

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Revision No.172 of 2022

Rudra Narayan Ray, son of late Dr. Prasanta Ray, resident of First Fidar Road, Bankura, P.O., P.S. & District Bankura (West Bengal)

..... .. **Petitioner**

Versus

1. Piyali Ray Chatterjee, wife of Sri Rudra Narayan Ray, daughter of Vishwaranjan Chatterjee, resident of Maluti, P.O. Maluti, P.S. Shikaripara, District Dumka (Jharkhand)

2. Punya Prasoon Ray, minor son of Sri Rudra Narayan Ray and Smt. Piyali Ray Chatterjee, represented through the opposite party No.2-Piyali Ray Chatterjee, resident of Maluti, P.O. Maluti, P.S. Shikaripara, District Dumka (Jharkhand)

..... **Opposite Parties**

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner : Mr. Indrajit Sinha, Advocate

Mr. Akhouri Awinash Kumar, Advocate

For the O.P. Nos.2 & 3 : Mr. Rahul Kumar, Advocate

C.A.V. on: 04/01/2024

Pronounced on:22/01/2024

1. This Criminal Revision has been preferred against the impugned order dated 21.01.2022 passed by the learned Principal Judge, Family Court, Dumka in Original Maintenance Case No.66 of 2018, whereby the learned Court below has allowed the petition filed on behalf of the opposite party Nos.2 and 3 under Section 125 of the Code of Criminal Procedure and directed the petitioner-husband to pay a sum of Rs.30,000/- per month to the opposite party No.2-wife and Rs. 15,000/- per month to the opposite party No.3-minor son Punya Prasoon Ray with effect from the date of institution of the case.

2. The brief facts leading to this Criminal Revision are that the maintenance application under Section 125 of the Code of Criminal Procedure was filed on behalf of the petitioner-Piyali Ray Chatterjee with these allegations that she is legally wedded with Rudra Narayan Ray and her

marriage was solemnized on 11.05.2013 at Durgapur according to Hindu rites and rituals and, thereafter, the said marriage was also registered. Out of the wedlock, the couple was blessed with a child, who is aged 4 years 3 months, namely, Punya Prasoon Ray. The petitioner was not treated properly after marriage when the petitioner went to her *sasural* after marriage. The mother-in-law made comment that the father of the petitioner had not given more dowry as her son was the doctor. The respondent and his mother began to create pressure upon the petitioner for demand of Rs.5 lakhs on account of the same, the petitioner was mentally shocked. The petitioner-wife became pregnant and was leading the life in mental agony being much frustrated with her future. The respondent-husband all the time used to say to go to father's house and shall not allow her to reside with him. For this reason, the petitioner-wife left the in-law's house on 09.06.2018 and went to her parental house at Maluti. The respondent along with his mother came to Maluti on 26.08.2018 and began to quarrel with the father of the petitioner because the demand was not fulfilled. There had been *hulla* on account of the quarrel. The persons of the locality came and saw the occurrence. The respondent-husband and his mother both fled away from there after having criminally intimidated her. The respondent had deserted the petitioner without any proper cause. The petitioner is having no source of income to maintain herself and her minor children while the respondent-husband has landed property at Bankura, a flat at Kolkata, from which, he gains Rs.50,000/- per month as rent. He gets Rs.1,50,000/- as salary and also gains Rs.2,00,000/- per month from the pathology clinic. His mother gets Rs.50,000/- per month family pension, as such, total income of the respondent-husband is Rs.4,50,000/- per month. Accordingly, prayed for

Rs.40,000/- per month for her maintenance and Rs.20,000/- per month for maintenance of her son.

3. On behalf of the respondent-husband, written statement was filed, in which, it has been stated that the petitioner has filed the maintenance application after having suppressed material facts. The averments made in paragraph Nos.2(a), 2(b), 3, 4, 5(a), 5(b) and 5(c) in maintenance application are denied by the petitioner and it has been stated that the respondent is the only male member in his family. His mother being aged 72 years old with various serious ailment like blood sugar with hyper tension for last 20 years and maternal grandmother being aged about 93 years under bed ridden condition wherein after marriage the respondent was included with them as the exclusive newly married housewife. The problem was created by the petitioner from initial stage after the marriage as after entry in her matrimonial home the respondent in her every casual attitude, posture and gesture showed reluctance and disguised in disturbing common responsibility towards the petitioner or the other two old fellows. In the year 2013, the petitioner expressed her declined attitude towards the management with the family.

3.1 In the year 2013, the petitioner conceived and, in such condition, wanted to go to her parental home but the mother of the petitioner suggested for better management. The petitioner having ignored the same, wanted to go to parental home and, subsequently, the respondent was able to bring the petitioner back to Bankura on 19.04.2014 and a male baby was brought forth on 22.05.2014. As some post maternity rest stands necessary so the respondent was put in full rest in petitioner's house as having blessed with a male baby and entire family member of the petitioner appreciated the

incident with optimum satisfaction so no deficiency was allowed towards the respondent or her baby so that the respondent gets early recovery, the baby gets smoothly develop and no scarcity was allowed on that aspect as the petitioner himself a medical practitioner (MBBS, DCP, MD). While the post maternity management got much maturity the respondent again started showing her disgusting attitude towards the mother-in-law and grandmother-in-law and on the score of which the respondent started creating pressure upon the petitioner to alienate the said two old females from the family and insisted upon the petitioner on throwing the two old female members in separate residence or in any old age home and in such interaction the respondent gradually became obstinate by declaring that if she is not allowed to enjoy a nuclear family and if the petitioner does not do so then she would leave her matrimonial home and proceed towards her parental address.

3.2 As a matter of fact, the petitioner in repeated day to day instance tried to convince the respondent about impossibility on his part to leave his mother or maternal grandmother as it would be a great sin and derailment from morality and it can never return happiness but everything turned futile rather the respondent became most arrogant towards the petitioner and two dependant over aged ailing woman but in subsequence of which the ever attitude of the respondent became aggressive and in the event of the same in every moment the respondent started pinching and taunting the petitioner as *'Biye Korte Geslis Keno Mayer Achol Dhore Thaklei to Partis'* and behaving same with the mother-in-law by using intolerable filthy language and with the grandmother-in-law by saying *'Bangal Magi Kuri Bochor Dhore Jamayer Ghore Bose Bose Kachhis Lojjya Korena Tor Moron Nei'* and practically by hearing such sorts of word the petitioner turned frustrated and

the two aged female members turned depressed with mental trauma and physical condition of the grandmother reached at worst both physically and mentally as well as the petitioner has become highly depressed resulting unmindful in his profession. But the petitioner then adamantly went to her parental home to give lesson to the respondent.

3.3 On 02.11.2014, the '*annaprasan*' ceremony of the baby was arranged and after hundreds of request respondent came on 30.10.2014. The petitioner was in great tension as the invitation was complete but the baby was not here. Lastly, the petitioner came back with so many conditions. After the '*Annaprasan*' ceremony of the baby the petitioner again started creating problem and categorically again told the respondent to throw mother-in-law and grandmother out of the house and keep them in rented house, as it was not done so the petitioner disallowed her mother-in-law to touch her baby and in such situation while the respondent tried to convince the petitioner not to do such inhuman behaviours then in reply she told the respondent that she would fabricate false case of physical and mental torture for putting all the matrimonial persons in cage if anything be done against her demand. From July 2015 till she left on 09.06.2018 petitioner never took breakfast, lunch, dinner with respondent. Petitioner was adamant that till respondent's mother and grandmother were thrown out of the house she would not sit at dining table. She took food in bed room abandoning association of the respondent and the other inmates. Within gap of every two months, petitioner used to go her paternal home with the kid.

3.4 Things became much easier for her, as from December 2017 the petitioner complained of breathing problem and asked the respondent for consultation with chest specialist. As respondent was afraid already with

attitude of petitioner, so she was advised to consult a doctor at Burdwan instead of Bankura. Petitioner family used to consult doctors in Burdwan as it is reflected from the treatment of petitioner's father for Multi Drug Resistant Tuberculosis. Petitioner went twice on that ground till March 2018 in a gap of almost two months. The petitioner intentionally used to talk with her parental inmates over mobile phone in loud voice standing in the road side balcony so that people sitting in *pan-gumty* and *passers-by* could listen. It was so done with object to defame the respondent's family and to irritate respondent's mother that she could react to the false allegations with sole object to put the respondent's family in jail. In course of above the petitioner in the first week of June, 2018 in frequent occasion given ultimatum not to come back at her matrimonial home till old ailing female members be thrown out thereby left her matrimonial home from Bankura on 09.06.2018 with the baby and all valuable belongings with additional threat of throwing of bullet of law from Rampurhat Court.

3.5 Thereby finding no alternative respondent, for getting rescue from everyday peacelessness, filed a Matrimonial Suit No.263 of 2018 at Bankura for judicial separation on 25.07.2018 and receiving the Court's notice of the same, the petitioner severally attempted to harass the respondent by frequent call through Dumka Police. The petitioner has instituted this case for maintenance which she could have prayed before Bankura Court under Section 24 of the Hindu Marriage Act, although there was no such necessity as the respondent severally sent monetary assistance to the petitioner but in every time that has been willfully refused by the petitioner. As a matter of fact, there was never any negligence on the part of the respondent, yet the petitioner left her matrimonial home on 09.06.2018 at her own volition.

3.6 The petitioner is highly educated and she wants to lead her life as per her own choice thereby has instituted this case with mala fide exaggeration about her need and the ability of the respondent only for the purpose of leading luxurious life in ultra-modern means. The prayer of petitioner does not match with the law as she has every ability to earn, yet the respondent poses mentality to look after the basic needs of his spouse and kid, but the petitioner's only intention is to put the respondent in hardship and harassment.

4. On behalf of the petitioner in oral evidence examined **P.W.-1, Piyali Ray Chatterjee; P.W.-2, Bishwaranjan Chatterjee; P.W.-3, Santosh Thakur and; P.W.-4, Debranjana Chatterjee** and in documentary evidence filed the certified copy of original petition of Matrimonial Suit No.263 of 2018 in the Court of learned District Judge, Bankura.

5. On behalf of the respondent in oral evidence examined **R.W.-1, Nandopaul Pandey; R.W.-2, Nimai Chandra Ghoshal and R.W.-3, Rudra Narayan Ray.** In documentary evidence on behalf of the respondent filed salary slip of the month of July-August, 2021 marked as Exhibit A and A/1, income tax return of the year 2020-2021 marked as Exhibit B, statement of bank account in eight pages marked as Exhibit-C, photocopy of the receipt of school fee of **Punya Prasoon Ray** marked as Exhibit- D, D/1 to D/2 in three pages, xerox copy of order of Civil Judge (Additional Court), Bankura in inforatory petition dated 04.09.2021 marked as Exhibit-E and xerox paper of the order passed by the Hon'ble Apex Court in petition(s) for Special Leave to Appeal (Crl.) No.5025 of 2019 marked as Exhibit-F.

6. The learned Principal Judge, Family Court, Dumka after hearing the

rival submissions of the parties passed the impugned judgment on 21.01.2022, whereby the maintenance application was allowed. The respondent-Rudra Narayan Ray was directed to pay Rs.30,000/- per month to his wife Piyali Ray Chatterjee and Rs.15,000/- per month to the minor son Punya Prasoon Ray since 10.09.2018. The arrears amount was directed to be paid in 12 equal installments per month since the date of order, failing which, the same would be realized from the respondent through the process of law.

7. Aggrieved from the impugned judgment, the instant Criminal Revision has been directed on behalf of the petitioner-Rudra Narayan Ray on the ground that the impugned order passed by the learned Court below is bad in the eyes of law. The learned Court below failed to consider the conduct of the opposite party No.1 Piyali Ray Chatterjee. The learned Court below did not take into consideration that the opposite party No.1 had been getting maintenance in two different provisions under Section 125 of the Code of Criminal Procedure and another under Section 24 of the Hindu Marriage Act. In view of the above, prayed to allow this Criminal Revision and set aside the impugned judgment passed by the learned Court below.

8. I have heard the learned counsel for the petitioner and learned counsel for the opposite party Nos.1 and 2 and perused the materials available on record.

9. For disposal of this Criminal Revision following **point of determination** are being framed:

(i) Whether the opposite party No.1-wife has refused to live with her husband without any sufficient cause, if so its effect?

(ii) Whether the quantum of maintenance awarded by the learned Court below for the opposite party No.1-wife and her son is disproportionate in view of the income and the

liability of the petitioner-husband?

10. On the **first point of determination**, the learned counsel for the petitioner has submitted that the opposite party No.1-wife has declined to serve the old aged mother and the maternal grandmother of the petitioner-husband. She also insisted to live separate from his mother and maternal grandmother and the same was not agreed by the petitioner, with that reason, she created strained atmosphere in the family and she willingly left the matrimonial house and went to her parental house along with son. The petitioner made effort to bring her back, but she refused to come and, ultimately, the petitioner had to file the suit under Section 10 of the Hindu Marriage Act for judicial separation in order to restore peace in the family.

11. Per contra, learned counsel for the opposite party No.1-wife has contended that the opposite party No.1-wife never declined to serve the old aged mother-in-law and maternal grandmother-in-law. She was taunted for less dowry of demand of Rs.5 lakhs, for non-fulfillment of the same, she was tortured, harassed and she was also compelled to live the matrimonial house. Since June, 2018, she had been residing at her parental house along with the child, as such, she also filed the case under Section 498-A of the Indian Penal Code against her husband, in which, the bail was granted to him. Therefore, the wife is not residing separately from her husband without any sufficient reason.

12. On this point of determination on behalf of the opposite party No.1-wife in oral evidence examined **P.W.-1, Piyali Ray Chatterjee; P.W.-2, Bishwaranjan Chatterjee; P.W.-3, Santosh Thakur and; P.W.-4, Debranjana Chatterjee.**

12.1 P.W.-1, Piyali Ray Chatterjee, in her examination-in-chief, says that she was married with Rudra Narayan Ray on 11.05.2013 according to Hindu

rites and rituals. **After marriage, she went to her in-law's house and resided well for 5 years 2 months.** A son was also born, namely, **Punya Prasoon Ray**, who is aged 4 years 7 months now. Even after the marriage, her mother-in-law, her husband and her maternal grandmother-in-law began to harass her and compelled her to leave the matrimonial home on 09.06.2019. She left the matrimonial home along with kid. On 26.08.2018, her husband came to her parental house and made demand of Rs.5 lakhs and quarrel arose there. On raising *hulla*, they fled away after having criminally intimidated her. Her husband has also filed a suit for judicial separation. Her husband is Assistant Professor in Sammelani Medical College, Pathology Department, Bakula. In the ground floor there is also a pathology in the name of her father-in-law. Her father-in-law died in the year 2008. Her husband has also a flat in Kolkata, from which, Rs.50,000/- per month rent is being received. After the death of her father-in-law, her mother is getting family pension of Rs.50,000/- per month. Her husband is getting Rs.1,50,000/- per month as salary and has income of Rs.2 lakhs from pathology clinic. Her husband earns totally Rs.4,50,000/- per month. She does nothing. In cross-examination, this witness says that her mother-in-law is 70 years old and her maternal grandmother-in-law is 94 years old. Her husband looks after his mother-in-law and maternal grandmother-in-law. She lived in her matrimonial house till 09.06.2018. Thereafter, she has been residing at her parental house till date. She did not come on account of her own volition rather she wants to live with her husband, if he agrees. She has filed a case under Section 498-A of the Indian Penal Code and also for maintenance against her husband. It was filed after the filing of the suit under Section 10 of the Hindu Marriage Act for judicial separation by her

