



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 28TH DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO.201327 OF 2021 (FC)

BETWEEN:

MRS. BHAGYASHREE,
AGED ABOUT: 28 YEARS,
D/O SAHEBGOUDA BIRADAR,
W/O. SAGAR NAVTAKE,
R/O. DASHYAL VILLAGE,
TALUK AND DISTRICT BIJAPUR-586 130.

...APPELLANT

(BY SRI. BASAVARAJA R. MATH, ADVOCATE)

AND:

MR. SAGAR NAVTAKE,
AGED ABOUT: 30 YEARS,
S/O. MR. SUBHASH NAVTAKE,
R/O. C/O. MEENAKSHI BALI,
BASAVA NILAYA, SWASTIK NAGAR,
BEHIND KARUNA TOYOTA,
KALABURAGI-585 103.

...RESPONDENT

(BY SRI. ANIL S.J., ADVOCATE &
SRI. SADANAND M. BIRADAR, ADVOCATE)



THIS MFA IS FILED U/S. 19(1) OF THE FAMILY COURT ACT, PRAYING TO CALL FOR RECORDS AND SET ASIDE THE IMPUGNED JUDGMENT AND AWARD DATED 21.09.2021 PASSED BY THE PRINCIPAL JUDGE, FAMILY COURT AT KALABURAGI IN M.C. NO.12/2019 IN RESPECT OF ALLOWING OF DIVORCE PETITION AND PLEASED TO DISMISS THE M.C. CASE.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 28.10.2025 AND COMING ON FOR 'PRONOUNCEMENT OF JUDGMENT', THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD
AND
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY)

This appeal is the result of the judgment and decree dated 21.09.2021 passed in M.C.No.12/2019 by the learned Principal Judge, Family Court, Kalaburagi (hereinafter referred to as 'the Family Court') wherein the petition filed by the respondent under Section 13(1) (ia) & (ib) of the Hindu Marriage Act (for short 'the HM Act') was allowed by dissolving his marriage with appellant



performed on 12.06.2017. Being aggrieved by the same, the appellant-wife has come up with the present appeal.

2. Heard the argument of the learned counsel for the appellant. In spite of appearance through the counsel, the respondent has not turned up. Perused the oral and documentary evidence forthcoming on the Trial Court records and also relevant materials on record.

3. The facts of the case are that the marriage of the appellant and respondent was solemnized on 12.06.2017 as per the customs prevailing among Hindus at Muragod, Tq: Jamkhandi, Dist: Bagalkot. After the marriage, the respondent took the appellant to his house at Latur, wherein he along with members of the family took care of the appellant and treated her as their own daughter with love and affection. After one month of the marriage, the behaviour of the appellant was not normal and she did not utter a single word to his parents only because the respondent was comparatively rich and he is the only son in the family. The appellant had an intention



to live a lavish life style and she did not want interference of anyone in her personal and married life. Finally, she demanded separate house from the parents of the respondent. Hence, the respondent moved to separate house at Kalaburagi till the date of separation. On the demand of appellant, the first anniversary of marriage was celebrated in Belagavi. The appellant was acting like committing suicide in the month of July 2018. Thereafter, in the month of October 2018, she went to her parental house for first delivery. A baby boy was born to the appellant in her wedlock with the respondent, but the appellant did not return to the matrimonial house. She subjected the respondent to mental and physical harassment as contended in the petition. Therefore, the respondent was constrained to file the petition for divorce.

4. In spite of service of notice, the appellant being the respondent did not appear before the Family Court. However, subsequently when the case was posted for further evidence of the respondent/petitioner as PW1, the



appellant/wife appeared through the counsel and filed her objections by denying the petition averments and she alleged mental and physical harassment to her by the respondent and his parents to her. She sought for compensatory cost of Rs.20,00,000/- and the interim maintenance of Rs.5,00,000/- per month for herself and for her newly born baby and thereby the appellant/wife prayed for dismissal of the petition.

5. In order to prove the case, the respondent/petitioner got examined himself as PW.1 and got marked three documents at Exs.P1 to P3. On the other hand, in spite of filing objection, the appellant/wife has not chosen to adduce any evidence on her behalf. After closing of the evidence of both the parties, the learned counsel for both the parties did not choose to put forth their argument and hence, on the basis of the evidence and the material forthcoming on record, the Family Court came to the conclusion that the appellant/wife harassed the respondent/husband physically and mentally and deserted



the respondent/husband for a continuous period of more than 2 years without reasonable cause. Accordingly, the Family Court decreed the petition under the impugned judgment and decree.

6. Now the point for our consideration is;

"Whether the appellant/wife has made out sufficient ground to set aside the impugned judgment and decree of the Family Court as prayed for?"

7. The learned counsel for the appellant/wife has submitted that from the petition averment itself, there is no continuous period of 2 years of alleged desertion by the respondent/husband. Further, there is no physical and mental harassment meted out by the respondent/husband for granting divorce and the Family Court has committed an error in allowing the petition. Hence, he has prayed to allow the appeal.



8. On perusal of the trial Court records, it would be clear that after appearance of the appellant, she being the respondent before the Family Court and filing of objections, the Family Court, instead of posting the case for conciliation of the parties or referring the matter to mediation for conciliation, proceeded to record further evidence of PW1. Hence, no opportunity was given to the parties for reconciliation or settlement of the matter. Even in the appeal on hand, though the matter is referred to mediation for settlement, both the parties failed to appear. Therefore, on this ground also, an opportunity would be given to the parties for reconciliation, if any, of their marriage or to explore the possibility of settlement between them.

9. Furthermore, as submitted by the learned counsel for the appellant, the order sheet of the Family Court would clearly reveal that the Family Court took up the matter hurriedly without giving sufficient opportunity to the appellant/wife, she being the respondent to adduce



her evidence and thereby posted the matter for arguments from 07.09.2021 to 13.09.2021. On 13.09.2021, even though both the parties and their counsel were absent, without granting time for arguments, the argument of both the parties was taken as not addressed and posted the matter for judgment to 21.09.2021 and passed the impugned judgment on the same day i.e., on 21.09.2021. This would also reveal that the Family Court has failed to grant sufficient opportunity to the appellant/wife to adduce her evidence even though she contested the matter by filing objections. Hence, we are of the considered view that the impugned judgment and decree of the Family Court is liable to be set aside and the matter shall be remitted back to the trial Court for considering afresh by giving reasonable opportunities to both the parties to adduce their evidence, if they so intend. Hence, the appeal deserves to be allowed and remanded.

10. Accordingly, answering the above point in the affirmative, we proceed to pass the following;



ORDER

- (a) The appeal is hereby allowed and remanded.
- (b) Consequently, the judgment and decree dated 21.09.2021 in M.C.No.12/2019 of the learned Principal Judge, Family Court, Kalaburagi, is hereby set aside.
- (c) The matter is remanded to the trial Court for considering the matter afresh giving sufficient and reasonable opportunity to both the parties to adduce their evidence and proceed with the matter in accordance with law, without influenced by any of the observations of this Court.
- (d) Considering the age of both the parties and that the petition is for divorce, both the parties shall assist the Family Court to dispose of the matter as expeditiously as possible without asking for any further adjournment.

Sd/-
(H.T.NARENDRA PRASAD)
JUDGE

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE