

IN THE COURT OF THE JUDGE, FAMILY COURT-CUM-IV ADDL. DISTRICT
AND SESSIONS JUDGE AT ADILABAD

Present: **Smt. Aruna Sarika,**
Prl. District and Sessions Judge,
Adilabad
FAC Judge, Family Court-Cum-IV Addl.
District and Sessions Judge,
Adilabad.

Thursday, this the 9th day of March, 2017

FCOP No.01/2017

Between:

Daratla Saraswathi W/o. Daratla Goverdhan, Age 24 years,
Occ. Household, R/o. Sawapur village of Mandal Jainath,
Presently residing at H.No.2-5-120, Street Parkota, Adilabad
town, Mandal and District Adilabad.

.. Petitioner

a n d

Daratla Goverdhan S/o. Daratla Jeevan, Age 31years, Occ.
Private Engineer, R/o. Housing Board Colony, Adilabad
Town, Mandal and District Adilabad.

.. Respondent

This Original Petition is coming on 27.02.2017 for final hearing before me in the presence of Sri S.Devidas, Advocate for the petitioner and respondent is set exparte and the matter having stood over for consideration, this court delivered the following:

ORDER

1. This original petition is filed under Section 13 [1] (ia) of the Hindu Marriage Act, 1955 by wife, the petitioner herein to pass a decree of divorce in favour of the petitioner and against the respondent by dissolving the marriage of petitioner with respondent, in the interest of justice.

2. The case of the petitioner as stated in the affidavit filed in support of the petition, in brief, is as follows: "The petitioner is the legally wedded wife of respondent, and their marriage was solemnized on 29.04.2015 as per the customs and traditions prevailing in their Munnurkapu Community in the Balaji Garden Function Hall CCI Cross Road, Adilabad and in their marriage as per

demand of the respondent and his parents a net cash of Rs.15,00,000/- were also given by the father of the petitioner. Their marriage was consummated at the house of the respondent at Adilabad where the parties lived as wife and husband for about 4 months only but unfortunately the respondent started to harass the petitioner since 3 days after their engagement itself because the respondent was called at Shantinagar, Thirumal Photo Studio for taking fresh photos of them as engagement photos were not good, where he was to be in wait for some time and as soon as the petitioner came along with her elder sister and brother-in-law the respondent became very wild and angry and altercated with the petitioner in angry mood stating that, she has no scene to take photos with him but the petitioner kept him to be in waiting and in spite of convincing him by giving reason for late. Even after marriage, on the next day of Sri.Satya Narayana Pooja in the house of the respondent he thrown a mobile phone in angry mood towards the petitioner without reason which was broken into pieces, as it was dashed with the floor which was witnessed by the respondent's parents also but they convinced the petitioner stating that they will convince the respondent not to behave in such wild manner in future. So the petitioner tolerated then, this situation shows that the respondent is a mentally crack person. At the time of fixing of their marriage it was agreed by the respondent and his parents that the father of the petitioner will pay Rs.12,00,000/- in the marriage and balance due amount of Rs.3,00,000/- will be paid two years after the marriage but unfortunately the respondent and his parents started to demand the balance due amount also within (15) days on one or the other pretext due to which the petitioner's father was forced to pay the balance amount unwillingly by borrowing from his savakar due to fear of safety of the petitioner, though he has no money which also amounts to physical and mental torture to the petitioner and her parents. As the respondent threatens the petitioner stating that she cannot remain in his house unless balance amount will be paid to him. After

receipt of due amount of Rs.3,00,000/- the respondent started to harass the petitioner physically and mentally in his bed room under the influence of alcohol to bring an additional dowry of Rs.5,00,000/- stating that, Rs.15,00,000/- dowry to the respondent is very less as he is working in a standard company at Hyderabad as Engineer and getting a fat salary but when the petitioner failed to fulfill an illegal demand of additional dowry the respondent driven her out from his rental house situated at Hyderabad in the last week of August, 2015 where they were living together, so in such a pitiable condition the petitioner was compelled to live with her parents since the date of driving her away and the respondent never tried to take the petitioner back, in contrary the respondent and his father bluntly refused to take the petitioner back before their caste elders panchayath dt.15.09.2015 by falsely alleging that the petitioner is having illegal contact with another person in this way there is no possibility of taking back to the petitioner by the respondent and the respondent also threatened the petitioner by the respondent and the respondent also threatened the petitioner that if the petitioner joins his company he will not be held responsible if any untoward incident happened with her life. In view of the above said circumstances the petitioner cannot lead happy marital life with the respondent due to his cruel behaviour of the respondent towards the petitioner and there is life danger, as such there is no other way to the petitioner except to approach the court for divorce. Hence it is just and necessary to pass a decree of divorce in favour of the petitioner and against the respondent by dissolving their marriage dt.30.04.2015.”

