

Assam Schedule VIII. Form No. 143
High Court Form No. (J) 13

ORDER-SHEET FOR CIVIL COURT

DISTRICT : SONITPUR

IN THE COURT OF THE DISTRICT JUDGE, SONITPUR, TEZPUR

T.S. (M) Case No. 54 of 2020

Smti Jamuna Chakraborty Vs Sri Moloy Chakraborty

Serial No. of Orders	Date	Order	Signature
	<u>23-11-2021</u>	<p>This is an application u/s 13(1) (i-a) and (i-b) of Hindu Marriage Act, 1955 for dissolution of marriage by decree of divorce on the ground of the cruelty and desertion.</p> <p>The petition has been filed by Smti Jamuna Chakraborty against her husband Sri Moloy Chakraborty stating that their marriage was consummated on 25-05-2010 in the presence of the family members, friends and well wishers at Village- Monojuli, Ward No. 5 Dhekiajuli according to Hindu Rituals and Customs and after the marriage the petitioner Smti Jamuna Chakraborty cohabit with the respondent at Type-3 Colony, Kapil Natung Residential Complex, P.O. and P.S.- Seppa, District- East Kameng, Arunachal Pradesh. Thereafter, out of their wedlock one female child was born on 10-06-2014 named as Tamannah Chakraborty. It is submitted that initially the marital life between the parties was cordial but gradually the respondent started to behave rudely with the petitioner and showed a dominating behavior towards the petitioner, especially after the birth of their daughter. Respondent started abusing and quarrelling with the petitioner on the slightest pretext and sometime respondent also tortured the petitioner physically. Initially petitioner did not mind such behavior of respondent thinking that he may be facing some business related</p>	

problems but after sometime she realized that the rude and harsh behavior of respondent had no relation with his business, it was all about the changed mindset of the respondent towards the petitioner. The respondent did not allow the petitioner go outside the house alone and whenever the petitioner objected the respondent reprimanded her using filthy language. The petitioner kept her silent thinking about the future prospect of marital harmony and the future of daughter but later on the behavior of the respondent became incessant. Moreover, respondent on some occasions asked the petitioner to bring money from her parents. When the petitioner expressed their inability to pay to the respondent, respondent started torturing the petitioner more. It is also submitted that after the marriage petitioner came to know that the respondent is a habitual drunker and he very often came home late under the influence of alcohol and tortured the petitioner. In the month of May, 2014 the respondent came home late at night under the influence of alcohol and started beating the petitioner for failing to fulfill the demand for dowry and on the next morning, the respondent thrown her out of her matrimonial house and at that time petitioner was at the advanced stage of pregnancy. As such, the petitioner had to take shelter at her parental home and till date, the petitioner lives there. The daughter was born under the care and supervision of the relatives of the petitioner and all the expenses of the petitioner and her daughter have been borne by the parents of the petitioner.

Therefore, the situation reached such a stage that petitioner has to file the present petition seeking decree of divorce on the ground of cruelty and desertion.

However, when the case has been proceeding at the stage of conciliation, a joint petition No. 1733/2021

has been filed stating inter alia that though initially petition was filed u/s 13(1)(i-a) and (i-b) of Hindu Marriage Act, 1955 but, today they seek to convert the said petition into a petition u/s 13(B) of Hindu Marriage Act, 1955 with a prayer to grant divorce by mutual consent stating further that they have settled their disputes outside court and they are no longer interested to proceed further in the case. It was further agreed by the parties that the daughter namely Tamannah Chakraborty will live under the care and custody of the petitioner Smti Jamuna Chakraborty and she has no claim in the form of permanent alimony or monetary relief whatsoever. Though, the respondent submitted that he shall be entitled to or free to incur expenditure for education and well being of his minor daughter namely Tamannah Chakraborty including her marriage or any other ceremonial congregation at his wish and desire and there will be no force or compulsion from the petitioner or from any other person.

Situated thus, the petition u/s 13(1)(i-a) and (i-b) of Hindu Marriage Act, 1955 is hereby converted to petition u/s 13(B) of Hindu Marriage Act.

Since, this Court is fully convinced that parties have agreed to dissolve their marriage by mutual consent, there is no need to further waste time at the peril of the petitioners.

After all, procedure is the handmaid of justice, it should not come in the way of giving substantive justice to the parties.

Accordingly, having been fully satisfied from all respect that decree of divorce by mutual consent has been the ultimate relief sought by the parties without any force, coercion, threat or fraud by either side, the decree of divorce by mutual consent as sought by the parties is

hereby granted and the respondent is free to provide monthly maintenance or incur expenditure for education, marriage or any other expenses of the minor daughter namely, Tamannah Chakraborty whenever desires.

Prepare the decree accordingly.

(C.B. Gogoi)
District Judge
Sonitpur, Tezpur