

**MFA No. 645 of 2024
C/W MFA No. 546 of 2024
MFA No. 1681 of 2024**

**Reserved on : 01.12.2025
Pronounced on : 19.12.2025**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

MISCELLANEOUS FIRST APPEAL No. 645 OF 2024 (GW)

C/W

MISCELLANEOUS FIRST APPEAL No. 546 OF 2024

MISCELLANEOUS FIRST APPEAL No. 1681 OF 2024

IN MFA No. 645/2024

BETWEEN:

1. SMT SUMANGALA,
D/O VENKATESH DIXIT,
W/O SANDEEP A JAMBLI,
AGED ABOUT 39 YEARS,
R/AT FLAT No.192,
MAHAVEER ASPEN,
KANAKAPURA MAIN ROAD,
NEAR YALACHENAHALLI METRO STATION,
BENGALURU-560078
PRESENTLY R/AT No.3799,
A, 2ND MAIN ROAD,
NEAR BALAJI SAMUDAYA BHAVAN,
GAYATHRINAGAR,
BENGALURU-560021.

...APPELLANT

(BY SRI RAJA SUBRAHMANYA BHAT B., ADVOCATE)

Digitally signed
by VALLI
MARIMUTHU
Location: HIGH
COURT OF
KARNATAKA

AND:

1. SRI SANDEEP ANAND JAMBLI,
S/O ANAND VENKAT RAO JAMBLI,
AGED ABOUT 41 YEARS,
OCC: SOFTWARE ENGINEER,
R/O FLAT No.16,
SAI PARAGON MEADOWS,
BEML LAYOUT, 4TH MAIN ROAD,
(DEAD END), KUNDALAHALLI GATE,
THUBARAHALLI,
BENGALURU-560066.
2. SRI ANANDRAO V. JAMBLI,
S/O LATE VENKATESHWARA RAO,
AGED ABOUT 71 YEARS,
RETIRED JEE,
R/AT SHRI VENKATESH BUILDING,
CITB PLOT No.40, JAYANAGAR,
DHARWAD-580001.
3. SMT. VINODA ANANDRAO,
W/O ANAND RAO JAMBLI,
OCC: HOUSE WIFE,
AGED ABOUT 66 YEARS,
R/AT SHRI VENKATESH BUILDING,
CITB PLOT No.40, JAYANAGAR,
DHARWAD-580001.

...RESPONDENTS

(BY SRI RAMESH P. KULKARNI, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 47 OF GUARDIAN AND WARDS ACT, AGAINST THE JUDGMENT AND DECREE DATED 04.12.2023 PASSED IN G AND WC No.41/2023 ON THE FILE OF THE VI ADDITIONAL PRL. JUDGE, FAMILY COURT, BENGALURU, DISMISSING THE PETITION FILED UNDER SECTION 7(a) AND 25 OF THE GUARDIANS AND WARDS ACT, 1890) (ACT 8/1980) AND SECTON 6 AND 13 OF HINDU MINORITY AND GUARDIANSHIP ACT, 1956 (ACT 32/1956) R/W SECTION 7(g) OF THE FAMILY COURT ACTS, 1984 BY THE PETITIONER/MOTHER WITH COST.

IN MFA No. 546/2024

BETWEEN:

1. SMT SUMANGALA S JAMBLI,
@ MANGALA DIXIT,
D/O VENKATESH DIXIT,
W/O SANDEEP A JAMBLI,
AGED ABOUT 39 YEARS,
R/AT GUDI ONI,
KONDAVADAGALLI,
HAVERI - 598110.
PRESENTLY R/AT No.3799,
A, 2ND MAIN ROAD,
NEAR BALAJI SAMUDAYA BHAVAN,
GAYATHRINAGAR,
BENGALURU-560021.