3. The notice on respondent was duly served on person on 06.02.2017 and as he was called absent on the date of hearing of the case. Hence he was set exparte and remained exparte.

4. During the course of enquiry the petitioner herself was examined as PW1 and Ex.P1 to Ex.P3 were marked on behalf of the petitioner. The respondent remained exparte and not even present on subsequent dates of hearing and not even choose to cross-examine PW1.

5. I have heard the learned counsel for petitioner and perused the material on record.

6. Now the points for determination in this original petition are:

1) Whether the petitioner is entitled to a decree of divorce in her favour against the respondent by dissolving the marriage between herself and respondent dated 29.04.2015, on the ground of cruelty?

2) To what relief?

7. **POINT NO.1:**

a) The pleadings and contentions of the petitioner are already stated supra, in detail. Hence the same are not re-stated.

b) The relevant case, in brief of the petitioner, as pleaded and sought to be established, is as follows: "The petitioner is the legally wedded wife of respondent, and their marriage was solemnized on 29.04.2015 as per the customs and traditions prevailing in their Munnurkapu Community in the Balaji Garden Function Hall CCI Cross Road, Adilabad and in their marriage as per demand of the respondent and his parents a net cash of Rs.15,00,000/- were also given by the father of the petitioner. Their marriage was consummated at the house of the respondent at Adilabad where the parties lived as wife and husband for about 4 months only but unfortunately the respondent started to harass her since 3 days after their engagement itself because the respondent was called at

Shantinagar, Thirumal Photo Studio for taking fresh photos of them as engagement photos were not good, where he was to be in wait for some time and as soon as the petitioner came along with her elder sister and brother-in-law the respondent became very wild and angry and altercated with her in angry mood stating that, she has no scene to take photos with him but he kept him to be in waiting and in spite of convincing him by giving reason for late. Even after marriage, on the next day of Sri.Satya Narayana Pooja in the house of the respondent he thrown a mobile phone in angry mood towards her without reason which was broken into pieces, as it was dashed with the floor which was witnessed by the respondent's parents also but they convinced her stating that they will convince the respondent not to behave in such wild manner in future. So the petitioner tolerated then, this situation shows that the respondent is a mentally crack person. At the time of fixing of their marriage it was agreed by the respondent and his parents that the father of the petitioner will pay Rs.12,00,000/- in the marriage and balance due amount of Rs.3,00,000/- will be paid two years after the marriage but unfortunately the respondent and his parents started to demand the balance due amount also within (15) days on one or the other pretext due to which the petitioner's father was forced to pay the balance amount unwillingly by borrowing from his savakar due to fear of safety of the petitioner, though he has no money which also amounts to physical and mental torture to the petitioner and her parents. As the respondent threatens her stating that she cannot remain in his house unless balance amount will be paid to him. After receipt of due amount of Rs.3,00,000/- the respondent started to harass her physically and mentally in his bed room under the influence of alcohol to bring an additional dowry of Rs.5,00,000/- stating that, Rs.15,00,000/- dowry to the respondent is very less as he is working in a standard company at Hyderabad as Engineer and getting a fat salary but when the petitioner failed to fulfill an illegal demand of additional dowry the respondent driven her out from

his rental house situated at Hyderabad in the last week of August, 2015 where they were living together, so in such a pitiable condition she was compelled to live with her parents since the date of driving her away and the respondent never tried to take her back, in contrary the respondent and his father bluntly refused to take her back before their caste elders panchayath dt.15.09.2015 by falsely alleging that she is having illegal contact with another person in this way there is no possibility of taking back to her by the respondent and the respondent also threatened her by the respondent and the respondent also threatened her that if she joins his company he will not be held responsible if any untoward incident happened with her life. In view of the above said circumstances the petitioner cannot lead happy marital life with the respondent due to his cruel behaviour of the respondent towards the petitioner and there is life danger, as such there is no other way to the petitioner except to approach the court for divorce."

(c) The respondent was set exparte for non-appearance on 06.02.2017 though received notices from the court in this case and remained exparte.

(d) To substantiate her claim the petitioner was examined as PW1 and her evidence in chief is taken in the form of solemn sworn affidavit. In her examination in chief, she had affirmed on oath the case pleaded in the petition and has transcribed the pleadings into direct evidence, which is acceptable. The petitioner filed documents namely original marriage card, Xerox copy of Aadhar card and marriage group [2] photos of the petitioner and respondent and the same were exhibited as Ex.P1 to Ex.P3 on her behalf. Ex.P1, the original marriage card would show that the marriage between Daratla Saraswathi, D/o. Shiva Reddy, R/o. Savapur was fixed to be performed with Sri Daratla Goverdhan, S/o. Jeevan, R/o. Chanda-T to be performed on 29.04.2015 at 12.26 AN at Balaji

Gardens, CCI Cross Road, Adilabad. Ex.P2, Xerox copy of Aadhar Card, would show that this Aadhar card with No.441751951171 is issued in the name of Golewar Saraswathi i.e. petitioner herein and her address is shown as 2-5-120, Parkota, Adilabad. Ex.P3 is the marriage group [2] photos of the petitioner and respondent. The respondent though received notices in this case personally, did not choose to appear before this court on the date of hearing fixed for his appearance i.e., on 06.02.2017, hence for his non-appearance he was set exparte on 06.02.2017 and remained exparte. The respondent did not choose to appear on the next day of hearing and did not choose to cross-examine PW1.

(e) Since the respondent had remained exparte, the evidence of PW1 had remained unchallenged and un-refuted. I have carefully gone through the evidence and the evidence in my well considered view is sufficient to uphold the case of the petitioner. The evidence of the petitioner shall show that she is the legally wedded wife of respondent and their marriage was performed on 30.04.2015 as per the customs and traditions prevailing in our Munnurkapu Community in the Gayatri Garden Function Hall CCI Road, Adilabad. The petitioner joined the respondent and accordingly her marriage was consummated in the house of the respondent at Adilabad where we lived as wife and husband for about 4 months only. The respondent looked after the petitioner properly hardly for a period of four months only and thereafter he started subjecting her to physical and mental cruelty stating that stating that, Rs.15,00,000/- dowry to the respondent is very less as he is working in a standard company at Hyderabad as Engineer and getting a fat salary but when he failed to fulfill an illegal demand of additional dowry to go abroad the respondent driven out from his rental house situated at Hyderabad in the last week of August, 2015 where they were living together, so in such a pitiable condition she was compelled to live with her parents since the date of driven her

away and the respondent never tried to take back her. The evidence of petitioner also establishes that the respondent and his father bluntly refused to take her back before their caste elders panchayath dt.19.09.2015 by falsely alleging that she has illegal contact with another person in this way there is no possibility of taking back to her by the respondent and the respondent also threatened her that if she joins his company he will not be held responsible if any un-towards incident happens with her life. The evidence of PW1 also discloses that she cannot lead happy marital life with the respondent due to cruel behaviour of the respondent towards her and there is life danger, as such there is no other way to her except to approach the court for divorce. The respondent remained exparte. Therefore, an adverse inference can be drawn against the respondent and the contention of the petitioner can be accepted with regard to the respondent subjecting her to cruelty and she is entitled for a decree of divorce on the ground of cruelty. Therefore, there is no rebuttal to the contention of petitioner that the respondent subjected her to physical and mental cruelty stating that Rs.15,00,000/- dowry to the respondent is very less as he is working in a standard company at Hyderabad as Engineer and getting a fat salary but when she failed to fulfill an illegal demand of additional dowry to go abroad and also stating that that she is having illegal contact with another person and also behaved in highly objectionable manner with her in the bedroom under the influence of alcohol. In the absence of proof, I can only hold that the respondent had subjected the petitioner to physical and mental cruelty. Taking into consideration of facts and circumstances I find infirmities in the relief claimed by the petitioner in her pleadings and she is entitled for a decree of divorce in her favour and against the respondent by dissolving the marriage of the petitioner with respondent dated 29.04.2015. The point No.1 is accordingly answered in favour of the petitioner and against the respondent.

