipul Majumder is also similarly a hearsay witness. According to him, he heard from the appellant that the respondent did not perform household works and that the respondent and her son had attempted to physically hurt the appellant.

15. The respondent, on the other hand, stated in her evidence that the appellant had received PMAY-G house building benefit from the government and after receiving the amount, he left the house leaving the respondent alone there. She also stated that when she was seriously ill, after said tumour was detected, the appellant denied any sort of treatment to her and after separation he even stopped paying any maintenance, leading the respondent and her son to severe hardship. In her cross-examination, she stated that for last 3/4 years, she did not know the whereabouts of the petitioner. To support her version, she also examined another witness, namely, Narayan Bhowmik whose house is situated at a distance of 500 cubits from her house. Said witness supported her version.

16. Therefore, on consideration of the evidences as a whole, we find no error in the impugned judgment. Mere bald statements implicating the spouse with allegations of cruelty and desertion are not sufficient to entitle a person to get a decree of divorce.

17. The appeal is dismissed being devoid of merit.

Registry is to prepare decree accordingly and communicate a copy of this judgment and decree to the learned Court below.

Interim application(s), if any, stands disposed of.

**(S. DATTA PURKAYASTHA, J) (M.S.RAMACHANDRA RAO, CJ)**