

District - Howrah

Before The Learned District Judge, Howrah

Mat Suit No. _____ of 2019

In the matter of :-

An application U/S 13(1) (iii) of the Hindu Marriage Act, 1955, for the dissolution of marriage by a decree of divorce.

-A n d -

In the matter of :-

KIRAN PAL , son of Krishna Pal, permanently residing at Pally Unyayan Samity Club, Paschim Shantinagar Sapuipara Bali (C.T.) Bally, Domjur Constituency, P.O - Anandanagar, P.S - Nischinda, Howrah, W.B - 711227

..... Petitioner/Husband

-Vs-

SANGITA DAS, daughter of Subrata Das, Wife of Kiran Pal, residing at 3/1/1, Sukanta Sarani, Uttarpara Kotrung M, Bhadrakali, P.O- Bhadrakali , P.S - Uttarpara, Hooghly, W.B - 712232

..... Respondent/ Wife

The humble petition on behalf of the above-named petitioner most respectfully

SHEWETH:-

- 1) That the petitioner and respondent are Hindus by faith and are citizens of India.
- 2) That your petitioner is a graduate and is working for gain in a private limited company as an in-house sales executive and the family of the petitioner consists of his parents and all are residing at the address mentioned in the cause title above.
- 3) That the father of the petitioner is more than 60 years old and had been a construction labour for years and the mother of the petitioner is a house wife who brought up the petitioner with great hardship due to insufficient means.
- 4) Your petitioner having attained marriageable age, his family was on look out for a suitable bride for your petitioner. At such juncture one Mrs. Uma Singha , being the paternal aunty of the respondent got your petitioner's family introduced to the respondent's family sometime in October, 2017. That on the first meeting held at the respondent's parental house both the family liked each other. That the appearance of the respondent was very quiet and calm during the said meeting and the respondent hardly talked with the petitioner and to his family as according to her family their daughter was very shy and introvert by nature.
- 5) On the first meeting the marriage was almost finalized and there was no demand of dowry or any expectation of gift by the petitioner and

his family as such the family of the respondent was very happy and expressed their gratitude for the same.

- 6) It is pertinent to mention that during the negotiation of marriage the petitioner being a bright student at time and a qualified youth always wanted his wife to be also qualified and clearly expressed his no objection if the respondent decides to do job after marriage. Whereas the family of the respondent stated that the respondent has passed Secondary from W.B.S.C. and is interested in taking care of household only and the respondent being extremely shy and introvert in nature will never be comfortable working in the outside world.
- 7) That the father of the respondent is a govt. service holder in the Electric Department , at Liluah workshop, Eastern Railway and the family is much well of in comparison to the status of the petitioner for obvious reasons.
- 8) That on 13-12-2017 the petitioner and the respondent got married as per Hindu rites at the wedding ceremony hall 'Sagarika Lodge', Paschim Santinagar, Kumillapara, Belur, Howrah in the presence of friends, relatives and family members of both the parties.
- 9) That at the first night of the marriage when the petitioner approached the respondent to commence conjugal life the reaction and response of the respondent gave an impression to the petitioner that the respondent though was of 25 years old at the relevant time, was not aware of the process of intercourse in between man and woman which was undesirable for any man and the situation at that moment was very awkward and uncomfortable when the respondent expressed her discomfort even at the slightest touch of the petitioner.

- 10) On the next day of 'bou-bhat'/ reception since morning the respondent locked herself in the bedroom and started crying loud like a child for her mother. Such behavior of the respondent was very much awkward and unexpected to the petitioner and his family. It took really hard to make the respondent understand the situation and stop crying. When such incident was communicated to the family of the respondent the parents of the respondent explained that for first time in her life the respondent has separated from her parents and she being very innocent has frightened with the life of a married woman and the respondent will settle with time.
- 11) That the petitioner and his family was totally unable to handle the respondent from day one of marital life. The respondent acted like a 5 year old child. The respondent was unable to perform her daily rituals all alone. The petitioner and the mother of the petitioner used to help her in daily routine activities.
- 12) That the respondent either used to sit isolate for the whole day without talking to any one in the family or pick up quarrel with the neighbors at no issues. The respondent used to call each and every street hawkers passing by for buying things of whatever nature from them and when denied by the petitioner and his family the respondent started to cry like anything and was unstoppable. The respondent enjoyed playing hide and seek with the father-in-law now and then like a kid. That Sometimes the respondent used to through waste food and dustbin accumulation at the adjacent neighborhoods for fun. The actions of the respondent was so unpredictable that the petitioner and his family spent whole day under threat of the respondents sudden nuisance in the house and outside also.