8. **POINT NO.2:**

In the result, the petition is allowed granting decree of divorce in favour of petitioner and against the respondent. The marriage dated 29.04.2015 between the petitioner and the respondent is hereby dissolved. No costs.

Dictated to Stenographer, transcribed by him and after correction, pronounced by me in open court on this the 9th day of March, 2017

**PRL. DISTRICT AND SESSIONS JUDGE
ADILABAD
FAC JUDGE, FAMILY COURT-CUM-IV ADDL.
DISTRICT AND SESSIONS JUDGE,
ADILABAD**

APPENDIX OF EVIDENCE

Witnesses Examined

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Witnesses Examined

For Petitioners:

PW1 Daratla Saraswathi

For Respondent:

None

Exhibits marked

For Petitioners:

Ex.P1 Original Marriage card.

Ex.P2 Xerox copy of Aadhar Card

Ex.P3 Marriage Group (2) photos of the petitioner and respondent.

**PRL. DISTRICT AND SESSIONS JUDGE
ADILABAD
FAC JUDGE, FAMILY COURT-CUM-IV ADDL.
DISTRICT AND SESSIONS JUDGE,
ADILABAD**

// D E C R E E //

IN THE COURT OF THE JUDGE, FAMILY COURT-CUM-IV ADDL. DISTRICT
AND SESSIONS JUDGE :: ADILABAD.

Present: **Smt. Aruna Sarika,**
Prl. District and Sessions Judge,
Adilabad
FAC Judge, Family Court-Cum-IV Addl.
District and Sessions Judge,
Adilabad.

Thursday, this the 9th day of March, 2017

FCOP No.01/2017

Between:

Daratla Saraswathi W/o. Daratla Goverdhan, Age 24 years, Occ. Household,
R/o. Sawapur village of Mandal Jainath, Presently residing at H.No.2-5-120,
Street Parkota, Adilabad town, Mandal and District Adilabad.

.. Petitioner

a n d

Daratla Goverdhan S/o. Daratla Jeevan, Age 31years, Occ. Private Engineer,
R/o. Housing Board Colony, Adilabad Town, Mandal and District Adilabad.

.. Respondent

CLAIM FOR : This original petition is filed under Section 13 [1] (ia) of the Hindu Marriage Act, 1955 by wife, the petitioner herein to pass a decree of divorce in favour of the petitioner and against the respondent by dissolving the marriage of petitioner with respondent.

VALUATION: A Court fee of Rs.10/- is paid under Art.I (vii) of Sch.II of APCF & SV Act, 1956.

Petition presented on : 03-01-2017

Petition registered on : 06-01-2017

This Original Petition is coming on 27.02.2017 for final hearing before me in the presence of Sri S.Devidas, Advocate for the petitioner and respondent is set exparte and the matter having stood over for consideration, this court doth order and decree as following:

1. That, the petition of the petitioner be and hereby is allowed.
2. That, the marriage dated 29.04.2015 between the petitioner and the respondent is hereby dissolved.
3. That, there shall be no order towards costs.

Given under my hand and seal of the court on this the 9th day of March, 2017.

FAC: Judge, Family Court-Cum-IV Addl.
District and Sessions Judge,
Adilabad.

COSTS OF THE PETITION

Sl. No.	For Petitioner	Amount Rs.	For Respondent	Amount Rs.
1	Stamp on petition	10=00	Stamp on petition	--
2	Stamp on power	2=00	Stamp on power	--
3	Stamp on Exhibits	--	Stamp on Exhibits	--
4	Stamp on process	38=00	Stamp on process	--
5	Advocate's Fee	--	Advocate's Fee	--
6	Process writing charges	--	Process writing charges	--
	Total:	50=00	Total:	--

FAC:Judge, Family Court-Cum-IV Addl.
District and Sessions Judge,
Adilabad.