

**IN THE COURT OF ADDL. DISTRICT JUDGE:: SONITPUR,
TEZPUR:: ASSAM**

PRESENT:- N. AKHTAR, AJS
Addl. District Judge,
Sonitpur::Tezpur.

Title Suit (M) No. 106 of 2017

Smt. Monika Borah-----**Petitioner**

-Vs-

Sri. Gautam Paul-----**Respondent**

APPEARANCE:

FOR THE PETITIONER	:-	Mr. S.K.Singh, Advocate.
FOR THE RESPONDENT	:-	None appeared.
DATE OF HEARING	:-	14.05.2019.
DATE OF JUDGMENT	:-	15.05.2019.

JUDGMENT

1. This proceeding has arisen out of a petition filed by petitioner u/s 13 (1) (i-a) and (i-b) of Hindu Marriage Act, 1955 seeking for a decree of divorce on the ground of cruelty and desertion.
2. Brief facts on which the claim of the petitioner is grounded are as follows:

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The petitioner was married to the respondent on 13.3.2008. It was a social marriage and solemnized as per Hindu rites and rituals. After the marriage, the petitioner stayed in her matrimonial home for about five months and sometime in September/2008, the respondent brought her to her parental home and kept her there on the plea that he was supposed to go outside the district on some business purpose. At the time of the marriage, the father of the petitioner gave an amount of Rs.3,00000/- (Rupees three lacs) to the respondent to start a new business. Since the month of September/2008, neither the respondent nor any member of his family came to take the petitioner back to her matrimonial home. It was also stated that repeated requests have been made to take the petitioner back to her matrimonial home but the same was ignored on one pretext or the other.

3. A male child was also born to the petitioner on 22.10.2008 who is now under the care and custody of the petitioner. Neither the respondent nor any of his family members ever came to see the child after his birth nor any expenses of the hospital etc. was borne by the respondent. Many attempts were made to convince the respondent that he should take the petitioner and her child back to his home but it was rejected on the ground that the respondent has no independent source of income. Sometime in 2010, the petitioner also went to Guwahati and stayed in her uncle's house for some time but the respondent did not make any effort to establish any contact with her and her son. The respondent also did not make any co-habitation with the petitioner after September/2008.
4. The petitioner while staying at Guwahati filed a petition seeking divorce on the ground of cruelty and desertion in the Hon'ble Family Court which was numbered as FC (Civil) Case No. 271/2011 and the respondent also appeared on receipt of summons from the court. Thereafter, with the intervention of the family members and well-wishers, it was decided that a petition for mutual divorce would be filed

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and accordingly, the petitioner had withdrawn her petition filed before the family court and the above FC (Civil) Case No. 271/2011 was dismissed. Subsequently, a petition for mutual divorce was also filed in the family court at Guwahati which was registered as FC (Civil) Case No. 103/2012 but the respondent did not turn up before the family court and so, the said proceeding was also dismissed.

5. The petitioner had further noticed that the respondent is a man of weird nature and keeps avoiding public as he owes a huge money to many people. The petitioner has been leading a lonely life since after her marriage and the conduct of the respondent has created lot of agony and distress in the mind of the petitioner. Efforts have been made to sort out the issues but it was all in vain. People and creditors have been chasing the respondent and he is hiding his presence in the public. The petitioner has therefore, filed this petition seeking dissolution of her marriage with the respondent.
6. Notice was issued to the respondent and he appeared through his engaged advocate and prayed for time for filing his written statement. But at the subsequent stage, he remained unrepresented and so, vide order dated. 15.2.2019, the proceeding was directed to run ex-parte against the respondent.
7. Upon consideration of the petition for divorce and all other materials, ***the following point is formulated for determination:***

- *Whether the petitioner is entitled to a decree of divorce on the basis of the facts stated in the divorce petition?*

DISCUSSION, DECISION AND REASONS THEREOF

8. Before proceeding further, it is pertinent to mention here that this court has failed to make an endeavor for reconciliation between the parties as the respondent never appeared before this court and the proceeding has proceeded ex-parte against him. Therefore, attempt for

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reconciliation was not possible in the facts and circumstances of this case.