- 13) The respondent also has a habit to pick up things without being noticed from the house of third parties which can be legally termed as 'theft' which created extreme embarrassment to the petitioner few times.
- 14) Within few days of marriage as the respondent confessed to the petitioner that the respondent has no basic education and the respondent was trained to write her name, parents name, address and few other important things which was actually was an act of drawing for her. The respondent is incapable of reading even Bengali script, does not know how to check date calendar, do basic calculation of accounts or to recognize rupee notes and coins , to tell time by watching the clock, incapable to carry out basic household and to do any work following instruction, to eat food from others plate without permission, caprice to be feed, dressing hair and makeup and many other abnormal activities considering her age.
- 15) The approach of the respondent to the petitioner and his family sometimes was normal like a stubborn, naughty teenager, sometimes cute like a child and sometime uncontrolled, unmanageable, loud and extreme violent which left the petitioner and his family totally bemused.
- 16) That within one month of marriage the petitioner and his family were totally doubt free that the respondent is not of sound mind and the parents , family and friends of the respondent, arranged the marriage of the respondent with the petitioner suppressing such serious mental disorder of the respondent which can be termed as social breach of trust, dishonesty, act of deceive and fraud upon the petitioner and his family. In urge to get relieved from the tension and burden of their mentally retarded daughter the parents of the respondent circumvent the petitioner and his family intentionally knowing them financially weak, not

at all in comparison of their status and more fully fearful and peace loving, by nature.

- 17) Under such circumstances the petitioner and his family called on the parents and relatives present during negotiation of marriage at their house and questioned them the reason for such intentional suppression of the fact of mental disorder of the respondent when such allegations were straightaway denied by them and the parents of the respondent on the contrary criticized that the respondent is completely fit and fine in all respect and the petitioner and his family are making all these false accusation just to extract money from the parents of the respondent which they will never going to pay rather will take stringent legal action against them for demand of dowry and cruelty against the respondent and will make sure the petitioner and his aged parents to spent rest of their life in the jail.
- 18) That the petitioner and his parents are very fearful by nature and do not have that financial strength to do legal battle against the family of the respondent as such the petitioner and his family was living such unwarranted life under fear of being falsely implicated in legal proceedings and socially defamed and humiliated.
- 19) That the parents of the respondent were in regular touch with the respondent via telephone but always avoided the respondent whenever she asked to take her home. On the other hand the parents of the respondent continued to threat the petitioner if he refuses to live with the respondent or discuss the issue with outsiders.
- 20) That the respondent has no self-assessment, independent thought, capacity to judge right and wrong, extreme freckle minded, easy to influence.

- 21) That the family of the petitioner went into depression and confused and puzzled as to how deal with the situation and get grip of the uncontrolled respondent. The petitioner made enquiry of the family history of the respondent when some shocking facts came to his knowledge. That the respondent's maternal uncle's daughter and paternal uncle's daughter both are completely mentally handicapped and incapable of doing movement without help of third party. Therefore, it may be presumed that such mental disorder of the respondent has a genetic bearing. Further there were deceased predecessors also in the family of the respondent who were also mentally retarded at a serious level.
- 22) Then the petitioner seek legal advise to combat such fraud perpetrated upon him and his family by the respondent and her family when the petitioner was advised that until the marriage of the petitioner completes one year he cannot resort to divorce from the respondent, so finding no alternate the petitioner had to wait and live his life with the mentally retarded respondent against his will.
- 23) That the petitioner and his family never behaved in a bad way or ill treated the respondent rather always treated her with sympathy, passion, love and caring. It is pertinent to mention that the conjugal life of the petitioner with the respondent was very occasional.
- 24) But passing of days with the respondent who is mentally unstable of such nature, was unbearable and beyond tolerance of the petitioner. Further the parents of the respondent having had totally elope and heedless to the difficulties that the petitioner and his family was going through without any fault on their part at the instance of respondent, the petitioner finding no way , decided to do treatment of the respondent so

that the atmosphere of the home at least becomes habitable for normal human being.

