

IN THE COURT OF MANIPUR

AT IMPHAL

Mat. App No. 9 of 2019

Smt. Phijam (n) Khwairakpam (o) Babina Devi, aged about 29 years, w/o Kh. Ragesh Singh of Sagoltongba Salang Sabal Leikai, P.O. Langjing, P.S. Patsoi, Imphal West District Manipur.

---Appellant/Defendant No.1

-Versus-

1.Khwairakpam Ragesh Singh, aged about 29 years, s/o Kh. Nandakumar @ Sangoijao Singh of Sagoltongba Mayai Leikai, P.O. Langjing, P.S. Patsoi, Imphal West District, Manipur.

----Principal Respondent/Plaintiff

2. Salam Suresh Singh, aged about 31 years, (son of not known), clo Salam Rajen Singh, resident of Thanga Salam Leikai, P.O. and P.S. Moirang, Bishnupur District, Manipur.

----Proforma Respondent/ Defendant No.2

BEFORE
HON'BLE THE CHIEF JUSTICE MR.D. KRISHNAKUMAR AND
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Appellant : Mr. RK Milan, Advocate
For the Respondents : Mr.Ch. Anthony, Mr. Leo Rommel, Advocates
Date of Hearing : 24.01.2025
Date of Order : 20.05.2025

JUDGEMENT & ORDER

A. GUNESHWAR SHARMA, (J)

[1] This appeal is filed by the appellant/wife/defendant No.1 under Section 19 (1) of the Family Courts Act, 1984 for setting aside the impugned Order dated 06-07-2019 passed by the Ld. Family Court, Manipur at Lamphelpat, Imphal West in Mat. (Divorce) Suit No. 68 of 2015 and to enhance the amount of permanent alimony at 25% of the monthly income of the Principal Respondent or to a lump sum amount of Rs.30,00,000/-. In the Mat. (Divorce) Suit No. 68 of 2015, the Appellant was the Defendant No. 1 and Principal Respondent was the Plaintiff. The Mat. (Divorce) Suit No.68 of 2015 was instituted for a decree of divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955 on ground of cruelty. By the impugned order, the marriage between the plaintiff and defendant No.1 was dissolved with a direction to pay permanent alimony of Rs. 2,00,000/- to the wife by the husband.

The brief facts of the case

[2] The principal Respondent/plaintiff was married to the Appellant/defendant No.1 on 03-02-2014 at the parental home of the Appellant/defendant No.1 and after their marriage they have been living together as husband and wife. The principal Respondent/plaintiff is now serving as Sepoy posted at 4 Assam Regt, C/O 56 APO, Lucknow Cantonment since 2013. He joined at his place of posting on 09-03-2014 and stayed there for three months from March, 2014.

[3] It is stated that the principal Respondent /plaintiff returned home in the month of July, 2014 and took back the Appellant/defendant No.1 to his place of posting and stayed there till 07-04-2015. The Appellant/defendant always insisted the plaintiff to buy mobile phone for her. Thus, the principal Respondent /plaintiff purchased a mobile phone for the Appellant/defendant.

[4] One day, the Principal Respondent/plaintiff's phone was not working properly and he asked his wife to let him use her phone till his phone was repaired. When perusing the call log, the plaintiff found an unknown number which name and address was not saved in the phone, but it was clearly seen that the said unknown number had a long duration of talk with his wife. Later on, he found out that the number was recorded in the name of one Salam Suresh (Proforma Respondent/Defendant No.2) from Thanga Salam Leikai. He remembered that the defendant No.1 once told him about her relation with the said Suresh prior to their marriage.

[5] On 09-04-2015, the plaintiff and the defendant No.1 returned home on leave from his place of posting. On 10-04-2015 there was an argument between the plaintiff and the defendant No.1 and having no alternative, he discussed her extramarital affairs with his parents. On advice and suggestion of his parents, the matter was made known to the parents of the defendant No.1. As such on 11-04-2015, both the parents of the plaintiff and the defendant No.1 went to the residence of Salam Suresh Singh at Thanga Salam Leikai, and the elder-persons of Salam Suresh Singh urged to settle the matter through the elders of all the three parties. On 14-04-2015 the plaintiff discussed with his parent for filing a case against the said Suresh Singh. The defendant No.1 strongly defended in favour of the said Suresh Singh saying that she would leave her matrimonial home if the plaintiff filed any case against him. On the same day at about 1.00 p.m., the defendant No.1, without any cause and justification, left her matrimonial home. The parents of the plaintiff on that day went to call her but the parents of the defendant No.1 stated to take her back on the next day, as she was ill. The parents of the plaintiff could not meet the defendant No.1 despite of their request to her parents. On the next day i.e. 15-04-2015 the parents of the plaintiff, as informed by the parents of the defendant No.1, went to take her back. But this time too, the parents and the defendant No.1 herself refused to send back her to the matrimonial home. The defendant No.1 even boldly told that the said Suresh Singh is better than the plaintiff in presence of family members of the plaintiff. She even stated the plaintiff is a mean-

minded person. Defendant No.1 has been living with her minor daughter born out of the wedlock with the plaintiff.

[6] Hence, the plaintiff filed the Mat. (Divorce) Suit No.68 of 2015 against the defendant No.1 for a decree of divorce on ground of cruelty. The Ld. Family Court, Manipur at Lamphelpat, Imphal passed an order dated 06-07-2019 dissolving the marriage between the plaintiff and the defendant No.1. However, taking into consideration the moral obligation on the part of the plaintiff who is the husband of the defendant No.1, it is further ordered that the plaintiff is to pay a sum of Rs. 2,00,000/- (Rupees two lakh only) as permanent alimony within the period of 8 months from the date of passing this judgment and order to compensate the mental agony the defendant has to go through after separation from her husband forever.

[7] Learned Family Court framed 4 (four) issues as follows:

1. *Whether the defendant treated cruelty against the plaintiff or not?*

Or

Whether the plaintiff treated the defendant with cruelty after solemnization of the marriage dt. 03-02-2014 between the plaintiff and the defendant?

2. *Is there cause of action for the plaintiff to file the suit or not?*

3. *Whether the defendant is entitled to permanent alimony, if so, what shall be the amount?*

4. *Whether the plaintiff is entitled to the reliefs claimed or not?*

[8] After discussing the materials on record, the depositions and the submissions at the bar, learned Family Court, Manipur held with respect to Issue No.1 that there is contributory fault from both sides of the parties and accordingly decreed that the marriage between the parties be dissolved and directed the husband to pay a sum of Rs.2,00,000/- (Rupees two lakh) as permanent alimony to the wife within a period of 8 (eight) months from the date of judgment.

[9] Being aggrieved by the order of Ld. Family Court, Manipur, the Appellant/Defendant No.1 filed the present appeal for setting aside the impugned order dated 06-07-2019 passed in Mat. (Divorce) Suit No. 68 of 2015 and Decree Dated 11-07-2017 mainly on the ground that the true facts, materials and evidences were not properly appreciated while passing the judgment and decree. It is also stated the maintenance towards the minor daughter was not considered while passing permanent alimony of Rs.2 lakh. It is prayed for setting aside the judgment and decree of divorce passed by learned Family Court, Manipur and for awarding permanent alimony for an amount of Rs.30,00,000/- (Rupees thirty lakh).

[10] Heard Mr. R.K. Milan, learned counsel for the appellant/wife/defendant No.1 and Mr. Ch. Anthony, learned counsel for the principal respondent/husband/plaintiff.

[11] During the course of hearing, Mr. R.K. Milan, learned counsel for the appellant/wife has submitted that he has been instructed to pursue the present appeal for enhancement of amount of permanent alimony only and to give up the appeal against decree of divorce. However, Mr. Ch. Anthony, Advocate submits that the principal respondent/husband will not be able to pay anything more than the sum of Rs. 2 lakh that has already been granted by the court below, as he has other liability to pay from his salary. In the circumstances, this Court considers the appeal with respect to the quantum of permanent alimony.

[12] On perusal of the judgment passed by learned Family Court, Manipur, it is seen that a sum of Rs.2 lakh has been awarded as permanent alimony in favour of the wife while passing a decree of divorce on the basis of contributory cruelty from both sides. In determining this amount, the court below has failed to consider adequate compensation for the minor daughter who is living with her mother. This Court is of the opinion that the amount of Rs.2 lakh is not adequate and the court below has not considered the need and requirement of the minor daughter.

[13] As per the deposition of the husband and also as recorded in the impugned order, the husband monthly salary is Rs. 33,000/- to Rs.35,000/-. Principal Respondent/husband filed an additional affidavit dated 09-10-2024 before this Court showing his income and liabilities indicating that his monthly income is Rs.45,331/-. The wife has also filed a copy of the salary certificate of the husband before this Court in her rejoinder affidavit dated 27-01-2021 that her husband has monthly salary of Rs.55,519/-. It will be safe to presume that the principal respondent used to receive at least a sum of Rs.55,000/- as his monthly salary in the year 2021.

[14] In the circumstances, this Court is of the view that it will do complete justice if the permanent alimony amount is enhanced to a sum of Rs. 5,00,000/- (Rupees five lakh) from the original amount of Rs.2,00,000/- (Rupees two lakhs) as awarded by learned Family Court, Manipur. This figure has been fixed on conservative basis considering the income of the husband, the expenses for his family and the need of the wife and her minor daughter. From the case record, it is seen that the principal respondent/husband has already deposited a sum of Rs.2,00,000/- before learned Family Court, Manipur as directed by this Court. Accordingly, the principal respondent/husband is directed to deposit the additional sum of Rs.3,00,000/- (Rupees three lakh) before learned Family Court, Manipur towards permanent alimony within a period of two months from the date of this judgment, failing which the same shall carry an interest @ 9% per annum till date of actual deposit. The appellant is permitted to withdraw the amount of alimony and out of the said amount a sum of Rs.50,000/- shall be earmarked as fixed deposit in favour of the minor daughter till she attains age of majority.

[15] However, the decree of divorce is upheld on admission by the appellant.

[16] With the above directions and observations, the appeal is partly allowed. No cost.

[17] Send a copy of this order to learned Family Court, Manipur at Lamphelpat, Imphal for information.

[18] Registry is directed to prepare appellate decree.

JUDGE

CHIEF JUSTICE

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