**DRAFTING IN MATRIMONIAL CASES**

Petition for Divorce (under section 13 Hindu Marriage Act 1955.)

|  |
| --- |
| Petition for dissolution of marriage by a decree of divorce may be presented to the family court of the distt. by wife(or husband), whether such marriage was solemnized before or after the commencement of the Marriage Laws (amendment) Act, 1976, on the ground specified under section 13 of the Act, after expiry of one year or more,  Essential ingredient of the petition:  To get a decree of divorce, the following conditions must be satisfied.  (i) marriage having been solemnised between the parties;  (ii) one year expired from the solemnization of marriage; (Note-- upon an application, the court may entertain a petition for divorce before the expiry of the period of one year, if the case is of exceptional hardship to the petitioner or of exceptional depravity on the part of respondent).  (iii)   both the party to the petition are Hindu; and  (iv) there is no collusion between the parties;  (v) there is no petition pending in any court of India regarding this marriage, if pending give detail.  Performa of the petition:  Title of the petition--  In the court of    (name of the court) (name of the distt,city or where court is situated) for example--  In the court of family court, Dehradun  H.M.Petition No.......... of 2011.  Name and addresses of the parties to the petition,  for  example--  Smt/shri................................W/o/ or D/o.or S/o........................................R/o.....................................                                               versus                                                Petitioner    Smt / Shri..................................W/o or D/o or S/o ..................................R/o .............................                                                                                                          Respondent   Petition under Section 13 of Hindu Marriage Act 1955 by a Hindu wife for dissolution of marriage by a decree of divorce.   Sir,      Petitioners above named state as follows:   1. Petitioners were married on.11th may 2007 according to Hindu rites and customs at the residence of Smt.......................... (Petitioner) at Rajpur Road Dehradun.   2. That both the party to the marriage belongs to Hindu religion and both were unmarried (or divorcee or other category/status) before this marriage.   3. That the petitioner is highly educated girl, (details of her education, job and income should be given here) while respondent is merely..... (details of his education, job and income should be given here).   4. Petitioners thereafter lived and cohabited as husband and wife at the residence of  husband at Dehradun.   5. That the parties have two issues from the said marriage named master Raju ( son ) aged 5 year, and km. Anita (daughter) aged 3 year.   6. That the petitioner and respondent last resided together in march 2013 at Dehradun.   7. That the behaviour of the respondent and his parents were very cruel towards petitioner. The husband has...........(details of cruelty by husband or his family member should be given here).                                                                               or                                   (Cruelty may be mental or physical detail must be given );                                                                               or                                   ( That the petitioner's consent to marriage obtained by fraud, detail of fraud's particulars must be given);                                                                               or                                   (Voluntary sexual intercourse with the other women, particulars must be given of the said woman and of the said incident. And it is necessary to made party in the suit the said alleged woman or man as the case may be);                                                                               or                                    ( has been incurable of unsound mind and not possible to live with him);                                                                               or                                    (has been suffering from a virulent and incurable form of leprosy);                                                                               or                                    ( has been suffering from syphilis in a communicable form, the disease having been contracted from some one other than the petitioner);                                                                               or                                    ( has renounced the world and became a sadhu);                                                                               or                                    ( has not been heard of as being alive for over seven years by those persons who would naturally have heard of it had he been alive );                                                                               or                                     ( has married Smt. (name of the woman) after his marriage with the petitioner and that wife is still alive);                                                                                 or                                     (has after his marriage with the petitioner been guilty of rape or sodomy or bestiality).   8. That the petitioner never condoned the conduct of the respondent.   9. That there is no collusion between the petitioner and the respondent. ( this statement is necessary in the petition)   10. That there is no suit pending in any Court of India between the petitioner and respondent regarding this marriage( if any suit pending, true particular should be given in the petition).   11.That the cause of action arises on ................( the exact date of the cause of action as far as possible should be given, where, however, the exact date is not known, petitioner can mention the near about date when cause of action accrued).....   12. jurisdiction   13. valuation of suit   14. relief     verification: |

**MARRIAGE DIVORCE REPLY ON**

IN THE COURT OF

……………………….…………………………………………………Applicant

Versus

………………………………………………………………………….Respondents   
  
Reply on behalf of the replying respondent to the \_\_\_\_\_\_\_\_

Respectfully Sheweth:-   
  
Preliminary Objections:-   
  
1. That the present application is not maintainable in its present form. \_\_\_\_\_\_ 

2. That the applicants have no locus stand to file and maintain the present application. The applicant was never married to the replying respondent and as such there is no question of any child being born of any such wedlock. \_\_\_\_\_\_\_\_\_\_\_\_ Now the applicants have filed the present application on ill advise so as to wrongfully and unlawfully take gain and extort money from the replying respondent by coercion and pressure. The replying respondent has his own family to take care of from his meager income. \_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. That the present application is misconceived, false, frivolous and vexatious and bereft of merits thus deserves to be dismissed out rightly.   
  
Reply on Merit:   
  
1. That the contents of this para of the application are wrong and hence denied. \_\_

2. That the contents of this para of the application are wrong and hence denied. \_\_ 

3. That the contents of this para of the application are wrong and hence denied. \_\_ 

4. That the contents of this para of the application are wrong and hence denied. \_\_ 

5. That the contents of this para of the application are wrong and hence denied. \_\_ 

6. That the contents of this para of the application are wrong and hence denied. \_\_ 

7. That the contents of this para of the application are wrong and hence denied. \_\_ 

8. That the contents of this para of the application are wrong and hence denied. \_\_   
  
It is, therefore, most respectfully prayed that the petition is false, frivolous and vexatious and therefore, deserves dismissal and may kindly be dismissed with costs in the interest of justice. It is also submitted that in the given facts and circumstances of the case no interim order can be granted in favour of the applicants.   
  
AND FOR THIS ACT OF KINDNESS, THE HUMBLE REPLYING RESPONDENT AS IF DUTY BOUND SHALL EVER PRAY.   
  
…………………………….   
  
Replying Respondent   
  
……………………………..   
  
Through, Advocate

**MARRIAGE INTERCASTE AFFIDAVIT FOR REGISTRAR ON**

**AFFIDAVIT**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ,

do hereby solemnly affirm and declare as under :-.P1

1. That my date of birth is \_\_\_\_\_\_\_ and thereby I have completed \_\_\_\_\_\_\_ years of age and is major in accordance with law. Therefore, I am competent to contract marriage in accordance with my choice and wish.   
  
2. That I am Hindu by religion and is bound by the principles of the religion. I have never solemnized any marriage with any woman before, and as such, I have no spouse living at present.

3. That I have solemnized marriage in accordance with Hindu rites with \_\_\_\_\_\_\_, aged \_\_\_\_\_\_\_ years [date of birth \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]

[hereinafter called wife] with my sweet will and wish and without any pressure etc.

4. That I am of sound mind not suffering from mental disorder and is competent of procreation of children and I have never been subject to recurrent attacks of insanity or Epilepsy. My wife is not within the degree of prohibited relationship as per Hindu law; neither is we Spindas to each other.   
  
5. That I shall maintain my wife well according to my status and means and she shall be entitled to inherit my property as my wife in case I pre-decease her.

6. That the contents of this affidavit have been read over and explained to me in a vernacular which have been fully understood by me and admitted to be true and correct.   
  
Deponent

**Verification :-**

I, the above named deponent do hereby verify that the contents of paras 1 to 6 of my affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therein.   
  
Affirmed at this the \_\_\_\_\_.

Deponent .ls2

AFFIDAVIT

I, \_\_\_\_\_\_\_ , do hereby solemnly affirm and declare as under :-.p#1   
  
7. That my date of birth is \_\_\_\_\_\_\_ and thereby I have completed \_\_\_\_\_\_\_ years of age and is major in accordance with law. Therefore, I am competent to contract marriage in accordance with my choice and wish.   
  
8. That I am Hindu by religion and is bound by the principles of the religion. I have never solemnized any marriage with any man before, and as such, I have no spouse living at present.   
  
9. That I have solemnized marriage in accordance with Hindu rites with \_\_\_\_\_\_\_, aged \_\_\_\_\_\_\_ years [date of birth \_\_\_\_\_\_\_] [hereinafter called husband] with my sweet will and wish and without any pressure etc.   
  
10. That I am of sound mind not suffering from mental disorder and is competent of procreation of children and I have never been subject to recurrent attacks of insanity or Epilepsy. My husband is not within the degree of prohibited relationship as per Hindu law, neither are we Spindas to each other.   
  
11. That the contents of this affidavit have been read over and explained to me in a vernacular which have been fully understood by me and admitted to be true and correct.   
  
Deponent

**Verification :-**

I, the above named deponent do hereby verify that the contents of paras 1 to 5 of my affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therein.   
  
Affirmed at this the \_\_\_\_\_.

Deponent   
  
To;   
  
The Registrar (U),

……………………………..   
  
Subject: Registration of Marriage.

Sir, 

1. With due respect and humble submission We the undersigned beg to state that we have solemnized the marriage with each others according to Hindu customs, rites and usages at \_\_\_\_\_\_\_ on \_\_\_\_\_\_\_.   
  
2. That we intend to get our marriage registered with your office. The necessary documents are annexed as under:-

(a) Affidavit 

(b) Certificate of Mandir   
  
3. It is, therefore, most respectfully prayed that our marriage with each others may kindly be registered and the registration certificate may kindly be issued to us for our future records and needs. For this act of kindness, we shall remain thankful to you sir.   
  
Yours faithfully,   
  
Dated: \_\_\_\_\_   
  
To,   
  
The Executive Magistrate,   
……………………………  
  
Subject: Application for attestation of affidavit.   
  
Sir,   
  
Kindly attest the attached affidavit of the applicant and oblige.   
  
Yours faithfully,   
  
Applicant   
  
Dated: \_\_\_\_\_.

**MARRIAGE INTERIM MAINTENANCE 125 (3)**

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE AT

………………

IN THE MATTER OF:-

……………………………………………………………………………..Petitioners.

Versus.

…..………………………………………………………………………….Respondent.

Application under section 125 (3) of the code of Criminal Procedure with the prayer to grant interim maintenance during the pendency of the main petition

Respectfully Sheweth:

1. That the petitioners have filed a petition under section 125 for grant of maintenance under Code of Criminal Procedure along with the present application which is pending before the learned court.   
  
2. That the grounds mentioned in the main petition may kindly be read as part and parcel of the present application as the same has not been reproduced to avoid repetition of the same.   
  
3. That as per the grounds setup in the main petition, there is prima facie case in favour of the petitioners and against the respondent. And in case, interim maintenance is not granted in favour of the petitioners, in that eventuality, they will suffer great hardship in meeting their day to day expenses as already submitted that they have now totally become dependent upon their father/maternal grand father. The petitioners have no independent source of income and the respondent has sufficient source of income to maintain him as well as the petitioners. It is pertinent to mention here that after the petitioners were forced to leave the house of the respondent, he has even not cared to have any amicable settlement and has not given any single pie to the petitioners for their maintenance, as such the respondent has breached the obligatory marital duties and obligations to maintain the petitioners.   
  
It is, therefore, most respectfully prayed that the application may kindly be allowed and respondent be directed to pay a sum of Rs\_\_\_\_\_/- each to the petitioners as interim maintenance from the date of filing of the application till its decision on merits.

The respondent be also directed to pay litigation expenses of the present petition to the petitioners.   
  
Applicant.   
  
Through.   
  
Counsel.   
  
(\_\_\_\_\_)   
  
Advocate.

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE**

…………………………………………………….

IN THE MATTER OF:-

………………………………………………………………..….Petitioners.

Versus

……………………………………………………………………Respondent.

Affidavit in support of application under section 125(3) Cr.P.C.

I, \_\_\_\_\_, do hereby solemnly affirm and state on oath as under:-

1. That the contents of my accompanying application under section 125 (3) Cr.P.C in para 1 to 3 are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed there from. The contents of the accompanying application has been read over and explained to me in vernacular.

2. That the contents of my above affidavit in para 1 are true and correct to the best of my personal knowledge and belief. No part of it is false and nothing material has been concealed there from.   
  
Verified here at …………………………….. on this \_\_\_\_\_ day of \_\_\_\_\_.

Deponent.

**MARRIAGE MAINTENANCE 125-1**

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE OF

………………………

In the matter of:-

………………………………………………………………….Petitioners

Versus

……………….………………………………………………….Respondent

Petition under Sec 125 Cr. P. C. with the prayer to grant maintenance to the petitioners

Respectfully Sheweth:

1. That the petitioner No. 1 got married with the respondent on \_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in accordance with the Hindu customs, rites and usages and out of the said wedlock petitioner Nos. 2 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ have taken birth. The petitioner Nos. 2 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ are the legitimate children of petitioner No. 1 and respondent. They being minors are filing the present complaint through the next friend and natural guardian i.e. petitioner No. 1. The petitioner No. 1 is house wife and petitioner No.2 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ are students and studying in \_\_\_\_\_\_\_\_\_\_\_ class respectively. The petitioners have no independent source of income and now they have been left at the mercy of their \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_father/maternal grand father for meeting their day to day expenses.

2. That the respondent is a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dead drunkard and not treating the petitioners properly and also not maintaining them though he is having sufficient source of income. The conduct of the respondent is so cruel that he usually gave beating to the petitioners without any cause mercilessly and when he comes to the house at night intoxicated he creates nuisance and even does not allow the petitioners to sleep and study.

3. The respondent is also in habit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_playing gambling and after losing in gambling he has even sold his \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_car and misutilised the amount received from the said sale in gambling and in adultery.

4. The respondent has given such severe beatings to the petitioner No. 1 that he has broken her \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_teeth and right hand's ring finger. The respondent has also committed several another acts of cruelty towards the petitioners that the life of the petitioners have become hell. The respondent has \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_torn the wearing garments of the petitioner No. 1 in the presence of her children and made her naked before them which has caused immense mental torture and humiliation to them in the month of \_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_ (Place).

5. That though the respondent as well the petitioner No. 1 had \_\_\_\_\_\_\_\_\_\_\_\_\_ or resort to gambling and also not to associate with any other woman, but the respondent has broken the pledge and resorted to all the bad habits after six months and there-after started living again the life of un-responsible man. The respondent has not allowed the petitioners to \_\_ go to the temple for worship and kept us at house asked us to worship him rather than Lord Krishina.

6. That the respondent is also living in adultery with one lady namely \_\_\_\_\_\_\_\_\_\_\_\_\_. The respondent has even allowed her to live in our \_\_\_\_\_\_\_\_\_\_\_\_\_\_rented house at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to inflict mental torture upon the petitioners.

7. That the relations between the parties have now broken to such an extent that there is now no possibility of having any compromise between them.

8. That the petitioners were forced to leave the house of the respondent on \_\_\_\_\_\_ due to the aforesaid facts and reasons, as their life was in danger at the hands of the respondent and as the respondent has given open threats to the petitioners that he will do away with their lives at any time, so that he may re-marry with other lady he likes.

9. That since the petitioner has been forced to take shelter in the house of their \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ father as well as maternal grandfather respectively here at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and as thereafter they are continuously residing here at …………………….…… hence the learned court has jurisdiction to entertain and decide the present complaint/petition.

10. That requisite court fee is being affixed on the complaint/petition.

11. It is, therefore, most respectfully prayed that the petition may kindly be allowed and the respondent may kindly be ordered to pay maintenance to the petitioners at the rate of Rs. \_\_\_\_\_/- each per month as provided under the code of Criminal Procedure in the interest of justice equity and fair play. The cost of the petition may kindly be also awarded in favour of the petitioners. Any such other relief as deem fit in the facts and circumstance of the case may kindly be granted in favour of the petitioner and against the respondent.

……….……………………….Petitioners

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Through, Advocate

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE OF ………………………………**

IN THE MATTER OF:

………………………………………………………………..Petitioners

Versus

…………………………………………………………………..Respondent

Application under section 125 (3) of the code of Criminal Procedure with the prayer to grant interim maintenance during the pendency of the main petition

Respectfully Sheweth:

1. That the petitioners have filed a petition under section 125 for grant of maintenance under Code of Criminal Procedure along with the present application which is pending before the learned court.

2. That the grounds mentioned in the main petition may kindly be read as part and parcel of the present application as the same has not been reproduced to avoid repetition of the same.

3. That as per the grounds setup in the main petition, there is prima facie case in favour of the petitioners and against the respondent. And in case, interim maintenance is not granted in favour of the petitioners, in that eventuality, they will suffer great hardship in meeting their day to day expenses as already submitted that they have now totally become dependent upon their father/maternal grand father. The petitioners have no independent source of income and the respondent has sufficient source of income to maintain him as well as the petitioners. It is pertinent to mention here that after the petitioners were forced to leave the house of the respondent, he has even not cared to have any amicable settlement and has not given any single pie to the petitioners for their maintenance, as such the respondent has breached the obligatory marital duties and obligations to maintain the petitioners. It is, therefore, most respectfully prayed that the application may kindly be allowed and respondent be directed to pay a sum of Rs\_\_\_\_\_/- each to the petitioners as interim maintenance from the date of filing of the application till its decision on merits. The respondent be also directed to pay litigation expenses of the present petition to the petitioners

. ………………………… Applicant

Through, Advocate

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE …………………………….**

IN THE MATTER OF:-

………………………………………………………………….Petitioners

Versus

…………………….…………………………………………….Respondent

Affidavit in support of application under section 125(3) Cr.P.C.

I, ………………………………………… do hereby solemnly affirm and state on oath as under:- 1. That the contents of my accompanying application under section 125 (3) Cr.P.C in para 1 to 3 are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed there from. The contents of the accompanying application has been read over and explained to me in vernacular. 2. That the contents of my above affidavit in para 1 are true and correct to the best of my personal knowledge and belief. No part of it is false and nothing material has been concealed there from. Verified here at ………………………… on this \_\_\_\_\_.

Deponent

**THE APPLICANT TO IMPLEAD THE ADULTERER AS NECESSARY PARTY IN THE PETITION LATER ON**

IN THE COURT OF DISTRICT JUDGE

…………………………………

CASE NO\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IN THE MATTER of

………………………………………………………………..……..Petitioner/Applicant

Versus.

…………………………………………………………………………Respondent

APPLICATION UNDER SECTION 151 CPC WITH THE PRAYER TO GRANT LEAVE TO THE APPLICANT TO IMPLEAD THE ADULTERER AS NECESSARY PARTY IN THE PETITION LA

RESPECTFULLY SHEWETH:

1. That the petitioner applicant has filed divorce petition on the ground of cruelty as well as adultery against the respondent wife of the applicant/petitioner, which is pending before this Ld. Court.   
  
2. That as the respondent wife is leaving separately from the applicant and at present residing at her native/parental house which is far away place from the residence of the applicant and as the applicant has not visited the house of the respondent for the last more than two years as such the applicant does not know the name and whereabouts of the person with whom the respondent has illicit relations and from whose loin the child has been conceived in the womb of the respondent. Though the petitioner applicant has tried his level best to get the aforesaid information but after exercise of due diligence he could not be able to know about the name and the address of the said person with whom the respondent has illicit relations.

3. That not impleading of the adulterer at present is neither willful nor intentional, but for the reasons stated herein above, which are beyond the control of the applicant. In case leave to file the present petition without impleading the said adultery is granted no prejudice whatsoever will be caused to the respondent.   
  
4. It is therefore, most respectfully prayed that the application may kindly be allowed and the applicant may be allowed to file the present petition without impleading the adulterer as party at the moment and the leave may be granted to the applicant to implead the adulterer at the later stage. Such other order may also be passed as deemed fit and proper in the facts and circumstances of the case in favour of the applicant and against the respondent.

…………………………… Applicant

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IN THE COURT OF DISTRICT JUDGE AT ………………..**

CASE NO\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IN THE MATTER of

………………………………………………………………….Petitioner.

Versus.

…………………………………………………………………….Respondent.

Affidavit in support of application under Section 151 CPC.

I, \_\_\_\_\_\_\_\_\_\_\_\_, do hereby solemnly affirm and declare as under:-

1. That the accompanying application has been prepared under my instructions.   
  
2. That the contents of paras 1 to 4 of the accompanying application are correct and true, to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true, no part of it is false and nothing material has been concealed therein.

Affirmed at …………………….. this the \_\_\_\_\_\_ day of \_\_\_\_\_\_.

Deponent