



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 16TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 104535 OF 2023 (FC)

BETWEEN:

SMT. VIDYASHRI W/O. BASAVARAJ YEELUR
AGE. 30 YEARS, OCC. HOUSEHOLD WORK,
R/O. C/O. BASAVARAJ BAGEWADI,
R/O. INCHAL, TQ. SAUNDATTI,
DIST. BELAGAVI-591102.

...APPELLANT

(BY SRI SANTOSH B. RAWOOT, ADVOCATE)

AND:

SHRI BASAVARAJ GANGAPPA YELLUR
AGE. 33 YEARS, OCC. ARMY SERVICE,
R/O. ARALIKATTI,
TQ. DIST. BELAGAVI-581109.

...RESPONDENT

(BY SRI SANJAY S. KATAGERI, ADVOCATE)

THIS MFA IS FILED U/S.19(1) OF THE FAMILY COURT ACT,
PRAYING TO SET ASIDE THE JUDGMENT AND DECREE DATED
28.08.2023, PASSED IN MATRIMONIAL CASE NO.204/2020 ON THE
FILE OF THE I ADDITIONAL PRINCIPAL JUDGE FAMILY COURT
BELAGAVI, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.



ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

The appellant-wife has filed this appeal under Section 19(1) of the Family Courts Act, 1984 challenging the judgment and award passing the decree of divorce under Section 13(1)(ia) of Hindu Marriage Act, 1955 passed in MC No.204/2020 dated 28.08.2023 on the file of I Additional Principal Judge, Family Court, Belagavi (for short, 'Trial Court').

2. Parties would be referred with their ranks as they were before the Trial Court for the sake of convenience and clarity.

3. The case of petitioner-husband before the Trial Court is that marriage of petitioner and respondent was solemnized on 19.04.2017 as per Hindu rites and customs prevailing in their community and subsequently marriage was registered before the Registrar of Marriages, Belagavi under Marriage No.BEL-HM-390/2017-18 dated 05.05.2017.



After the marriage, from the wedlock, the wife has given birth to a child called Sagari on 24.01.2018. His contention is that after the marriage, the wife had been to the house of husband and they led happy married life for 40 days. Afterwards, petitioner had been to Punjab for his duties and respondent had been to her parental house. During August-2017 when he came back, she resided with him in Punjab for 40 days and during that span of time respondent started ill-treating, neglecting and deserting petitioner without any rhymes or reasons and has not performed her matrimonial duties. There afterwards, they started residing at Aralikatti for a period of one month in September-2017 and even in that place also respondent has not mended her attitude.

4. The further contention of petitioner is that during January-2018, the respondent had been to her parental house from police station itself and has not come back and refused to join him. During June-2018, again petitioner approached the Department of Women and Child Welfare, but respondent has not turned up. On three or four



occasions the elders approached respondent, but she has not joined the petitioner. From 24.07.2018 respondent deserted him without any cause. On the other hand, she has filed petition under Section 125 of Cr.P.C. praying for maintenance and as per the award, interim maintenance of ₹.2,500/- per month is being paid by the petitioner to the respondent. Hence, on the grounds of cruelty and desertion, petitioner prayed for grant of divorce.

5. On receipt of notice, respondent appeared through her counsel and filed the objection statement, wherein she has only admitted the marriage that had taken place between them and child born to them. She has denied all the allegations made against her in that objection statement. She further took contention that at Aralikatti during second week of January-2018 because date of delivery of child was near; her father had taken her to his house. Afterwards, she was not allowed to join the petitioner. She has narrated some incidents that had taken place during that period. She has also admitted about court



proceedings in Crl.Misc.Nos.27/2020, 241/2019 and 242/2019 and denied all other averments. Hence, prayed for dismissal of the petition.

6. The petitioner examined himself as P.W.1 and marked Exs.P.1 to P.8 and closed his side. On behalf of respondent, no evidence was let in before the Trial Court.