husband. In that case, she has also filed an application for maintenance under Section 24 of the Hindu Marriage Act. She is M.Sc in Zoology but does nothing. It is wrong to say that this is not the fact that she does not want to serve her mother-in-law and maternal grandmother-in-law and she misbehaved with them and also lived in the matrimonial house along with kid. It is also wrong to say that she did not go to her *sasural* even on repeated request made by her husband and, ultimately, the husband had filed the suit for judicial separation.

12.2 P.W.-2, Bishwaranjan Chatterjee, in his examination-in-chief, says that Piyali Ray Chatterjee is his daughter. His daughter lived in her matrimonial house for five years tolerating the tortures and she has a son aged about 4 years and 7 months, namely, Punya Prasoon Ray. She was compelled to leave the matrimonial house. Her husband is Assistant Professor gets Rs.1,50,000/- per month salary. He also carries on pathology, in the name and style of Dr. Basant Rai. He has also a flat in Kolkata. The mother of his son-in-law also receives pension. The total income of his son-in-law is Rs.4-5 lakhs per month. His son-in-law made demand of Rs.1 lakh. In cross-examination, this witness says that it is wrong to say that his daughter does not want to serve her mother-in-law and maternal grandmother-in-law. It is also wrong to say that she leaved the matrimonial house on account of her volition.

12.3 P.W.-3, Santosh Thakur, in his examination-in-chief, says that he is the friend of the brother of Piyali Ray Chatterjee. He has gone to in-law's house of Piyali Ray Chatterjee. Dr. Rudra Narayan Ray carries a pathology clinic at his house and he is a doctor. Piyali Ray Chatterjee does nothing.

12.4. P.W.-4, Debranjjan Chatterjee, in his examination-in-chief, says that

Piyali Ray Chatterjee is his sister. She has been residing in parental house at Maluti since June, 2018. She does nothing. She lived well in her maternal house for five years. In the meantime, she used to come to parental house also. Piyali Ray Chatterjee is M.sc in Zoology but she does nothing because her husband does not like for doing job by her. It is wrong to say that his sister does not want to serve the old aged mother-in-law and maternal grandmother-in-law.

13. On behalf of the petitioner-husband in maintenance case examined R.W.-1, Nandopaul Pandey; R.W.-2, Nimai Chandra Ghoshal and R.W.-3, Rudra Narayan Ray.

13.1 R.W.-1, Nandopaul Pandey, in his examination-in-chief, says that he knows Rudra Narayan Ray and his mother and maternal grandmother are alive, who are 75 years old and 95 years old respectively and both reside with Rudra Narayan Rai. The wife of Rudra Narayan did not look after her mother-in-law and maternal grandmother-in-law. On this very issue, the dispute arose between Rudra Narayan Ray and his wife. **The wife of Rudra Narayan Ray left her matrimonial home on account of her own volition.** In cross-examination, this witness says that **Piyali Ray Chatterjee had asked Rudra Narayan to live separate from her mother and maternal grandmother on the same issue there was dispute between them. His house is in the very mohalla, wherein Dr. Rudra Narayan Ray resides.** It is wrong to say that the dowry was demanded and for the same, Piyali Rai Chatterjee was tortured with the reason she was compelled to leave the matrimonial house.

13.2 R.W.-2, Nimai Chandra Ghoshal, in his examination-in-chief, says that he knows Rudra Narayan Ray. His mother is 73 years old and his

maternal grandmother is 93 years old. Rudra Narayan Rai looks after them. **Piyali Ray Chatterjee does not want to live with him and does not want to serve her old aged mother-in-law and maternal grandmother-in-law. She wanted to live separate and had left the matrimonial home of her own will.** In cross-examination, this witness says that **Piyali Ray Chatterjee does not want to serve her mother-in-law and maternal grandmother-in-law, was not told him by any one rather he knows because he usually goes to the house of Dr. Rudra Narayan Ray.**

