



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH 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. 8765 OF 2019 (FC)

BETWEEN:

1. MRS. Y.MUNIRATHA,
W/O. MR. N. DHARMARAJ,
AGED ABOUT 27 YEARS,
R/AT C/O. SRI. YELLAPPA,
SURANGAJAKKANAHALLI,
KASABA HOBLI,
ANEKAL TALUK,
BENGALURU DISTRICT.

...APPELLANT

(BY SRI MANJUNATH K. S., ADVOCATE)

AND:

1. N.DHARMARAJ,
S/O. SRI. NARAYANA,
AGED ABOUT 41 YEARS,
R/AT No.379, 3RD SQUARE,
AUSTIN TOWN,
BENGALURU-560 047.

...RESPONDENT

(BY SRI R. THEAN MOLLI, ADVOCATE (ABSENT))

Digitally signed
by VATHI
MARIMUTHU
Location: HIGH
COURT OF
KARNATAKA



THIS MFA IS FILED UNDER SECTION 19(1) OF FAMILY COURTS ACT, AGAINST THE JUDGMENT AND DECREE DATED 07.11.2017, PASSED IN MC No.538/2014, ON THE FILE OF THE PRINCIPAL JUDGE, FAMILY COURT, BENGALURU, ALLOWING THE PETITION FILED UNDER SECTION 13(1) (ia) OF THE HINDU MARRIAGE ACT.

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

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

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

Heard the learned counsel for the appellant-respondent.

2. No one appears for the respondent-petitioner.

3. This appeal has been filed seeking to set aside the judgment and decree dated 07.11.2017 passed in M.C. No.538/2014 on the file of the Principal Judge, Family Court at Bengaluru. By means of the aforesaid judgment and decree, the petition filed by the respondent-petitioner under Section 13(1)(ia) of the Hindu Marriage Act, 1955¹ was allowed and a decree of divorce was granted. Under the provision of Section 27 of the HM Act, the respondent-petitioner was directed to

¹ HM Act



return the gold ornaments if any, almirah, cot and clothes of the respondent within one month of the decree.

4. The case in the petition is that the marriage between the appellant and the respondent was solemnized on 08.02.2009 at R.K.R. Kalyana Mantapa, APC Circle, Jigani, Anekal Taluk as per the Hindu rights and customs. After the marriage both of them resided together in the house of petitioner's parents at No.379, 3rd Square, Austin Town, Bengaluru. The allegation is that right from the beginning, the relationship between the two was never cordial as the respondent never co-operated and used to behave indifferently with him and with his family members. During her stay she was never a responsible wife and never performed marital duties towards the petitioner and was not taking care of the petitioner by showing love and affection. She used to stay two days in the matrimonial home and one week in her parents' house and if the petitioner and his parents refused to send her to her parents' house, she used to pick up quarrel with the petitioner and his family members and used to lock herself in a room and not eat, till she was dropped to her parents' house.



Later, she conceived and delivered a girl child on 22.12.2009. Thereafter, she came to the petitioner's house reluctantly but never used to take care of the child and not feed the child properly. It was the mother of the petitioner who used to take care of the child and cook the food. The respondent was always in the neighbors house and gossiping with neighbors. When the petitioner and his parents asked anything about the same, the respondent picked up quarrel with him and made a big issue of the same and used to pack all her clothes and go to her parents' house leaving the child in the petitioner's house. It is alleged that she used to search the cupboard of other family members and always cash used to be missing at home. The parents of the petitioner decided to make a separate house for the petitioner and the respondent in Austin Town and after making separate house, the respondent very often went to her parents' house. Whenever she was in the house she never cooked food for the petitioner or for the child though huge quantity of provisions was purchased as per her wish. She did not wake up early in the mornings and cook breakfast for the petitioner and even at night, he had to sleep many days on empty stomach. It is stated that because of the disturbance



caused by the respondent and her torture, the petitioner could not concentrate on his work and as a result, he was thrown out of the job many times. It was stated that on 12.01.2013, the respondent had gone to her parents' house for Sankranti along with her child and had not returned till the date of filing of the petition. Thereafter, when the petitioner requested the respondent to come back, she refused and her family members humiliated the petitioner. In November 2013, the respondent had lodged a false complaint against the petitioner in Anekal and in the police station, she had said that she is not willing to join the petitioner and she wants a divorce.

5. The respondent appeared through her counsel and denied the allegations but admitted the marriage with the petitioner and the birth of the child. She had stated that Rs.10 lakhs had been paid by her parents towards marriage expenses. For one year after the marriage, the petitioner used to treat her with love and affection and the family atmosphere was very good. After the death of the younger sister of the petitioner, the behaviour of the petitioner and his family members changed. The petitioner developed a disliking for the



respondent and the respondent was just 20 years old and the petitioner had no guts to prevent his mother from such acts as he is a puppet in the hands of his mother and used to dance to her tunes. She was ill-treated and caused psychological trauma as the petitioner is not in position to take independent decisions. The petitioner used to hand over the entire salary to his mother and did not meet her basic necessities. It was the petitioner who used to pick up quarrel with the respondent on flimsy grounds, cursing and abusing the respondent that she is not fit to be his wife. The respondent was aged 18 years and the petitioner was aged 34 years at the time of marriage and the respondent had just completed her SSLC. It was stated that the respondent is ready to join the petitioner and is not precipitating the matter either before the Criminal Court or the Family Court, which demonstrates her conduct that she is not interested to cause harm either to the petitioner or his mother. It was stated that all her jewelries and costly sarees and dress materials are with the petitioner at his residence. Hence, dismissal of the petition was sought.



6. The petitioner examined himself as PW.1 and got marked 3 documents. The respondent was examined as RW.1 and no documents were marked by her.

7. The following points arose for consideration.

- "1. Whether the petitioner proves that the respondent committed cruelty on the petitioner after solemnization of marriage?
2. What order?"

8. The findings of the Court were as follows:

*"Point No.1 : Affirmative
Point No.2 : As per order for the followings:"*

9. The Family Court noted that subsequent to marriage, the petitioner made a separate house for the petitioner and respondent and later it was vacated and he stayed at his parents' house. The allegations made in the petition were reiterated by the petitioner in his examination-in-chief. During his cross-examination, the petitioner admitted the suggestion of counsel for the respondent that at the time of marriage, the respondent's father had given a gold chain, bracelet and ring and some of the gold ornaments to the respondent. He has stated that the ornaments given at the



time of marriage were already taken by the respondent while going to her parents' house. It was denied by him that the entire ornaments are still in the almirah of the respondent in the petitioner's house. It was denied that for a period of 3 years, the petitioner and the respondent led a cordial life. It was further denied that the petitioner neglected to maintain the respondent and not bringing any household articles to lead life and that the respondent is still ready to live with him but the petitioner has no intention to get back the respondent to his house. The Family Court observed that the respondent has not produced any document before the Court to show that she had lodged a complaint against the petitioner before the Anekal police that the police had advised the petitioner to take the respondent to his house. The respondent had not filed any complaint against the petitioner to show that the petitioner has not maintained her properly. It was noted that in the cross-examination of RW.1, it was admitted that at the time of marriage there was no dowry given to the petitioner and there was no condition imposed while performing the marriage. It was further admitted by RW.1 that after joining the petitioner, both of them led a happy married life and the petitioner used to



drop her in her parents' house whenever she decided to go to her parents' house. She further admitted that the petitioner took her to temple after he returned from office. She also admitted that the petitioner made separate accommodation and he himself used to purchase the groceries and she was not aware about the groceries shop near her house. She had denied that the petitioner used to hand over his salary to her.

10. On perusing the above, the Family Court was of the opinion that the petitioner had not committed any cruelty on the respondent but it was the respondent who was always picking up quarrel with him and going to her maternal home and staying for long. It was noted that the respondent had said that she is not interested in living with the petitioner.

11. The findings of the Family Court are based on the statement of the parties that from the beginning of the marriage the respondent used to quarrel with the petitioner and within one year of the marriage she got separate house and even during the stay in the separate house, the respondent was always blaming the petitioner that he is hearing (obeying) the words of his mother and picking up quarrel with her. The



suggestion made by the counsel for the petitioner was noted that a panchayat was held and in spite of the same, the respondent refused to join the petitioner that she had leveled false allegations against mother-in-law and due to the loss of life of the petitioner's sister, the respondent could have stayed in their house and consoled them in that situation. Without doing so, coming out of the house and demanding the petitioner to give entire salary to her and always making allegations against him, in the opinion of the Family Court, showed the adamant attitude of the respondent throughout the marital life with the petitioner. Accordingly, relying upon the judgment of the Supreme Court in ***Samar Ghosh v. Jaya Ghosh***² and ***Narendra v. K. Meena***³, the petition was decreed.

12. We have perused the original record. The learned counsel for the appellant has placed before us the testimony of the parties as well as the findings recorded by the learned Principal Judge.

² (2007) 4 SCC 511

³ (2016) 9 SCC 455



13. What we find striking from the record is that barely after attaining majority, the respondent was married to the petitioner who was at that time, aged 34 years. The so-called proven conduct of the respondent wife has to be viewed in the context of her age. The allegations that she was always insisting to be taken to her parents' home would only be attributed to the desires of the young adult who likes to be in the comfort of her parents' home. That is not to say that, that cannot be a ground for cruelty in a particular fact situation. There may be instances that such conduct on part of the wife cannot be condoned. The Family Court may be correct in holding that after the death of the petitioner's sister, the respondent should have stayed in the matrimonial house and comforted the family. However, such an instance by itself cannot be said to be cruelty which has continued through the period of the marriage of the parties. Cruelty has to be proved and demonstrated to be continuing so as to it being a cause for grant of a decree of divorce.

14. As a matter of fact what is reflected from the evidence is that the instance of so called cruelty are matters of



normal wear and tear that can occur in a given fact situation. In his cross-examination, the PW.1 has admitted that after 1 year he had brought his child to his house and that he had not made any complaint to Anekal Police Station regarding the act of the respondent in not allowing him to see the child. It is to be noted that the allegation made in the petition with regard to the wife committing theft of cash in the almirah has not been proved. The learned counsel for the appellant is right in stating that the finding returned by the Family Court that the wife used to quarrel with her husband within one year and that she was blaming the petitioner that he is hearing the words of his mother are not reflections of cruelty on the petitioner. The fact that the respondent had not filed any complaint against the petitioner and that itself cannot be said to be a ground that the respondent had not committed any cruelty against the petitioner, which was considered by the Family Court, has nothing turning on that, as far as cruelty is concerned. As a matter of fact, the aforesaid act of not filing any complaint against the petitioner by the respondent, itself goes to show that she intended no harm to the petitioner.



15. The judgments referred to by the Family Court, in the facts and circumstances would not apply to the case at hand.

16. For the reasons aforesaid, we set aside the judgment and decree impugned in the present appeal and allowed this appeal.

All pending IAs stand disposed of.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(K. V. ARAVIND)
JUDGE**

VBS
List No.: 1 Sl No.: 25