...APPELLANT

(BY SRI RAJA SUBRAHMANYA BHAT B., ADVOCATE)

AND:

1. SRI SANDEEP ANAND JAMBLI,
S/O ANAND VENKAT RAO JAMBLI,
AGED ABOUT 41 YEARS,
R/O FLAT No.216,
SAI PARAGON MEADOWS,
BEML LAYOUT, 4TH MAIN ROAD,
(DEAD END), KUNDALAHALLI GATE,
THUBARAHALLI,
BENGALURU-560066.

...RESPONDENT

(BY SRI RAMESH P. KULKARNI, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 19(1) OF FAMILY COURTS ACT AGAINST THE JUDGMENT AND DECREE DATED 04.12.2023 PASSED IN MC No.5066/2016 ON THE FILE OF THE VI ADDITIONAL PRL JUDGE, FAMILY COURT, BENGALURU, ALLOWING THE PETITION FILED UNDER SECTION 13(1)(i-a) AND (i-b) OF THE HINDU MARRIAGE ACT, 1955.

IN MFA No. 1681/2024

BETWEEN:

1. SRI SANDEEP ANAND JAMBLI,
S/O ANAND VENKAT RAO JAMBLI,
AGED ABOUT 44 YEARS,
R/O FLAT No.216,
SAI PARAGON MEADOWS,
BEML LAYOUT, 4TH MAIN ROAD,
KUNDALAHALLI GATE,
THUBARAHALLI,
BENGALURU-560066.

...APPELLANT

(BY SRI RAMESH P. KULKARNI, ADVOCATE)

AND:

1. SMT SUMANGALA S. JAMBLI,
@ MANGALA DIXIT,
D/O SRI VENKATESH DIXIT,
AGED ABOUT 40 YEARS,
GUDI ONI, KONDAVADAGALLI,
HAVERI - 598110.
ALSO AT: SMT. SUMANGALA,
ASST. PROF. DEPARTMENT OF E & E,
ASC COLLEGE OF ENGINEERING,
KAMBIPURA, MYSORE ROAD,
BENGALORE-560074.

...RESPONDENT

(BY SRI RAJA SUBRAHMANYA BHAT B., ADVOCATE)

THIS MFA IS FILED UNDER SECTION 19(1) OF FAMILY COURT ACT, AGAINST THE JUDGMENT AND DECREE DATED 04.12.2023 PASSED IN MC No.5066/2016 ON THE FILE OF THE VI ADDITIONAL PRL. JUDGE, FAMILY COURT, BENGALURU, ALLOWING THE PETITION FILED UNDER SECTION 13(1)(ia) AND (i-b) OF THE HINDU MARRIAGE ACT, 1955 WITH COST.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, **K.V. ARAVIND, J.**, DELIVERED THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard Sri. Raja Subrahmanya Bhat B., learned counsel for the appellant and Sri. Ramesh P. Kulkarni, learned counsel for the respondent.

2. These appeals arise out of a matrimonial dispute and issues relating to child custody between the same parties. As common questions are involved and learned counsel for both sides have advanced common arguments, the appeals are taken up together and are disposed of by this common order.

3. The parties are referred to as per their ranks in M.C.No.5066/2016 for convenience.

4. The husband instituted M.C. No.5066/2016 on 16.11.2016 before the VI Additional Principal Family Court, Bengaluru¹, seeking dissolution of marriage under Sections 13(1)(i-a) and 13(1)(i-b) of the Hindu Marriage Act, 1955². The Family Court granted a decree of divorce, and also

¹ the Family Court

² the 1955 Act

awarded interim maintenance of Rs.5,000/- per month payable to the respondent-wife from 29.03.2018 till the date of the impugned order. While considering the respondent's application under Section 25 of the 1955 Act, the Family Court further directed payment of monthly maintenance of Rs.20,000/- from the date of the impugned judgment until such time as the wife becomes disentitled to receive the said maintenance.

