

**IN THE COURT OF THE ADDITIONAL DISTRICT & SESSIONS JUDGE-III
AIZAWL JUDICIAL DISTRICT : AIZAWL.**

PRESENT

Smt.Helen Dawngliani
Addl. District & Sessions Judge-III

Divorce Certificate Case No.499/2012

Smt. Indira Dey
D/o Sukendu Bashu Dey(L)
R/o Bara Bazar, Aizawl ... Petitioner

Versus

Sh.Sangkar Nag
S/o Santosh Nag
R/o Rongpur Sadarghat
Silchar, Assam. ... Respondent

P R E S E N T

For the Petitioner	...	Mr. Zochhuana, Advocate
For the Respondent	...	None
Date of Hearing	...	17.02.2014
Date of Judgment & Decree	...	17.02.2014

J U D G M E N T & D E C R E E

1. The present application is filed u/s 13(1) of the Hindu Marriage Act, 1955 for dissolution of the marriage between the petitioner and the Respondent.
2. The petitioner and the respondent were married on 25.1.1998 as per the Hindu law. They have a daughter and a son out of their wedlock. The petitioner stated that she was treated with cruelty by her husband and his family as a result of which she had to leave her matrimonial home on 4.7.2006. According to the petitioner since she left her matrimonial home, she has never returned or maintained relationship with the respondent. From the conduct of the respondent it appears to her that he has no intention to maintain relation as husband and wife. Situated thus, she has no other option but to divorce the defendant.
3. Notice was issued to the Respondent. Notice was duly received by the respondent on 23.10.2013. However, without showing any cause, the respondent failed to appear. Despite sufficient opportunity being given, the respondent failed to appear. Accordingly, the matter proceeded in the absence of the respondent.
4. The deposition of the petitioner on affidavit and the deposition of one Mita D/o Sawivela R/o Chanmari, Aizawl are submitted.

The petitioner deposed and reiterated that she married the respondent on 25.1.1998 as per the Hindu ritual. She has two children, a son and a daughter with the respondent. Soon after their marriage, her husband and his family started demanding for money. Since the family of her husband were not economically well off her parents used to give her money as much as they could. But the respondent and his family continue to have more and more demands which could not be satisfied by her family. Then her husband and his family started torturing her. As the situation became unbearable she left her matrimonial home on 4.7.2006. Since then, the respondent has never enquired about her or their son who is living with her. The respondent and she has not maintained any relationship for the last six years and the respondent remained silent except making a claim for custody of their son. Accordingly, she prays for issuance of divorce certificate.

PW/Mita (Nui) stated that the plaintiff is the sister of her brother-in-law. She stated that the plaintiff was physically and mentally abused. Sometime in the year 2006 while she was on a visit to Silchar, the plaintiff was brutally beaten by her husband. Due to the torture, the plaintiff cried out in pain and this attracted the attention of the neighbours and all the neighbours gathered around to see what was happening. Her sister informed the matter to the sister of the plaintiff who was also on a visit to Silchar. On that night, for the safety of the plaintiff the Mohila Samaj intervened and rescued the plaintiff and handed her over to her family on the morning of 4.7.2006. The witness deposed that the respondent and his family allowed the petitioner to leave but did not allow her to take her children. Due to efforts made by the neighbors and Mohila samaj, the plaintiff was able to take her son who at that time was one and half years old.

5. The petitioner alleged that she was treated with cruelty by her husband. Cruelty is one of the grounds for seeking divorce u/s 13(1)(ia) of the Hindu Marriage Act, 1955. As stated earlier, the respondent failed to appear. In the absence of the respondent it is not possible for this Court to give an attempt for reconciliation between the parties.

6. Accordingly, on hearing the Id. Counsel as well as from the evidence and materials on record, it is seen that the parties have been living separately since 4.7.2006. Upon appreciation of the pleading as well as the evidence of the petitioner and her witness, no inference can be drawn that the petitioner in any manner has been accessory to or connived at or condoned the act or acts complained of, or in any manner condoned the cruelty meted out to her by the respondent. The report which was lodged with the O/C Silchar Sadar Police Station also lend credibility to the statement of the petitioner.

7. In view of the above, it is hereby declared that the marriage between the petitioner and the respondent stand dissolved on ground of cruelty by the respondent.

8. It is decreed accordingly.
9. Announced in open court on this the 17th day of February, 2014.

Sd/- HELEN DAWNGLIANI
Addl. District & Sessions Judge-III
Aizawl Judicial District, Aizawl

Memo No. _____/AD&SJ-3/2014 : Dated Aizawl, the 17th February, 2014
Copy to: -

1. Indira Dey through Counsel Mr. Zochhuana, Advocate.
2. Sh.Sangkar Nag S/o Santosh Nag R/o Rongpur Sadarghat, Silchar, Assam.
3. Registration Section.
4. Guard File.
5. Case Record.

PESHKAR