9. At the outset, it is necessary to point out here that the petitioner has filed this petition seeking divorce u/s 13 (1) (i-a) and (i-b) of the Hindu Marriage Act, 1955. During trial, the petitioner has examined herself as PW1 and no any other witness has been examined. I have heard learned counsel for the petitioner and have also perused her evidence.
10. Supporting her averments made in the divorce petition, the petitioner/PW1 has deposed in her evidence that she got married with the respondent on 13.3.2008 and it was a social marriage. After her marriage, she was living with the respondent as husband and wife but she so lived for only five months. In the month of September/2008, she was brought by the respondent to her parental home and was kept there on the pretext that he was supposed to go out of the district on business purpose. However, the respondent never returned to take her back nor did any member of the family of the respondent come to fetch her back to her matrimonial home. She stayed in her parental home and gave birth to a child on 22.10.2008. Neither the respondent nor any member of his family ever came to see the child nor was any expenses of the hospital etc. was borne by the respondent. Many attempts were made for reconciliation but it was all in vain. The respondent took a plea all the time that he had no independent source of income to support his wife and the child. The child is now in the care and custody of the petitioner. Ext-1 is the birth certificate of the child which has been perused.
11. PW1 has further deposed that she also filed a divorce petition in the Family Court at Guwahati which came to be registered as FC (Civil) Case No. 271/2011 but the same was withdrawn as it was agreed by the petitioner and the respondent that they would file a petition for mutual divorce. Accordingly, a petition for mutual divorce was also filed

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which was also registered as FC (Civil) Case No. 103/2012 but this was also dismissed as the respondent did not turn up on the subsequent stages of the proceeding before the Hon'ble Family Court at Guwahati.

12. It is also stated by the petitioner that she subsequently got to know that the respondent was a man of weird nature and he owed a huge money to the public and so, he used to hide him from the public. Many people and creditors used to visit their house in search of the respondent. All these created lot of agony and distress in the mind of the petitioner and she realized that the respondent was a bluffer and had a huge financial liability at his back. She has therefore, finally decided to get a decree of divorce from the respondent. Ext-2 is the certified copies of records of FC (Civil) Case No. 271/2011 and Ext-3 is the certified copy of record of FC (Civil) Case No. 103/2012.

13. I have perused all the aforesaid documents and have also duly considered her evidence. The evidence remains unrebutted as the proceeding went on ex-parte against the respondent. From the evidence of PW1, it is clearly established that the respondent conducted himself in a manner which is not only weird but it is bound to create lot of mental agony and distress in the mind of any woman who is a wife of such a man. The conduct of the respondent undoubtedly destroyed the marital peace in the life of the petitioner and all her dreams are bound to go astray. Moreover, apparently, the respondent has deserted the petitioner without any reasonable cause and also without her consent. No other view is possible in the facts and evidence led in the proceeding. The petitioner thus, in my considered opinion, has been able to make out a case of cruelty and desertion against the respondent.

14. In the light of the above discussions, the point for determination is answered in favour of the petitioner. The petition for divorce filed by the petitioner stands allowed ex-

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parte without cost and it is ordered that the marriage between the petitioner and the respondent solemnized on 13.03.2008, stands dissolved from the date of preparation of the decree.

15. Prepare a decree accordingly and furnish a free copy of the decree to both the parties.

Given under my hand and seal of this court on the 15th day of May/2019.

Typed and corrected by me:

Addl. District Judge,
Sonitpur:: Tezpur.

APPENDIX

Petitioner's witnesses:	PW1 (Smt. Monika Borah)
Respondent's witnesses:	None.
Petitioner's exhibits:	Ext.1-Birth Certificate of the Child. Ext.2-Certified Copies of case record of FC (C) No. 271/2011 Ext.3-Certified Copies of record of FC (C) No. 103/2012.
Respondent's exhibits:	Nil.

Addl. District Judge,
Sonitpur:: Tezpur.