5. MFA No.546/2024 has been filed by the wife calling in question the judgment and decree of divorce. MFA No.1681/2024 is preferred by the husband assailing the judgment and decree dated 04.12.2023 insofar as it relates to the direction to pay monthly maintenance of Rs.20,000/- by way of permanent alimony.

5.1 MFA No.645/2024 is preferred by the wife assailing the order dated 04.12.2023 passed in G & WC No.41/2023, whereby the petition filed under Section 7(a) and Section 25 of the Guardians and Wards Act, 1890, and Sections 6 and 13 of the Hindu Minority and Guardianship Act, 1956 read with Section 7(g) of the Family Courts Act, 1984, seeking custody

of the minor ward Sonal, came to be rejected, while only granting her visitation rights.

6. The brief facts, as pleaded, are that the marriage between the petitioner and the respondent was solemnised on 14.11.2011 at Shivashakti Palace Kalyana Mantapa, Haveri. The petitioner is a B.E. graduate and was employed with M/s. Robert Bosch Engineering and Business Solutions Ltd., Bengaluru. The respondent is a postgraduate holding an M.Tech degree and was working as an Assistant Professor at ASC College of Engineering, Mysore Road, Bengaluru. It is stated that after the marriage, the respondent joined the petitioner at Bengaluru.

6.1 It is alleged that the respondent began to dominate and issue commands to the petitioner's family members and did not take responsibility for household chores. It is further alleged that she frequently criticised the petitioner and addressed his parents in a disrespectful manner. The petitioner asserts that the respondent used derogatory expressions for his parents and abused him verbally. It is also alleged that she expressed displeasure over his professional advancement. According to the petitioner, although he tolerated such conduct

in the hope that matters would improve, the alleged acts of cruelty continued and escalated.

6.2 It is stated that on one occasion, when the petitioner accompanied the respondent to the market, she not only quarrelled with him but also allegedly assaulted him by holding his collar in public. The petitioner claims that he tolerated her conduct as she was then pregnant. It is further alleged that the respondent insisted, without justification, that the petitioner accompany her to her doctor merely to harass him, though such consultation was not required.

6.3 The respondent gave birth to a female child, Sonal, on 01.09.2012. After delivery, she resided with her parents at Haveri and allegedly did not respond to the petitioner's phone calls. It is further alleged that the respondent abused the petitioner, his parents and even the child. The petitioner asserts that he was not invited for the naming ceremony of the child; however, in order to maintain cordiality, he attended the ceremony along with his parents. At the ceremony, the respondent is stated to have refused to speak to the petitioner and his parents, and to have picked up a quarrel, abusing

them in filthy language and behaving crudely in the presence of guests.

6.4 It is stated that due to such alleged behaviour, the petitioner requested the respondent to accompany him to a psychiatrist, which she refused.

6.5 It is further stated that the respondent did not show love or affection either towards the petitioner or his aged parents, and that she did not permit the petitioner's parents to spend time with the child. The petitioner asserts that during his visits to Haveri in September and October, he found that the child was not being properly cared for and was clothed in unhygienic, dirty and wet urinated garments. When he questioned the respondent regarding the same, she allegedly asked her father to 'throw the baby' into the petitioner's car. It is stated that the respondent's father handed over the child to the petitioner despite the child still at breastfeeding stage, and the respondent refused the petitioner's request to take back the child. After repeated persuasion, she agreed to return to the matrimonial home.

6.6 According to the petitioner, as the respondent was unable to take proper care of the child, he suggested that she stay with his parents at Dharwad for some time, which she refused, and instead allegedly assaulted him by fist blows and by scratching his hands. While residing with the petitioner at Bengaluru, she is said to have been unable to manage household chores, and despite refusing to engage a maid servant, objected to the petitioner bringing his parents to assist. The petitioner alleges that she kicked and scratched him in the presence of his parents. It is further stated that whenever the child cried, instead of consoling her, the respondent beat the child.

6.7 It is alleged that on another occasion, while travelling in a car, the respondent picked up a quarrel near Yeshwanthpur and assaulted the petitioner by holding his collar in a public market. The petitioner further alleges that she habitually refused to feed the child, and on one occasion assaulted him 'black and blue' near Old Airport Road and compelled him to apologise by touching her feet though he had committed no fault. It is stated that the respondent thereafter left the two-year-old child and went to her parental house and

lodged a frivolous police complaint. After investigation, she was advised to return to the matrimonial home and take care of the child.

6.8 It is further stated that the petitioner and his parents were under constant threat of being implicated in a dowry-harassment case. Owing to such alleged threats, the petitioner's parents submitted a representation to the IGP, Bengaluru, on 23.05.2014 seeking police protection. During the conciliation proceedings before the Mahila Santhvana Kendra, the respondent is stated to have expressed that she was not interested either in the petitioner or in the minor daughter. It is further stated that during the said proceedings, she gave a written statement relinquishing custody of the minor child. According to the petitioner, the respondent displayed no emotional attachment towards the child or towards him. It is asserted that the respondent left the matrimonial home on 29.04.2014 after taking away her belongings.

7. The respondent entered appearance upon service of notice. The matter was referred to mediation; however, the same ended in failure. The respondent filed her objections

denying the averments made in the petition. She contended that when she and her family invited the petitioner and his parents to celebrate Deepavali at her maternal home, she was abused in filthy language. She asserted that she was compelled to hand over the custody of the child to the petitioner, and that in order to avoid nuisance in the neighbourhood, the child was handed over, though the child had been well cared for by her.

7.1 It is further contended that the petitioner's parents were of a suspicious nature and made unsubstantiated allegations against her. She asserted that the petitioner, owing to his reserved and conservative mindset, constantly found fault with her. She stated that all demands made by the petitioner and his parents had been fulfilled at the time of marriage. She further alleged that the petitioner's parents interfered in the matrimonial life of the parties and that the petitioner used to abuse and assault her.

7.2 It is contended that even during her pregnancy, the petitioner compelled her to prepare food at 4.00 a.m. She stated that she had to remain at her parental home for postnatal care as the petitioner's parents were not supportive.

She alleged that the petitioner did not attend her sister's engagement ceremony, though he later attended the wedding upon persuasion. It is further stated that the petitioner spread false rumours that she was mentally ill. She contended that she took up employment only to meet her livelihood needs and that she is ready and willing to resume cohabitation with the petitioner.

8. The Family Court formulated the following points for consideration:

- "1. Whether the petitioner proves that the respondent who is his legally wedded wife, subjected him to cruelty as alleged by him and as contemplated U/Sec.13(1)(i-a) of The Hindu Marriage Act, 1955?*
- 2. Whether the petitioner proves that the respondent, deserted him with animus descrendi, continuously for a period of not less than 2 years preceding the date of presentation of this petition as alleged by him and as contemplated U/Sec.13(1)(i-b) of the Hindu Marriage Act, the is entitled for the relief as prayed?*
- 3. Whether the petitioner is entitled for the relief as prayed by him?*
- 4. Whether the respondent is entitled for interim maintenance as prayed under I.A.No.X filed U/Sec.24 of Hindu Marriage Act, 1955?*
- 5. Whether the respondent is entitled for permanent alimony in the form of monthly maintenance as prayed by her in I.A.No.XIX filed U/Sec. 25 of the Hindu Marriage Act?*
- 6. What decree or order?"*

8.1 The points are answered are under:

"Point No.1: In the Affirmative.
Point No.2: In the Affirmative.
Point No.3: In the Affirmative.
Point No.4: Partly in the Affirmative.
Point No.5: Partly in the Affirmative.
Point No.6: As per final orders
and for the following:"

9. The Family Court, upon consideration of the evidence on record, held that the petitioner had been subjected to cruelty by the respondent. Accordingly, the Family Court granted a decree of divorce under Sections 13(1)(i-a) and 13(1)(i-b) of the 1955 Act, thereby dissolving the marriage solemnised between the parties on 14.11.2011. The Family Court further directed payment of interim maintenance under Section 24 of the 1955 Act from 29.03.2018 till the date of the judgment, and awarded maintenance under Section 25 of the 1955 Act from the date of the judgment until such time as the respondent becomes disentitled to receive the same.

