

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. 05 of 2021**

**Smti Joon Moni Haloi**

**Vs**

**Sri Biswarup Dev Baruah**

Serial No. of Orders	Date	Order	Signature
	<b><u>02-11-2022</u></b>	<p>This is an application u/s 13(1) (i-a) (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>It is stated in the petition that marriage between the parties was consummated on <b>22-07-2013</b> in the presence of the family members, friends and well wishers according to Hindu Rituals and Customs and after the marriage the petitioner Smti Joon Moni Haloi cohabit with the respondent at his residence. Out of their union, they were blessed with a male child born namely Subhankar Baruah aged about 6 years and is presently staying under the care and custody of the petitioner. It is submitted that after few months of the marriage, the respondent &amp; his family members started to subject her torture both physically and mentally by demanding dowry of ₹12 Lakhs to get the respondent a job at O.I.L. and harassed the family members of the petitioner to fulfill the illegal demand of respondent. The in-laws of petitioner also harassed the petitioner by demanding money, gold chain, motor cycle and land from the petitioner. It is also submitted that after few days of the marriage the respondent used to treat the petitioner with cruelty and used to inflict physical and mental torture upon the petitioner. On 17-09-2013 the respondent forcefully taken</p>	

	<p>away the ATM Card of the petitioner and withdrawn the whole amount of money from the account of petitioner where petitioner has deposited a handsome amount of money before her marriage. The petitioner has to remain silent after all the torture meted out on her considering her future conjugal relation with the respondent but, the respondent always treated the petitioner only as a maid/ servant for his house. Moreover, after few months of their marriage the respondent did not allow the petitioner to make any contact and relationship with her parental home even she was not allowed to make any call to her parents. In the month of December 2013 the respondent got a job at WIPRO Company and after getting the job, the respondent demanded an amount of ₹20,000/- from the parental house of petitioner to purchase a motor cycle to keep the job and in this regard, the respondent started to subject her physical and mental torture and having no any other alternative, petitioner intimated the demand to her father but the father of the petitioner not being economically sound, unable to fulfill the illegal demand of dowry. As a result of which, respondent gradually increased the physical and mental torture day by day. The respondent also subjected the petitioner torture during her pregnancy and the respondent after consuming alcohol assaulted the petitioner by dealing blows and slaps and he also used to drag the petitioner by pulling her hair. On 11-10-2014 after the birth of the child, the respondent threatened the petitioner that he will give the child to Orphanage so having no any other alternative, the petitioner on 12-10-2014 was compelled to come to her parental house along with her new born baby. The respondent willfully neglect the petitioner and her minor children and refused to provide any maintenance to the petitioner and her minor child hence, on 18-04-2016 the</p>	
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	<p>petitioner has lodged a case u/s 12 of the Protection of Women from Domestic Violence Act 2005 against the respondent before the court of JMFC, Sonitpur, Tezpur and after completing the trial, the trial court on 06-06-2019 has issued direction upon the respondent prohibiting him from committing any act of or aiding or abetting in the commission of domestic violence upon the petitioner and further directed the respondent to pay ₹6,000/- per month towards the maintenance of the petitioner and her minor child and further directed the respondent to pay ₹2,000/- as compensation and damages for the mental torture and emotional distress caused by the acts of domestic violence committed by the respondent upon the petitioner. Then, the petitioner filed the instant divorce petition.</p> <p>However, when the case was at the stage of defence witness, a joint petition No. 2905/2022 along with affidavit has been filed stating inter alia that though initially petition was filed u/s 13(1)(i-a)(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 on some terms and conditions:</p> <p>i) The marriage between the petitioner and the respondent shall be dissolved by a decree of divorce by this court on the basis of the joint petition.</p> <p>ii) The petitioner has decided not to claim permanent alimony from the respondent in future in any manner.</p> <p>iii) The judgment and order passed by the JMFC dated 06-06-2019 in C.R. Case No. 164/2016 u/s 12 of DV Act for the maintenance of the petitioner amounting to ₹2,000/- (Rupees Two Thousand) only is not insisted by the petitioner from the respondent on passing the decree for dissolution of marriage. A separate petition shall be</p>	
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	<p>filed in the said court of JMFC, Sonitpur by both the parties to modify the said order. Moreover, as per order in DV Case No. 164/2016 the maintenance for the son of the petitioner amounting to ₹4,000/- (Rupees Four Thousand) only per month will be paid by the respondent regularly.</p> <p>iv) There will be no relationship as husband and wife between the parties on passing the decree of divorce.</p> <p>v) Both the parties decided not to claim the cost of the suit from each other.</p> <p>vi) The cost of litigation of the petitioner Smti Joon Moni Haloi amounting to ₹35,000/- (Rupees Thirty Five Thousand) only shall be borne by the respondent Sri Bishwarup Dev Baruah.</p> <p>vii) The respondent has every right to meet or look after his son at any convenient place with proper information to the petitioner without any obstruction by the petitioner.</p> <p>The compromise petition No.2905/2022 has been marked as Ext. 'X'.</p> <p>Both parties also filed joint evidence-on-affidavit stating the same fact as has been pleaded in the petition thereby corroborating their joint wish/desires.</p> <p>Accordingly, having been fully satisfied from all respect that decree of divorce by mutual consent as sought by the parties is the only way out and when there is no force, coercion, threat or fraud by either side, the decree of divorce by mutual consent as sought by the parties is hereby granted.</p> <p>However, respondent is at liberty to increase the maintenance amount to his son namely Subhankar Baruah to meet his educational and other expenses if the respondent so desires for overall development of his son.</p> <p>Prepare the decree accordingly.</p>	<p><b>(C.B. Gogoi)</b>  <b>District Judge</b>  Sonitpur, Tezpur</p>
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