

**HIGH COURT OF TRIPURA  
AGARTALA  
MAT. APP. NO.32 OF 2024**

**Anup Data, aged-46 years.**

S/o- Lt. Dilip Datta,  
R/o-Santirbazar, near DM office,  
P.O. & P.S.-Santirbazar,  
District-South Tripura, Pin-799144.

..... **Appellant(s)**

**Versus**

**Smt. Priyanka Bhowmik, 38 years.**

W/o- Sri Anup Datta,  
D/o- Lt. Dhananjoy Bhowmik,  
Village-Lowgang Bhuban Das Para,  
R.K. Ganj, P.O. & P.S.-Santirbazar,  
District- South Tripura, PIN-799144.

..... **Respondent(s)**

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For the Appellant(s)	: Mr. P. Roy Barman, Sr. Advocate. Mr. Samarjit Bhattacharjee, Advocate. Mr. Dipjyoti Paul, Advocate. Mr. K. Nath, Advocate.
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For the Respondent(s)	: Mr. Dipankar Sharma, Advocate. Ms. Debalena Chakraborty, Advocate.
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Date of hearing	: 23.04.2025
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Date of delivery of Judgment & Order	: 30/04/2025
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Whether fit for reporting : NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD  
HON'BLE MR. JUSTICE BISWAJIT PALIT  
J U D G M E N T & O R D E R**

T. AMARNATH GOUD(J)

This present appeal has been filed under Section  
19(1) of the Family Courts Act, 1984 read with Section 28 of the

Hindu Marriage Act, 1955, against the Judgment and Decree passed by the learned Judge, Family Court, Belonia, South Tripura in Case No. T.S. (Divorce) 130/2021.

2. The brief facts of the case are that the marriage between the appellant and the respondent was solemnized on 25.04.2005 as per Hindu rites, rituals, and customs. Out of the wedlock, one son was born in the year 2006. The respondent-wife filed an application under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955 before the learned Family Judge, Belonia, South Tripura seeking a decree of divorce, thereby dissolving the marriage solemnized on 25.04.2005. The said application was registered as T.S.(Div) 130/2021. In the application, the respondent alleged cruelty on the part of the appellant.

3. The appellant appeared before the learned Family Court and contested the proceedings by filing a written statement, wherein he denied and disputed the allegations of torture and cruelty. The Court below framed issues, and both sides adduced evidence. The respondent examined herself as P.W.-1 and her mother as P.W.-2; no documents were exhibited. On the other hand, the appellant examined himself as D.W.-1, and also produced Janardhan Banik as D.W.-2 and Arun Das as D.W.-3. All witnesses were duly cross-examined.

4. After hearing both parties, the learned Family Court delivered its Judgment on 28.06.2024 and decreed the suit by dissolving the marriage between the appellant and the respondent on the grounds of cruelty and desertion. However, the learned Family Court declined to grant permanent alimony, as the respondent did not claim any such relief.

5. Being aggrieved and dissatisfied with the Judgment and Decree dated 28.06.2024, passed by the learned Judge, Family Court, Belonia, South Tripura in T.S.(Divorce) 130/2021, the appellant has preferred the instant appeal before this Court, seeking to set aside the said Judgment and Decree.

6. Heard Mr. P. Roy Barman, learned Sr. Counsel assisted by Mr. K. Nath, learned counsel appearing for the appellant, and Mr. Dipankar Sharma, learned counsel appearing for the respondent. In terms of the order dated 02.04.2025, both parties are present before this Court today.

7. Mr. Dipankar Sharma, learned counsel for the respondent, submits that his client has already married another person. The respondent confirmed that she has married again. The major son of the parties, who was also present in Court, expressed

his desire to stay with his stepfather and mother. However, it is submitted that there is no documentary proof of the second marriage.

8. On the other hand, the appellant urged this Court that he is still willing to continue a conjugal life with his wife and their son. Mr. Roy Barman, learned Sr. Counsel for the appellant, argued that the second marriage of the respondent is in violation of Section 15 of the Hindu Marriage Act, 1955, and therefore void. He submits that the Judgment of the Family Court was delivered on 28.06.2024, and the instant matrimonial appeal was filed on 19.09.2024 i.e., within three months. Hence, the subsequent marriage of the respondent allegedly solemnized in November 2024 is void under Section 15 of the Hindu Marriage Act. He also contended that the grounds of cruelty and desertion were not properly established in the Family Court and that the respondent had condoned the alleged matrimonial wrongs. He further submitted that mere wear and tear of a marital relationship does not amount to cruelty, and the learned Family Court failed to appreciate the same.

9. Heard and perused the evidence on record.

10. This Court has carefully perused the records and evidence. It is evident that the relationship between the parties has

irretrievably broken down, with no scope of reconciliation. The respondent is already living with another person as her husband, and the major son has also clearly expressed his desire to stay with his mother and stepfather. He has stated before this Court that his father (the appellant) used to torture his mother. In view of the present situation, the Court is of the opinion that this is a fit case for granting a decree of divorce.

11. During the pendency of the present appeal before this Court, it is reported by both sides that the respondent-wife has entered into a second marriage and is currently residing with her major son and *Sri Ratan Bhowmik, S/o Chitta Ranjan Bhowmik, resident of South Para, Santir Bazar, South Tripura (the second husband of the respondent herein)*. Both the respondent-wife and her major son have reported that they are leading a happy life with him and are not interested in rejoining the appellant-father, Sri Anup Datta. Mr. Roy Barman, learned Senior Counsel appearing for the appellant, contended that the second marriage should be treated as a void marriage, as it is contrary to Section 15 of the Hindu Marriage Act, especially since it was solemnized after filing the present appeal. This issue is to be considered separately if the validity of the second marriage is challenged. In view of the same, it is open for the concerned party, if so advised, to challenge it in

accordance with law. However, no decision on this issue can be rendered in the present appeal.

12. Insofar as the present appeal is concerned, the divorce granted by the Court below is affirmed, and the present appeal stands dismissed, thereby confirming the Judgment and Decree dated 28.06.2024 passed by the Court below.

13. As a sequel, any interim order, if granted earlier, stands vacated. All pending applications, if any, are also disposed of.

**B. PALIT, J**

**T. AMARNATH GOUD, J**