10. Sri Raja Subrahmanya Bhat B., learned counsel appearing for the appellant-wife, submits that the custody of the minor child was forcibly taken away by the husband. It is contended that the respondent-wife was forcibly driven out of

the matrimonial home and that the allegations of cruelty levelled against her are not proved. On the contrary, it is submitted that the respondent-wife was subjected to cruelty at the hands of the petitioner and his parents. Learned counsel submits that the respondent has always been willing to resume cohabitation in the matrimonial home, but the petitioner has denied her that opportunity. It is further submitted that several belongings of the respondent are still lying in the matrimonial home, as she continues to express her intention to live with the petitioner.

10.1 It is submitted that the respondent was compelled to take up employment solely to sustain herself after being ousted from the matrimonial home. It is further submitted that the in-laws lodged complaints before various authorities alleging cruelty, which were unsubstantiated; such frivolous complaints themselves amount to cruelty upon the respondent.

10.2 Learned counsel contends that while rejecting the petition for child custody, the Family Court failed to provide appropriate visitation rights. He further submits that the Family Court determined permanent alimony without obtaining a statement of assets and liabilities from the parties, which is

mandatory in view of the law laid down by the Hon'ble Supreme Court in ***Rajnish v. Neha***³. The income and liability details furnished by the petitioner are stated to be incomplete and not in the prescribed format. Learned counsel finally submits that considering the age of the minor child, the mother is entitled to custody, and that the custody presently with the father is illegal.

10.3 It is further submitted that the interlocutory applications filed by the respondent seeking various reliefs were not adjudicated by the Family Court. Learned counsel submits that the respondent was always willing to resume cohabitation with the petitioner, but it was the petitioner who declined her to rejoin him, and this aspect has not been properly considered by the Family Court.

11. Sri Ramesh P. Kulkarni, learned counsel appearing for the respondent-husband, submits that the respondent-wife was consistently abusive and would belittle the petitioner-husband by making derogatory remarks about his educational qualifications, claiming to be more qualified. Learned counsel

³ (2021) 2 SCC 324

further submits that the respondent manhandled the petitioner in public places and on certain occasions during family functions in the presence of relatives, causing minor injuries. It is contended that the respondent was quarrelsome and showed little interest in caring for the child, who was often found in an unhygienic condition and left in soiled clothes. Upon being questioned, the respondent herself handed over the child to the petitioner.

11.1 It is further submitted that when the child was about two-and-a-half months old, the petitioner took complete responsibility for her upbringing with the assistance of his parents. Even when the petitioner's parents resided with them, the respondent allegedly abused them and embarrassed the petitioner by picking quarrels in the presence of neighbours. Learned counsel submits that the findings recorded by the Family Court are based on the evidence duly proved on record and therefore prays that the appeals filed by the wife be dismissed.

12. Having considered the submissions of the learned counsel for the parties and upon perusal of the record, it is not in dispute that the marriage between the petitioner and the

respondent was solemnised on 14.11.2011. It is also undisputed that both parties possess the educational qualifications attributed to them and that a female child was born from the wedlock on 01.09.2012.

13. The petitioner has alleged that the respondent-wife subjected him to cruelty, which allegations are denied by the respondent. The petitioner examined himself as PW1, and his mother was examined as PW2. The Family Court, referring to the telephonic conversations produced in evidence, held that the telephone numbers were admitted by both parties and that the recordings were supported by the requisite certificate. Relying on the testimony of PW1 and PW2, the Family Court concluded that the respondent had voluntarily handed over the custody of the child to the petitioner.