13.3 D.W.-3, Rudra Narayan Ray, in his examination-in-chief, says that his wife left the matrimonial home on 09.06.2018 on her own will without any reasonable cause. **His wife left the matrimonial house due to unbearable cruel behaviour caused by her as the unreasonable demand for nuclear family abandoning old aged and ailing 72 years old maternal grandmother-in-law 94 years.** Several attempts were made by him to make her understand, but all efforts futile. Ultimately, **he has to file a suit under Section 10 of the Hindu Marriage Act for judicial separation.** In order to save her skin, his wife filed a case under Section 498-A of the Indian Penal Code against him and his mother-in-law, in which, he and his mother both were granted anticipatory bail by the interference of Hon'ble High Court of Jharkhand at Ranchi and the Hon'ble Supreme Court. **His wife is post-graduate in Zoology.** He gets Rs.68,000/- per month salary. He does not have the income of Rs.4,50,000/-. He has no personal clinic or private practice other than the service. As a matter of fact, he has no other source of income except salary form his service. In cross-examination, this witness says that he has filed a suit for judicial separation against his wife. His son is 6 years old resides with her mother. **His wife left matrimonial house on**

09.06.2018 and he made effort to bring her back but she refused to come. He is pathologist doctor and Assistant Professor, in Bankula Sammelani Medical College, Pathology Department. His son studies in Class-I. The clinic, which was in name of his father the same is run by his mother. His house is three story. His wife resided with him for five years. His wife did not care him, in this context, he made effort to resolve the dispute 3-4 times. It is wrong to say that he physically or mentally tortured his wife. The flat, which is in Kolkata is in the name of his father, in which, there is share of mother and sister as well. This flat is vacant. It is also wrong to say that he earns Rs.4,50,000/- per month.

14. From the evidence adduced on behalf of both the parties, it is found that his wife left the matrimonial house on 09.06.2018 of her own will though the wife, who has examined herself as P.W.-1, Piyali Ray Chatterjee says that she was tortured for less dowry and a demand of Rs.5 lakhs was made, with this reason, she left the matrimonial house. P.W.-2, Bishwaranjan Chatterjee, who is the father of Piyali Ray Chatterjee says that a demand of Rs.1 lakh was made by his son-in-law and his mother, for the same, his daughter was tortured, so she was ousted. P.W.-3, Santosh Thakur nowhere says in regard to any torture being made to Piyali Ray Chatterjee for any demand. P.W.-4, Debranjana Chatterjee, who is the brother of Piyali Ray Chatterjee says that his sister remained well for five years in her matrimonial home. He nowhere in his statement says that his sister was tortured for any demand of dowry during five years rather he says that after August, 2018, the demand of money was made.

15. Admittedly, Piyali Ray Chatterjee has also filed a case under Section 498-A of the Indian Penal Code against her husband and mother-in-law. This

case was filed after instituting the suit by Rudra Narayan Ray under Section 10 of the Hindu Marriage Act for judicial separation.

16. To the contrary, on behalf of the husband **R.W.-1, Nandopaul Pandey** was examined in oral evidence. This witness is the neighbour of Rudra Narayan Ray. He has stated that he has visiting terms to the house of Rudra Narayan Ray and **he has personal knowledge that the wife of Rudra Narayan Ray, namely, Piyali Ray Chatterjee did not want to serve her old aged mother-in-law and maternal grandmother-in-law aged about 75 years and 95 years respectively. She used to create pressure upon her husband to reside separate from her mother-in-law and maternal grandmother-in-law. She willingly left the matrimonial home. R.W.-2, Nimaichandra Ghoshal is also the neighbour of Dr. Rudra Narayan Ray. This witness says that he has also visiting terms to the house of Rudra Narayan Rai and he knows that Piyali Ray Chatterjee did not like to serve her old aged mother-in-law and maternal grandmother-in-law. She had asked her husband to live separate, when the same was not agreed by her husband, with this reason left the matrimonial house of her own will in June, 2018. P.W.-3, Rudra Narayan Ray, in his examination-in-chief, says that his wife did not like to serve his mother 75 years old and maternal grandmother-in-law 95 years old. She flatly refused despite making best effort to make her understand and she also created pressure upon him to live separate from them, the same was not agreed by him, with this reason, he began to remain in mental depression and even after the son was born, the wife used to go to her parental house along with kid and she did not permit his mother-in-law and maternal grandmother-in-law to touch the son, she also did not share**

the dinner with him, his mother-in-law and maternal grandmother-in-law. **As such, she used to create pressure to live separate and she was not willing to serve her mother-in-law and maternal grandmother-in-law.** Ultimately, he had to file a suit for judicial separation, the copy of same is on record. This suit was filed by him and after filing the suit, his wife filed a case against him and his mother under Section 498-A of the Indian Penal Code on the false allegation and also the maintenance case under Section 125 of the Code of Criminal Procedure and maintenance application under Section 24 of the Hindu Marriage Act. **A suit for judicial separation under Section 10 of the Hindu Marriage Act is pending before the Court of learned Principal Judge, Family Court, Bankura. He also says that he made effort to bring back his wife but his wife denied to come back and she obstinate in not to serve his mother and maternal grandmother, so he had filed the suit under Section 10 of the Hindu Marriage Act for judicial separation.**

