

**CAUSE TITLE****TITLE SUIT (DIVORCE) NO.75/2018.**

Petitioner : Smti Purabi Das.  
D/o Lt. Pakaram Das.  
Vill. Manika Chuk.  
P.S. Dhakuakhana.  
Dist. Lakhimpur.  
Assam.

Respondent : Sri Tutumoni Rava.  
S/o Sri Manik Rava.  
R.O. Manikpur.  
P.O. & P.S. Dhakuakhana.  
Dist. Lakhimpur.  
Assam.

**Advocates :**

For the Petitioner : Sri Nabajyoti Chetia, Advocate.

For the Respondent : None appeared.

**IN THE COURT OF DISTRICT JUDGE: LAKHIMPUR:  
AT NORTH LAKHIMPUR.**

Present : Smti S.P. Khaund, (MA Economics, LLB),  
District Judge,  
Lakhimpur, North Lakhimpur.

**TITLE SUIT (DIVORCE) NO.75/ 2018.**

Smti Purabi Das. ... Petitioner.

-VS-

Sri Tutumoni Rava. ... Respondent.

Date of Argument : 19.10.2020.

Date of Judgment : 12.11.2020.

**J U D G M E N T**

1) This suit for divorce has arisen out of a Petition submitted by the Petitioner, Smti Purabi Das under Sec.13(1) (i-a) (i-b) of the Hindu Marriage Act, 1955 ( the Act for short ), for dissolution of marriage between herself and Respondent, Sri Tutumoni Rava, by a Decree of Divorce.

2) The case of the Petitioner, in brief, is that on 10.12.2010, the Respondent married her according to Hindu rites and ceremonies, and thereafter, both the parties have been staying together as man and wife in the Respondent's house. They are blessed with two children. It is alleged that one month after their marriage, the Respondent and his mother started to subject the victim to physical as well as mental cruelty as she did not provide sufficient dowry. The Respondent demanded a sum of Rs.5 Lacs, and on her inability to meet his demand, she was tortured both mentally and physically. On the last night of 'PHAAT BIHU', 2018, the Respondent assaulted the Petitioner

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with a 'Jeura' ( a bamboo stick used for making bamboo fence ) on her back, and punched her left eye. In this way, the cruelty upon the petitioner continued. On 14.06.2018, the lady members of VDP and the Gaonburah of Huj Gaon, including the Respondent and his sister-in-laws namely, Smti Maina Rava and Smti Rita Rava went to the Petitioner's house. When the Respondent apologised, the Petitioner returned to her matrimonial home. But, on 17.06.2018 at about 7 pm, the Respondent again started to quarrel with her and slapped her. On the same evening, the Petitioner's mother-in-law, Smti Anjali Rava and sister-in-law, Smti Maina Rava went to Guwahati and took her daughter, Pari Rava with them. The Respondent, on the same day, went to Sivasagar leaving the Petitioner and her son, Sri Binayak Rava in his house with his father, Sri Manik Rava. On 24.06.2018, the Respondent returned home from Sivasagar and started to torture the Petitioner suspecting her of having illicit relationship with her father-in-law. On 26.06.2018, the Respondent drove her out from her matrimonial home, and finding no alternative shelter, she was compelled to take shelter in her parental home. But, on the next day, the Respondent went to the Petitioner's parental home, and without informing her, he took his son, Sri Binayak Rava with him. She made several attempts to meet her son, but she was forbidden to meet her son. Under the premises, the Petitioner prays for a decree of divorce for dissolution of her marriage with the Respondent. She has also prayed for permanent alimony to the tune of Rs.20 Lacs.

3) Notice was duly received by the Respondent. The Respondent appeared on one date, and filed Written Statement, but during the course of proceeding, the Respondent failed to appear and contest the proceeding. So, this case proceeded ex-parte against the Respondent.