- 25) In this regard the petitioner started talking with his well wishers and person having professional knowledge in this kind of abnormality who gave different advises. After giving a serious thought the petitioner sometime in May, 2018 first took the respondent for medical examination in S.S.K.M.Hospital, Kolkata, wherein after preliminary check-up the respondent was referred to psychiatry department.
- 26) Thereafter since May, 2018, the respondent was under treatment of Dr. S.Bhattachary, Psychiatrist, at the Institute of Psychiatry-A Centre of Excellence, 7 , D.L.Khan Road, Kolkata – 700025.
- 27) That the respondent was prescribed to regular medications, which were type of anti-epileptic drug, which affects chemicals in the brain that may be unbalanced to treat seizures and certain types of anxiety disorders and panic attacks and also medication for calming brain and nerves and to treat depression and anxiety.
- 28) That in June, 2018 the said Institute of Psychiatry-COE delivered 'Report of Assessment' after carrying out 'The Binet Kamat test' and ' Vineland Social Maturity Scale (VSMS)' which declared the respondent as 'Mild Mental Retardation' category. The said report further records that the respondent had 'No formal education', 'Need assistance in daily living activities' and most importantly the basal age of the respondent is 6 years and her ceiling age is 14 years. The mental age of the respondent is found to be 7 years and 8 months and the intelligence Quotient is 61, which indicates that the current intellectual functioning of the respondent falls in the 'Mild Retardation' category. The report further records that the social age of the respondent is 10 years 3 months and the corresponding

social quotient is found to be 68 which is significantly below to her chronological age.

29) It is relevant to mention that The Binet Kamat test is performed to measure a child's scholastic ability (verbal reasoning, quantitative reasoning, abstract/visual reasoning and short-term memory). Binet test is an examination meant to gauge intelligence through five factors of cognitive ability. These five factors include fluid reasoning, knowledge, quantitative reasoning, visual-spatial processing and working memory. Whereas The Vineland Social Maturity Scale (VSMS) measures the differential social capacities of an individual. It provides an estimate of Social Age (SA) and Social Quotient (SQ). It is designed to measure social maturation in eight social areas: Self-help General (SHG), Self-help Eating (SHE), Self-help Dressing (SHD), Self-direction (SD), Occupation (OCC), Communication (COM), Locomotion (LOM), and Socialization (SOC). The scale consists of 89 test items grouped into year levels. VSMS can be used for the age group of 0-15 years. The VSMS score adopts a set of questions for children of each completed year.

30) Thereafter the petitioner took the respondent for treatment to Dr. Rajashree Ray, Consultant Psychiatrist and Psychotherapist, who made detailed observations with similar remarks with further advise to contraceptive as it was opinioned by said Dr. Ray that the child of the petitioner and respondent will have a high probability to born with mental disorder too.

31) The respondent was advised to medication by said Dr. Ray to treat depression and generalized anxiety disorder and antidepressants and also to treat certain mental/mood disorders (such as schizophrenia, bipolar disorder, irritability associated with autistic disorder).

- 32) In August, 2018, the petitioner decided to admit the respondent as a student in a special school 'Ashraya' an organization for disabled and mentally retarded persons, situated 56, D.P.J.M.Sarani, P.O- Bhadrakali, Dist. – Hooghly which was next to the adjacent house of the respondent's paternal house.
- 33) In the said school the respondent was under training how to make tea, spices, bamboo basket, incense sticks, writing Bengali script, drawing, coloring etc.
- 34) That as soon as the parents of the respondents came to know about their daughter visiting 'Ashraya' at the instance of the petitioner they objected to the same vehemently and warned the petitioner to immediately discontinue with her session in 'Ashraya' as the same news would create rumors in the society and will adversely affect their fame and reputation. Further the parents of the respondent also accused the petitioner that he is forcefully sending the respondent at the said special school with a sole intention to public the impression that the respondent is suffering from mental disorder and to humiliate her and make an excuse to the society as a ground for denying her as a wife. Ultimately after doing class only for 2 months the petitioner was compelled to discontinue the respondent going to the said special school to get rid of every day nuisance and chaos by the parents of the respondent. In this regard a GD was also lodged by the respondent in P.S – Nischinda complaining against her parents on 07-06-2018 and 05-07-2018.
- 35) That as the respondent along with the petitioner visited P.S - Nischinda on 05-07-2018, it was advised by the Officer-in-charge Mr. Maity to seek help from the Domestic Violence Legal Help Cell at BDO office, Howrah. So, the petitioner without wasting time went to the BDO office on the same day and submitted written complaint which was number as

Petition No. 1(7)/18 and recommended to the DLSA, Howrah District Court by one Ms. Debolina Roy, Legal aid Clinic, Bally- Jagacha, District Legal services Authority, Howrah.

- 36) Accordingly the petitioner along with the respondent visited the office of the DLSA , who upon considering the written complaint issued notice dated 26-07-2018 to the parents of the respondent calling upon them on 16-08-2018.
- 37) In the meantime the petitioner again visited P.S – Nischinda on 20-07-2018 to lodge another GD against the parents of the respondent as he had continuously been threatened by the parents of the respondent with life risk if he continues with treatment of the respondent.
- 38) That on 26-07-2018 the parents of the respondent duly appeared before the DLSA when the respondent was also present along with the petitioner and upon intervention the father of the respondent gave his written statement in the register/ minutes/ records of the concerned department that his daughter, the respondent is mentally retarded since childhood and henceforth he and his family will not create any impediment towards the treatment of the respondent as carried out by the petitioner and will also extend his assistance in all manner as required.
- 39) But to the utter surprise again on 15-08-2018 the parents of the respondent threatened the petitioner over the said issue and clearly said that they do not bother of any legal consequences and will never allow psychiatry treatment of the respondent. On the next date fixed before the DLSA, i.e. 16-08-2018 , the petitioner along with the respondent appeared when the parents of the respondent clearly said that they have strong objection to the psychiatry treatment of the respondent at the instance of

the petitioner and further will not cooperate with the petitioner in this regard and left.

- 40) Thereafter on 14-08-2018 the respondent made written complaint against her parents before the Counselor, Kotrung Municipality, Hooghly.
- 41) As the interference to disrupt the treatment continued another GD was lodged by the respondent against her parents before P.S – Uttarpara on 23-08-2018.
- 42) On 05-09-2018 the petitioner made another GD against the parents of the respondent before P.S – Nischinda for reasons more fully stated therein.
- 43) Thereafter in December, 2018 the petitioner also resorted to Central Institute of Psychiatry, Ranchi, Jharkhand, where the respondent was also advised on regular basis to antipsychotic drugs used for the treatment of Schizophrenia, and other mood disorders.
- 44) It is pertinent to mention that all these medications prescribed by the specialists so far can only control the symptoms but cannot cure the disease as the mental disorder of the respondent is incurable in medical science and it has a tendency of getting severe with the passage of time.
- 45) The parents of the respondent were in extreme disagreement from the very inception of treatment of the respondent at the instance of the petitioner and they managed the respondent not to intake medications which ultimately resulted to severe degradation of the mental disorder of the respondent.

- 46) On 29-04-2019 the respondent made a written complaint before the president, Hind Motor, Hooghly stating the whole facts and deeds and misdeed of her parents.
- 47) Since mid of May, 2019 the respondent gradually isolated herself from the family of the petitioner and his parents but at time used to behave in a monstrous way beyond the control of the petitioner out of anxiety, depression and allied disorders.
- 48) Under such compelling situation the petitioner decided to take the respondent at 'Roots & Routes Counselling and Psychotherapy Centre, Kozhikode, Kerala' being one of the best place for treatment of any mental disorder but upon coming to know the same from the respondent, her parents reached at the house of the petitioner on 16th June , 2019 and started non sense argument and forcefully took the respondent along with them against the will of the petitioner ,with a suitcase full of her attires and refused to carry any medicines even at the plea of the petitioner.
- 49) Since then the respondent has been staying with her parents.
- 50) The petitioner and his family was under continuous threat of being arrested and socially humiliated since after marriage at the behest of the respondent's parents and family as such various complaints in the form of GD were lodged by the petitioner and also the respondent on few occasions stating the mal intention and wrongful intervention and illegal threatening of the respondent's parents.
- 51) Under such threat of adverse legal action taken by the parents of the respondent the petitioner on 29-08-2019 lodged another GD before P.S – Nischinda also recording the fact of the respondent deserting the petitioner at the instance of her parents.

- 52) The petitioner has been a victim of the swindling deed of fate and fraud of the respondent and her parents and relatives by suppressing such fact of mental disorder. All the acts and deeds of respondent due to her medical condition since marriage, has rendered the marriage infructuous and emotionally dead which can't be dragged on by the petitioner for its name's sake only. So, the marriage should be dissolved which stood virtually dissolved otherwise.
- 53) That the respondent is incurably of unsound mind which has been medically proven and established by various specialists and such continuous mental disorder and/or incomplete development of mind and/or psychopathic disorder and/or disability of mind of such a kind and extent, the petitioner is not able to live with the respondent as husband wife any more.
- 54) That there is no collusion or connivance in between the petitioner and the respondent in the matter of presentation of this petition.
- 55) That the cause of action arose on each and every day of their marital life as, on the very next day of wedding reception the abnormality and/or mental disorder of the respondent were experienced by the petitioner and his family.
- 56) That petitioner husband has no legal impediments why the relief sought for is not granted to the petitioner.
- 57) That no other application of similar nature for dissolving the marriage between the petitioner and the respondent is pending before in any court of law.

- 58) For the purpose of determination of jurisdiction and court fees, your petitioner affixes herewith fixed court fee of Rs. 100/-.
- 59) That the petitioner will produce all the relevant documents before the Ld. Court at the time of hearing.
- 60) That this application is made bonafide and for the ends of justice.

Under the circumstances, it is therefore, prayed that Your Honour would graciously be pleased to accept the petition and dissolved the marriage dated 13-12-2017 between the petitioner and the respondent by a decree of divorce under section 13(1) (iii) and also costs of the proceeding and/or pass such other order or orders as Your Honour may deem fit and proper for the ends of justice.

And for this act of kindness, your petitioner as in duty bound, shall ever pray.

Affidavit

I, KIRAN PAL , son of Shrikrishna Pal, , aged about 31 years, by faith – Hindu, by profession – service, permanently residing at Pally Unyayan Samity Club, Paschim Shantinagar Sapuipara Bali (C.T.) Bally, Domjur Constituency, P.O - Anandanagar, P.S - Nischinda, Howrah, W.B - 711227 do hereby solemnly affirm and say as follows :

1. That I am the petitioner in the present suit and I am well conversant with the facts and circumstances of the same.

2. That the statements contained in the petition from para 1 to are true to my knowledge and rest are my respectful submissions before this Ld. Court.

Deponent

Identified by me

Advocate

Before The Learned District Judge, Howrah

Mat Suit No. _____ of 2019

In the matter of :-

KIRAN PAL

..... Petitioner/Husband

-VS-

SANGITA DAS

..... Respondent/ Wife

DIVORCE PETITION

Advocate-on-Record

DEBISREE ADHIKARY, Advocate
C/o. D & D Law and Tax Firm
14B, A.C.Banerjee Road,
Kolkata – 700057

E-mail – ddlaxtaxfirm@gmail.com

Contact - 9804214281