17. From the oral evidence adduced on behalf of both the parties, it is proved that the wife has left the matrimonial house of her own will and its only reason that she did not want to serve her old aged mother-in-law and maternal grandmother-in-law and she created pressure upon her husband to live separate from them, the same was not agreed by her husband. This fact is well proved not only from the testimony of R.W.-3, Rudra Narayan Ray but also from the testimony of R.W.-1, Nandopaul Pandey and R.W.-2 Nimaichandra Ghosal, who are the neighbours resides in the same locality, wherein Dr. Rudra Naryan Ray resides. To the contrary, the allegations of demand of dowry is belies from the statement of the witnesses of the Piyali Ray Chatterjee. Piyali Ray

Chatterjee says that the demand of dowry of Rs.5 lakhs was made while father says that demand of dowry of Rs.1 lakhs was made while his brother says that no demand was made for five years and after August, 2018, the demand of dowry was made. The independent witness says nothing in regard to the alleged demand of dowry and torture of her and the case under Section 498-A of the Indian Penal Code was filed just after filing the suit by the her husband Rudra Narayan Ray under Section 10 of the Hindu Marriage Act, which shows that the same case was filed as a counter blast case in order to teach lesson to her husband. The intent of Rudra Narayan Ray is also apparent that he has filed the suit for judicial separation not for the divorce because he wanted to keep her wife with him but she was adamant to live separate without any reasonable cause in her parental house.

18. From perusal of the petition under Section 10 of the Hindu Marriage Act for judicial separation, it is found that Rudra Narayan Ray has filed the same on the very ground that his wife did not like to serve his mother and maternal grandmother, who are old aged and she used to create pressure upon him to live separate from them. There is no contradiction in the grounds, which were in the case of judicial separation and the defence, which is taken by Rudra Narayan Ray in the maintenance case. As such, it is proved that the wife of the petitioner has been residing separate without any sufficient cause from her husband.

19. The Hon'ble Apex Court in the case of *Narendra Vs. K. Meena* reported in (2016) 2 CLR 947 (SC) held that persistent effort of the wife to constrain her husband to be separated from the family constitute an act of 'cruelty'. Paragraph No.11 reads as under:

“11. The Respondent wife wanted the Appellant to get separated from his family. The evidence shows that the family was virtually maintained from the income of the Appellant husband. It is not a common practice or desirable culture for a Hindu son in India to get separated from the parents upon getting married at the instance of the wife, especially when the son is the only earning member in the family. A son, brought up and given education SC4603 by his parents, has a moral and legal obligation to take care and maintain the parents, when they become old and when they have either no income or have a meagre income. In India, generally people do not subscribe to the western thought, where, upon getting married or attaining majority, the son gets separated from the family. In normal circumstances, a wife is expected to be with the family of the husband after the marriage. She becomes integral to and forms part of the family of the husband and normally without any justifiable strong reason, she would never insist that her husband should get separated from the family and live only with her. In the instant case, upon appreciation of the evidence, the trial Court came to the conclusion that merely for monetary considerations, the Respondent wife wanted to get her husband separated from his family. The averment of the Respondent was to the effect that the income of the Appellant was also spent for maintaining his family. The said grievance of the Respondent is absolutely unjustified. A son maintaining his parents is absolutely normal in Indian culture and ethos. There is no other reason for which the Respondent wanted the Appellant to be separated from the family - the sole reason was to enjoy the income of the Appellant. Unfortunately, the High Court considered this to be a justifiable reason. In the opinion of the High Court, the wife had a legitimate expectation to see that the income of her husband is used for her and not for the family members of the Respondent husband. We do not see any reason to justify the said view of the High Court. As stated hereinabove, in a Hindu society, it is a pious obligation of the son to maintain the parents. If a wife makes an attempt to deviate from the normal practice and normal custom of the society, she must have some justifiable reason for that and in this case, we do not find any justifiable reason, except monetary consideration of the Respondent wife. In our opinion, normally, no husband would tolerate this and no son would like to be separated from his old parents and other family members, who are also dependent upon his income. The persistent effort of the Respondent wife to constrain the Appellant to be separated from the family would be torturous for the husband and in our opinion, the trial Court was right when it came to the conclusion that this constitutes an act of 'cruelty'.”

20. Herein, it would be pertinent to quote the relevant text of **“Introduction of Family Life Education”** written by **Prof. Teresa Chacko**,

Cochin, page No.71 to 85 read as under:

“Role Expectations in Marital Life

Shakespeare wrote that the world is a stage upon which men and women are acting out the drama of life.

The same thing can be said of marriages. There are many cultural and social expectations about appropriate behaviour for males and females. The goals, purposes and functions in marriage can be achieved only when each family member plays his or her particular role.

The industrial revolution, emancipation of women, urbanization, employment of women, preoccupation of men with career etc. are some factors which have left their imprint upon family roles.

Leadership role:

The man is also entrusted with the role of leader and supervisor of all family endeavours. For the child, his/her first heroes will be his/her own parents, particularly the father who holds the position of authority in the family.

Role as a husband:

As a husband he has the role of sex partner; companion, confidant, decision maker and accountant. He must train himself to be a better observer so that he can be of great help to his wife. He must notice his wife and praise her performance and ability. He should also give emotional support to her.