13.1 The Family Court further held that several complaints were lodged against the respondent on account of her conduct and not with an intention to threaten her. Based on the documentary evidence, the Family Court found that there was persistent discord between the parties. It was also observed that whenever panchayaths were convened to resolve their differences, the respondent picked up quarrels

with the petitioner and his parents and did not permit the proceedings to conclude.

13.2 It is evident from the record that during the conciliation proceedings at the Santhvana Women Helpline Centre, Dharwad, the respondent abandoned the child and did not cooperate in the settlement process. As per Ex.P6, the statement of the respondent recorded on 23.08.2014 before the Santhvana Women Helpline Centre indicates that she expressed her unwillingness to continue marital life with the petitioner and her readiness to hand over the child. Further evidence on record indicates that after abandoning the child at the Santhvana Centre, when the child was brought back by the petitioner's parents, the respondent lodged a police complaint against them. Similarly, reciprocal complaints were filed by the petitioner's parents against the respondent.

13.3 The respondent filed multiple complaints before the Karnataka State Women's Commission, wherein both parties were summoned and counselling sessions were conducted; however, the sessions were inconclusive. It is noted that in all such sessions, the respondent remained firm in her decision to seek a divorce. The child was in the custody of the petitioner's

parents. On occasions when the respondent attempted to interfere with the child's custody, the petitioner's parents lodged complaints regarding each incident. The respondent has admitted that the child remained in the custody of the petitioner's parents and acknowledged her frequent visits to their house seeking custody.

13.4 During her cross-examination as RW1, the respondent categorically admitted that neither the petitioner nor his parents made any demand for dowry. She further acknowledged that the petitioner provided due care to her and the child. The respondent also admitted that, finding it difficult to care for the child in Bengaluru, the respondent and the child stayed at Dharwad with the petitioner's parents. She further admitted attending family functions and visiting the vegetable market along with the petitioner and his parents, save for certain instances of quarrel and alleged manhandling of the petitioner.

13.5 The Family Court further recorded that the petitioner had purchased NCD worth Rs.1,80,000/- in her name, and an interest of Rs.18,000/- per month being credited to the respondent's account, and that the maturity amount of

the deposit of Rs.1,80,000/- was also credited to her account. The Court observed that this demonstrates the petitioner's care, love, and affection towards his wife and child. It was further noted that the respondent resided with her in-laws from 14.11.2012 to 20.04.2013, for a period exceeding five months, during which the in-laws developed attachment to the child, reflecting their love and affection towards both the respondent and the child.

13.6 The respondent admitted in her cross-examination that the petitioner used to refuse gifts offered by her parents; accordingly, the allegation of demand for dowry and gifts was found to be false. It was further recorded that although the respondent alleged assault and injuries, she admitted that no such incidents had actually occurred. The Court noted that following the failure of conciliation and panchayaths on 23.08.2014, the respondent decided not to continue her marital life with the petitioner and voluntarily handed over custody of the child to him at the Santhvana Mahila Sahayavani Centre, expressing no interest in resuming marital life, as reflected in Ex.P6.

13.7 The Court held that the allegations made by the petitioner against his wife were not ordinary but grave and weighty. Accordingly, it was concluded that the ingredients of Section 13(1)(i-a) of the 1955 Act, were established.

13.8 The Family Court further held that, in view of the evidence on record, it is established that since 30.04.2014, the petitioner and the respondent have been residing separately, and that it was the respondent who deserted the petitioner by leaving the matrimonial home. The Court noted that the period of continuous desertion exceeds two years. The Family Court directed interim maintenance of Rs.5,000/- per month and permanent maintenance under Section 25 of the Hindu Marriage Act, 1955, at Rs.20,000/- per month.

13.9 After considering the affidavits disclosing assets and liabilities, the Family Court observed that the respondent has an income of Rs.38,200/- per month without any loans or liabilities, whereas the petitioner earns a salary of Rs.2,14,398/- per month. The Family Court also took note that the petitioner has custody of the minor girl child and relies on his parents to care for her. In view of these circumstances, the

Family Court ordered monthly maintenance of Rs.20,000/- to the respondent as permanent alimony.

14. We have examined the evidence on record as referred to by the Family Court. PW1 has alleged that the respondent used abusive and filthy language, referred to his parents as 'pisachigalu' (ghosts), and addressed him in derogatory terms such as 'idiot' and 'rascal'. He reiterated the averments contained in the petition in support of his evidence during examination-in-chief. Although PW1 was extensively cross-examined, no material contrary evidence was elicited from him. The evidence of PW1 establishes the multiple complaints filed and the various conciliation and panchayath proceedings conducted to mediate the dispute between the parties.

15. The evidence of PW2 relates to the respondent's disinterest in taking care of the petitioner and the child, and her refusal to perform household duties. PW2 deposed regarding the unhygienic conditions in which the child was kept, including being clothed in soiled and urinated garments. PW2 further stated that the respondent's parents were unwilling to take responsibility of their granddaughter and

allegedly threatened to remove the child from the residence, being displeased with the birth of a girl to their daughter. Although PW2 was extensively cross-examined by the respondent, no material contrary evidence was elicited. Exhibits P6 and P10 establish that the respondent was unwilling to take care of, or retain custody of, her daughter, and, in fact, abandoned the child at the Santhvana Kendra.

16. The respondent examined herself as RW1, and her affidavit in lieu of examination-in-chief largely reiterates the objections raised in her written statement. However, during cross-examination, she made several categorical admissions. She admitted filing complaints despite not having custody of her daughter and that she has been residing at her parents' house since 30.04.2014. Although she stated an interest in joining the petitioner, she conceded that she has not filed any petition for restitution of conjugal rights. It is on record that her father is a practicing advocate. She has also not filed any petition for custody of the child.

16.1 While denying suggestions regarding filing complaints against the petitioner and his parents, the evidence indicates that such complaints were indeed filed before various

forums, and the respondent was advised to resume her matrimonial life, which she immediately refused, expressing her intention not to cohabit with the petitioner. Although she denied certain quarrels involving the petitioner's parents and her own parents, she admitted that some of them were created in front of her parental home. She further admitted finding it difficult to look after the child.

16.2 The respondent acknowledged travelling to the Tuljapur temple in December 2013 but denied assaulting the child on that occasion. She admitted that while returning, they stopped near Yeshwantpur Railway Station to buy vegetables, but denied the suggestion that she quarrelled with, assaulted, or abused the petitioner in public. She also admitted that the petitioner never demanded dowry from her parents.

16.3 It is further admitted by the respondent that the petitioner's parents are not dependent on him, owning their own house and receiving pension for their livelihood. She further admitted that the petitioner's parents are financially independent and only emotionally dependent on the petitioner. Regarding the suggestion that the petitioner purchased an NCD worth Rs.1,80,000/- in her name, she expressed ignorance.

She admitted her phone number, in respect of which telephonic conversations were placed on record. The overall consideration of evidence prove the cruelty caused by the respondent-wife to petitioner-husband.

16.4 The respondent also admitted that she stayed with her in-laws from 14.11.2012 to 20.04.2013 after the delivery of the child, and acknowledged the attachment of the in-laws towards the child. She admitted the authenticity of Ex.P6 in her handwriting. She further admitted that following Ex.P6, she came to Bengaluru without the child. The respondent confirmed that she is currently residing in Bengaluru in a rented house and is employed as a lecturer in a college.

17. The examination of the oral and documentary evidence, undoubtedly, establish that;

- (a) The respondent filed a series of complaints before various forums, and when these forums summoned both parties, she unequivocally expressed her unwillingness to continue the matrimonial relationship with the petitioner,

demonstrated disinterest in the child, and abandoned the child.

- (b) The child remained in the custody of the petitioner's parents at Dharwad. The respondent frequently visited the petitioner's parental home, during which she is alleged to have abused and threatened them. In response, the petitioner's parents lodged complaints with the police and senior citizen forums. The proceedings conducted by these authorities substantiate the occurrence of such incidents and reflect the respondent's disinterest in resolving the dispute.
- (c) The respondent abandoned the child at a time when her love, care, and affection were most necessary, in 2014, when the child was approximately two years old. It was only when the matrimonial dispute became contested that G & WC proceedings were initiated, and that too in the year 2019. The child is now over 13 years of age and has admitted that the respondent has been residing separately since 2014.

18. The child/ward is presently in the custody of the father, along with her paternal grandparents. There is no evidence or pleading to suggest that the petitioner's parents are incapable of taking care of the ward. In the facts and circumstances of the case, the custody of the child with the father is justifiable. It is apparent that the respondent never made any genuine attempt to resume matrimonial life. Although she had the opportunity under Section 9 of the Hindu Marriage Act, 1955, to seek restitution of conjugal rights, she did not invoke the said provision. Similarly, until 2019, she did not make any effort to seek custody of the ward. It appears that the respondent preferred a petition for custody of the child and to declare herself as a guardian only after the petitioner initiated proceedings seeking a decree of divorce. The conduct of the respondent, therefore, does not appear to be *bona fide*.

18.1 The contention of the respondent/appellant that the custody of the girl child with the petitioner-father is illegal is unsustainable. The respondent-wife admits having abandoned the child in 2014. However, she chose to file a petition under the Guardians and Wards Act only in 2019, after considerable progress of the matrimonial dispute. Although it

appears that the respondent is seeking custody of the child as a countermeasure to the matrimonial proceedings, we refrain from making any observations on that aspect. In light of the fact that the respondent abandoned the child and the child has been cared for by the petitioner-father, it cannot be said that the custody of the child with the father, as ordered by the Family Court, is illegal.

19. Although the specific allegations of the respondent assaulting the petitioner and using filthy language in public have not been proved in precise terms, the other evidence on record corroborates that such abuse and use of offensive language occurred. Similarly, there is corroborative evidence to establish that the respondent abused the petitioner's parents, referring to them as 'pisachigalu' (ghosts) and using other abusive language.

20. It is further established, and indeed specifically admitted by the respondent, that she has been residing separately since 30.04.2014 to the present date. This admission satisfies the ingredients of Section 13(1)(i-b) of the 1955 Act. It is also evident that the respondent has deserted the petitioner continuously for a period exceeding two years.

21. Insofar as the orders for interim and permanent maintenance are concerned, we are of the view that they do not call for interference by this Court. It is on record that the respondent possesses an M.Tech degree and earns Rs.38,200/- per month. As recorded by the Family Court on the affidavits disclosing assets and liabilities, the petitioner earns a monthly salary of Rs.2,14,398/-. The respondent has no dependents to support, whereas the petitioner has custody of the ward, aged 13 years, and is also responsible for his aged parents, who in turn assist in the care of his daughter. He has three dependents. Considering the cost of living and the educational and other expenses of the ward, the maintenance ordered at Rs.20,000/- per month to the respondent is justified.

22. Although the alimony/maintenance was determined based on affidavits filed before the Family Court in 2022, the parties have not chosen to file updated assets and liabilities in the present appeal. Both parties have indicated that there is no material change in their financial position. Accordingly, based on the affidavits submitted to the Family Court in 2022, we find no justification to interfere with or modify the maintenance awarded by the Family Court.

23. The grievance raised by the learned counsel for the appellant-wife that various applications filed during the course of the proceedings were not adjudicated cannot be considered in the present appeal.

24. In view of the foregoing findings, we do not find any merit in these appeals. Accordingly, the appeals are ***dismissed.***

Pending I.A's if any, stand disposed of.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

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