4) The Respondent, Sri Tutumoni Rava filed written statement contending interalia that the petition is not maintainable and is liable to be dismissed. He has denied subjecting the petitioner to cruelty or demanding dowry. He has vehemently denied that he drove out his wife, and thereafter, again subjected her to cruelty. On the contrary, he

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has submitted that the petitioner is quarrelsome by nature and used to frequently quarrel with some reason or the other. The petitioner abandoned him on her own volition. When she left him without informing him, his mother lodged a missing entry on 30.05.2018. Several endeavours were made with the help of 'Mahila Samitee' to settle their marital dispute.

5) To substantiate her stance, the petitioner adduced her evidence through affidavit. She has also adduced evidence of Sri Brojen Das through affidavit, while the Respondent failed to appear and contest the proceeding, and the case proceeded ex-parte.

6) POINTS FOR DETERMINATION :

- i) Whether the Petitioner deserves a decree of divorce ?
- ii) Whether the Petitioner is entitled to permanent alimony, as claimed by her ?

7) Heard the learned counsel for the Petitioner ex-parte.

DECISION AND REASONS THEREOF :

8) The Petitioner in her evidence-in-chief testified that on 10.12.2010, the Respondent married her according to Hindu rites and ceremonies, and thereafter, both the parties had been staying together as man and wife in the Respondent's house. They are blessed with two children. One month after their marriage, the Respondent and his mother started to subject the victim to physical as well as mental cruelty as she did not bring enough dowry along with her. The Respondent demanded a sum of Rs.5 Lacs, and on her inability to meet his demand, she was tortured both mentally and physically. On the last night of 'PHAAT BIHU', 2018, the Respondent assaulted the Petitioner with a 'Jeura' ( a bamboo stick used for making bamboo fence ) on her back, and punched her left eye, and thereafter, the Respondent drove the Petitioner out from the house, and on that night, she had to remain

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outside the house. On the next morning, when the Respondent found the petitioner in the house, he threatened her with dire consequences, and finding no alternative shelter, she was compelled to take shelter in her parental home. Again on 14.06.2018, the Respondent, his younger sisters Maina Rava and Rita Rava along with Smti Inamoni Baruah, President of Women Village Defence Party and some other members together with the Gaonburah went to the Petitioner's parental home and apologised. So, the Petitioner again came to her matrimonial home, but on 17.06.2018 at about 7 pm, the Respondent verbally abused her for her inability to meet his demand of Rs.5 Lac. Again, on 26.06.2018, the Respondent drove the Petitioner out from his house, and since then, she has been taking shelter in her parental home.

9) On perusal of the evidence-in-chief through affidavit submitted by the Petitioner, it appears that she has supported all the allegations levelled by her against the Respondent as to the unbecoming behaviour of her husband/ Respondent, and ultimate desertion by the Respondent. The Respondent did not come forward to cross-examine the Petitioner nor had he stood the test of cross-examination.

10) It has been held in the case of *Vidyadhar vs Manik Rao and another*, AIR 1999 SC 1441 that, "**where a party to the suit does not appear into the witness box and states his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up by him is incorrect.**"

11) Reverting back to this case, it is held that the Respondent failed to rebut the Petitioner's case.

12) Accordingly, the Petitioner is found entitled to a Decree of Divorce on the ground of cruelty and desertion.

13) Consequent to my discussion and decision as indicated here-in-before, decree of divorce is granted exparte on dissolution of

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marriage between the parties and accordingly, the marriage solemnised between the Petitioner and the Respondent is, hereby, dissolved, by a decree of divorce.

14) On the petitioner's prayer for permanent alimony, it is opined that she has not mentioned the income of the Respondent. However, considering the minimum income of the respondent to be Rs.3,000/- per month, the respondent is directed to pay a permanent alimony of Rs.1 Lac to the petitioner, as one time permanent alimony. This decides the points taken up for decision.

15) Prepare a Decree, accordingly.

Judgment is signed, sealed and delivered in the open Court on the 12<sup>th</sup> day of November, 2020.

( S.P. Khaund )  
District Judge,  
Lakhimpur, North Lakhimpur.

Certified that the Judgment is typed to my dictation and corrected by me and each page bears my signature.

( S.P. Khaund )  
District Judge,  
Lakhimpur, North Lakhimpur.

Transcribed and typed by :  
Sri Satyabrata Kshattray, Stenographer.