Traditional roles:

The woman is biologically, psychologically and emotionally prepared for motherhood. She is trained to carry out the roles of birth, nurture, protection, gratification and giving comfort to children and men. In the life of woman, these functions are given priority over all other engagements. According to the traditional role expectations, she is oriented towards rearing capable children, helping her husband to achieve the goals of the family and being useful to the community in which she lives. But are all women satisfied with this role concept? Talented and ambitious women, in addition to these functions, want to develop their special aptitudes.

Role as wife:

As a wife, she is expected to be an affectionate companion, a good sex partner, confidant and social secretary of her husband. She has to take charge of the social life of the couple. She should develop interest in her husband's work. She should be able to understand his world of activities. Moreover, she should be able to give intellectual companionship to her husband.

Reasons for Role Changes

Today family roles are changing largely because they have become less appropriate for the social and economic realities of the modern world. Most of the families are small in size and more women are employed. We can see changes in the styles of femininity as well as masculinity. The man is not maintaining the image of the brave, strong, tough, aggressive male of the past. The gentle, passive, submissive female is a character of yesterday. Opportunities are open for both sexes in education, work and family life. So greater flexibility is required in the role expectations of husbands and wives.

Woman's expectations of man's role

.....

A woman still expects many of these traits in a man. Many women still want the male to be strong and at times they want to depend upon males. They still admire and feel safe with a strong male. The man has to exhibit some courage and strength to meet the role expectations of his wife.

What do husbands expect from the wife?

The wife should become the companions of the husband. She is expected to give love and affection to him. He expects an equal sharing of responsibilities. He expects cooperation, support and recognition for his efforts.

Reasons for Role Conflicts

No two persons are exactly alike. There are differences in attitudes, behaviour and beliefs. Husbands and wives gather different role concepts from their families. For success in marriage, each one has to produce in his/ her personality some resemblance of the partner's image of a man/woman. They have to change their values, attitudes and behaviour to fit in with the new role concepts.

Role conflicts are brought about by the strain put upon the wife in meeting the role expectations of her husband and his family and in adapting to the demands of his work. The husband also faces problems when his wife is having an established role in her life.

How can we resolve role conflicts?

In marriage, spouses are involved in the lives of each other. Hence disagreement in some areas is inevitable. How couple manage conflicts is more important.

Conflict Management

There are many ways in which conflicts can be managed by the couple. In the first method, compatibility can be achieved when one partner is dominant and he/she attempts to get the other person comply with his/her desires and the partner agrees and accepts the complementary role. But when the disagreement is very strong and both partners are not willing to give in, tension is intensified. They may emotionally withdraw from each other's relationships without finding out an actual solution for the problem.

Personality factors in relation to role expectation

.....Success in marriage can be attained when the couple respects the characteristic qualities which nature has given to each of them and when they adhere to their respective roles.

.....

Relations with in-laws

Marriage joins not only the man and woman together, but their families also. Hence, in-laws are the new relatives acquired through marriage. You may wonder whether in-laws are bringing problems to every marriage.

The relationship with in-laws may bring about problems in some marriages. The circumstance in which each person lives is different. If the son-in-law or daughter-in-law fits in with the expectations of the respective family he/she will be accepted easily. Otherwise, problems may arise."

21. In view of the above in the case in hand, the issue between the husband and wife is that the wife is not agree to serve the old aged mother-

in-law and maternal grandmother-in-law, who are respectively 75 years and 95 years old. She creates pressure upon her husband to live separate from his mother and maternal grandmother. It is the very reason; this ground is not found sufficient that's why the legislature while enacted under **Section 125(4)** of the **Code of Criminal Procedure** has provided one of the grounds for denial the maintenance, **if wife refuses to reside with the husband without any reasonable cause.**

22. In **Constitution of India** under **Article 51-A of Part IV-A**, wherein the **fundamental duties of the citizen** of India are enumerated in **Clause (f)**, it is provided '**to value and preserve the reach heritage of our composite culture**'. It is the culture in India to serve the old aged mother-in-law or grandmother-in-law as the case may be by the wife in order to preserve this culture. It was obligatory on the part of wife to serve her husband's mother and maternal grandmother and not to insist for unreasonable demand to live separate from his old aged mother-in-law and the maternal grandmother-in-law. **Accordingly, the point of determination No.1 is decided in favour of the petitioner-husband and against the opposite party No.1-wife.**

23. Herein, it would be pertinent to quote the lines of **Yajurveda**, which read as under:

"O woman you do not deserve to be defeated by challenges. You can defeat the mightiest challenge. Defeat the enemies and their armies you have valour of thousand." (Yajurveda 13/26)

23.1 Herein, it would also be pertinent to quote the lines of **Rigveda**:

"O brilliant woman, remove ignorance with your bright intellect and provides bliss to all." (Rigveda 4/14/3)

23.2 Herein, it would also be pertinent to quote the lines of **Manu**:

शोचन्ति जामयो यत्र विनश्यत्याशु तत् कुलम् ।
न शोचन्ति तु यत्रैता वर्धते तद् हि सर्वदा ॥ ५७ ॥

"Where the women of the family are miserable, the family is

soon destroyed, but it always thrives where the women are contended.” (Manusmriti 3:57)

23.3 Herein, it would be pertinent to quote the lines of **Brihat Samhita**:

“In no world has Brahma created a gem superior to woman (stri), whose speech, sight, touch, thought, provoke pleasurable sensations. Such a gem in the shape of a woman is the fruit of a person’s good, deeds, and from such a gem a person obtains both sons and pleasure. A woman, therefore, resembles the goddess of wealth in a family, and must be treated with respect, and all her wants must be satisfied.” (Brihat Samhita 73:4)

24. In addition herein, this Court expect from both the parties to resolve their differences as stated hereinabove and live together for the welfare of son by adducing a settlement in judicial separation proceeding under Section 10 of the Hindu Marriage Act pending between them.

25. On second point of determination i.e. ‘whether the quantum of maintenance awarded by the learned Court below for the opposite party No.1-wife and her son is disproportionate in view of the income and the liability of the petitioner-husband?’ on behalf of the opposite party No.1-wife, it has been stated that her husband is an Assistant Professor in Bankura Sammelani Medical College, Pathology Department and he is getting salary of Rs.1,50,000/- per month. A pathology clinic is also being run by the name of the father of her husband, from which, there is income of Rs.2 lakhs per month. Rs.50,000/- is receiving from the flat situated in Kolkata, which has been given on rent. Her mother-in-law also getting Rs.50,000/- per month family pension, therefore, total income is shown Rs.4,50,000/-. On this very issue, she has examined as P.W.-1, Piyali Ray Chatterjee, P.W.-2, Bishwa Ranjan Chatterjee, her father and P.W.-3, Santosh Thakur and independent witness P.W.-4, Debranjana Chatterjee, her brother, who have also corroborated this averment.

26. To the contrary, the husband Rudra Narayan Ray has stated in his

pleadings, that he has no source of income except the salary being an Assistant Professor, from which, he is getting Rs.68,900/- but in his statement R.W.-3, Rudra Narayan Ray has admitted that he is a pathologist doctor in Bankura Sammelani Medical College, pathology department. His father was also a doctor. He is getting salary or Rs.68,900/-. The pathology clinic is being run by his mother. He also admits that he has flat in Kolkata but the same was in the name of his father, mother and sister, who have vested right and the same is vacant. He also admits that her mother gets family pension. The fact of the salary being in particular knowledge of the husband in order to prove the same fact of income, he has filed the salary slip marked as Exhibit-A and A/1. From perusal of the same, the net salary is Rs.68,565 after all reduction. The income tax return is also marked as Exhibit-B.

27. In view of the evidence adduced oral as well as documentary, the husband is found to have sufficient means. His salary is Rs.68,565/- per month, this is his personal income, but the income of family is also from the pathological clinic and his mother also gets family pension. In view of the above, the learned Court below had directed the petitioner Rudra Narayan Ray to pay Rs.15,000/- per month for the minor son from the date of application i.e. 10.09.2018 and Rs.30,000/- per month to the wife Piyali Ray Chatterjee.

28. **In view of the disposal of point of determination No.1, the wife is not entitled to any amount of maintenance.** Herein, only the amount awarded for maintenance to the son is to be considered whether the same is proportionate in view of the income of the petitioner-Rudra Narayan Ray. Herein, it would be pertinent to mention that in proceeding under Section 10

of the Hindu Marriage Act for judicial separation. Admittedly, the wife has also filed a maintenance application under Section 24 of the Hindu Marriage Act. On behalf of the petitioner-husband in the Criminal Revision, the photocopy of order dated 30.04.2021 passed in J. Misc. No.6030 of 2018, in which, the proceeding under **Section 24 read with Section 26** of the **Hindu Marriage Act, 1955** was allowed by the **learned Additional District Judge (Redesignated Court), Bankura** has also directed the husband to pay the maintenance amount of Rs.25,000/- per month to his wife and **Rs.5000/- per month for the minor son** since the date of application i.e. 24.12.2018. In view of this order, it is also evident that the petitioner Rudra Narayan Ray has also been paying Rs.5000/- per month to the son in the proceeding under Section 26 of the Hindu Marriage Act in compliance of the order dated 30.04.2021 passed by the learned Additional District Judge (Redesignated Court), Bankura. In view of the above, taking into consideration the financial means of the petitioner Rudra Narayan Ray, **it will be appropriate herein to enhance the amount of maintenance for the son from Rs.15,000/- per month to Rs.25,000/- per month.** Accordingly, this point of determination is also disposed of as stated hereinabove.

29. In view of the above, the impugned order passed by the learned Court below needs interference and this Criminal Revision deserves to be partly allowed.

30. With the aforesaid observations and directions, this Criminal Revision is hereby **partly allowed** and the impugned order passed by the learned Court below is **set aside** up to the extent of awarding maintenance to the wife; while the impugned judgment is modified increasing the maintenance amount for minor son from Rs.15,000/- per month to Rs.25,000/- per month.

31. Let a copy of this order be communicated to the learned Court concerned through 'FAX'

(Subhash Chand, J.)

Madhav/- A.F.R.