7. Only based on the evidence of petitioner-husband, the Trial Court has passed the decree of divorce, which is under challenge in this appeal.

8. Heard arguments of both sides.

9. Learned counsel for appellant, Sri Santosh B Rawoot would submit that no proper opportunity is given to appellant to lead her evidence and to substantiate her contention, which was taken by her in her objection statement and to defend the case properly. Hence, prayed for allowing the appeal and to remand the matter for fresh disposal.



10. Learned counsel for respondent, Sri Sanjay S Katageri would submit that sufficient opportunity was already given to the wife before the Trial Court, but she has not utilized it properly. The allegations made against the wife by petitioner are so strong and considering them, the learned Trial Judge has granted the decree of divorce and it needs no interference.

11. Learned counsel for respondent would further submit that the petitioner is not ready to take back the respondent because there is an assault by the wife to her mother-in-law with an axe causing grievous injuries over her hand, back and head and these matters disclose the cruelty that is inflicted by the respondent-wife to petitioner and his family. Hence, prayed for dismissal of appeal.

12. Having heard arguments of both sides and verifying the appeal papers along with Trial Court records, the points that would arise for consideration are:



1. Whether proper opportunity is given to respondent-wife to put forth her defence?
2. Whether remand of the matter to the Trial Court is required?

13. Finding on these points is in **Negative** and **Affirmative** respectively for the following reasons:

14. The admitted facts are that marriage of petitioner and respondent had taken place on 19.04.2017 as per the rituals and customs prevailing in their community and after the marriage the respondent gave birth to a daughter called Sagari on 24.01.2018.

15. There are serious allegations made by both parties against each other in the petition and also in the objection statement. To substantiate the contention raised by the petitioner, petitioner alone was examined before the Trial Court and he has not made any efforts to examine any witness to prove his contention. Mere production of certified



copies of FIR and complaint and other related documents would not prove the cruelty inflicted by the wife against the husband because it is only a prima facie material and the facts were still yet to be investigated at that time.

16. On perusal of the order sheet of Trial Court, it discloses that petitioner has taken sufficient time to lead his evidence and ultimately his evidence was closed on 11.07.2023. On 11.07.2023, the case was posted to respondent's evidence to 02.08.2023, on which date learned counsel for respondent had prayed time and then posted to 17.08.2023. On 17.08.2023, respondent's evidence was taken as nil and posted to 19.08.2023, on which date written arguments of the petitioner was taken and judgment was pronounced on 28.08.2023 granting decree of divorce in favour of petitioner-husband. The decree of divorce brings an end to the relationship between parties and it will have serious repercussions in the society. Hence, at the time of granting it, the court has to see the serious consequences. However, in the instant case,



casually, it was granted without taking proper proof of cruelty alleged in the petition.

17. Under these circumstances, without giving proper opportunity to the wife-respondent, hurriedly the Trial Court has passed the judgment, which requires interference.

18. Furthermore, the husband is working in Army, whereas the wife is not having any avocation and thus it is difficult for her to defend herself. Hence, she is also entitled for litigation expenses of ₹.50,000/-.

19. In view of the above discussion, we pass the following:

ORDER

i) The appeal filed under Section 19(1) of the Family Courts Act, 1984 is partly allowed.

ii) The judgment and decree dated 28.08.2023 passed in MC No.204/2020 on the file of I Additional Principal Judge, Family Court, Belagavi is set aside and the



matter is remanded back to the Trial Court for fresh disposal and to pass appropriate order.

iii) The respondent-husband is hereby directed to pay litigation expenses of ₹.50,000/- to the appellant-wife for prosecuting the petition before the Trial Court.

iv) Both parties shall appear before the Trial Court on **28.01.2026** without Court notice and to co-operate for early disposal of the case.

v) The Trial Court is hereby directed to give opportunity to both sides to put forth their case and to dispose the case afresh as expeditiously as possible.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE