

**Reserved on : 11.12.2025
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. 9565 OF 2017 (IDA)

C/W

MISCELLANEOUS FIRST APPEAL No. 48 OF 2018

IN MFA No. 9565/2017

BETWEEN:

1. MR. ALLAN PINTO,
S/O LATE OSWALD PINTO,
AGED ABOUT 39 YEARS,
R/AT FLAT No.302, 3RD FLOOR,
PROVINCE ABODE 1,
BEJAI NEW ROAD,
MANGALURU-575 004.

...APPELLANT

(BY SRI HEMANTH KUMAR D., ADVOCATE)

AND:

1. MRS. CAROL JUDITH CHANDINI PINTO,
W/O ALLAN PINTO,
AGED ABOUT 36 YEARS,
PERMANENTLY R/AT,
9TH FLOOR 901, MONALISA APARTMENT,
NEAR BEJAI CHURCH,
MANGALURU-575 004.

Digitally signed
by VALLI
MARIMUTHU
Location:
HIGH COURT
OF
KARNATAKA

PRESENTLY R/AT FLAT NAMED
SEGUL APARTMENT,
FLAT No.117, 1ST FLOOR,
BEHIND DUBAI GRAND HOTEL,
A1-QUSIAS, DUBAI.
MOBILE No.971 56 175 2041.

...RESPONDENT

(BY SRI CYRIL PRASAD PAIS, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 19(1) OF THE FAMILY COURT ACT R/W SECTION 55 OF INDIAN DIVORCE ACT, AGAINST THE JUDGMENT AND DECREE DATED 22.11.2017 PASSED ON MC No.299/2015 ON THE FILE OF THE PRINCIPAL JUDGE, FAMILY COURT, D.K., MANGALURU, ALLOWING THE PETITION FILED UNDER SECTION 10(1)(x) OF DIVORCE ACT.

IN MFA No. 48/2018

BETWEEN:

1. MRS. CAROL JUDITH CHANDINI PINTO,
W/O MR. ALLAN PINTO,
AGED ABOUT 36 YEARS,
PERMANENTLY R/AT,
9TH FLOOR, 901, MONALISA APARTMENT,
NEAR BIJAI CHURCH,
MANGALURU-575 004 (DK).
WORKING AT CHANEL LTD.,
FZE, DUBAI AIRPORT FREEZONE,
WEST WING 4, A BLOCK,
3RD FLOOR, P.O. BOX 54345,
DUBAI, U.A.E.

...APPELLANT

(BY SRI CYRIL PRASAD PAIS, ADVOCATE)

AND:

1. MR. ALLAN PINTO,
S/O LATE OSWALD PINTO,
AGED ABOUT 39 YEARS,

R/AT FLAT No.302, 3RD FLOOR,
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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 Hemanth Kumar D., learned counsel appearing for the appellant-husband in MFA No.9565/2017, who is the respondent in MFA No.48/2018; and Sri Cyril Prasad Pais, learned counsel appearing for the respondent-wife, who is the appellant in MFA No.48/2018.

2. MFA No.9565/2017 is filed by the respondent-husband in M.C. No.299/2015, seeking to set aside the judgment and decree dated 22.11.2017 and to set aside the

grant of permanent alimony of ₹15.00 lakhs awarded to the child by the Principal Judge, Family Court, D.K., Mangaluru¹.

MFA No.48/2018 is filed by the petitioner–wife in M.C. No.299/2015, seeking enhancement of the permanent alimony awarded to the minor child from ₹15.00 lakhs to ₹30.00 lakhs and for awarding a sum of ₹30.00 lakhs towards permanent alimony to the petitioner, by modifying the judgment and decree dated 22.11.2017 passed by the Family Court.

3. The parties are referred to as per their ranks before the Family Court for convenience.

Factual Matrix:

4. The marriage between the petitioner and the respondent was solemnized on 15.03.2017 before J.J.V. Fernandez, Christian Marriage Registrar. The petitioner filed a petition under Section 10(1)(x) of the Divorce Act, 1869, seeking dissolution of the marriage on the ground of cruelty. At the time of the marriage, both the petitioner–wife and the respondent–husband were employed in Dubai. It is contended that the respondent did not contribute towards family maintenance and, instead, incurred expenditure on high-end

¹ Family Court

cars, gadgets, and expensive alcohol. Despite requests made by the petitioner to contribute towards household expenses, the respondent remained evasive. It is further stated that the petitioner purchased a two-bedroom apartment in the joint names of the petitioner and the respondent, investing nearly 70% of her monthly salary towards the said purchase.

4.1 The petitioner conceived in June 2008 and was compelled to continue working during the period of pregnancy in order to meet the family's maintenance expenses. The entire expenditure relating to the pregnancy, including post-natal expenses, was borne by the petitioner. The petitioner delivered a male child on 08.03.2009 at Dubai. After the delivery, the petitioner and the respondent resided at the petitioner's parental home in Dubai, where the respondent allegedly exhibited egotistic behaviour and frequently engaged in heated and violent arguments with the petitioner and her parents. It is stated that the respondent left the house and returned after two weeks, only to resume arguments and issue threats to the petitioner. The respondent is further alleged to have created a nuisance during the naming ceremony held at St. Michael's Church, Sharjah, to which he did not extend any assistance. It

is also alleged that the respondent abused the petitioner in filthy language in the presence of her parents.

4.2 It is further stated that the respondent is an alcoholic and was in the habit of stocking bottles of alcohol in the house for his consumption. The petitioner was constrained to bear even the respondent's personal expenses, including fuel and telephone charges. It is alleged that the respondent harboured doubts regarding the character of the petitioner and accused her of having extra-marital relationships with various persons. It is further alleged that the respondent used to poison the mind of the minor child by making false allegations against the petitioner.

4.3 The petitioner's father retired in the year 2013. In February 2014, it is alleged that the respondent, while in an intoxicated state, engaged in a violent altercation with the petitioner and her brother. When the respondent attempted to assault the petitioner, her brother intervened to restrain him. However, the respondent is stated to have violently pushed the petitioner's brother onto a glass dining table, as a result of which the glass table shattered and the broken pieces pierced his left leg, leaving him in a pool of blood. It is further alleged

that the respondent hurled broken glass pieces at the petitioner, causing her to bleed, and also punched the petitioner's mother on her face. The watchman of the apartment is stated to have called the police and an ambulance. It is further stated that, in the hope that the respondent would mend his ways, no police complaint was lodged, particularly in view of the strict criminal law prevailing in Dubai.

4.4 It is stated that the respondent had incurred a substantial loan to the tune of 3,00,000 Dirhams, giving rise to apprehension in the mind of the petitioner that the creditors might harass her for repayment of the said loan. It is further stated that, in the hope of bringing about a change in the respondent's behaviour, the petitioner took the respondent on trips to Malaysia and Nepal at her own expense. However, despite the same, the respondent allegedly continued to abuse the petitioner and level allegations against her regarding relationships with various persons.

5. The respondent, in his statement of objections, while denying the averments made in the petition, has admitted the marriage. It is stated that the expenses of the

marriage were shared equally. It is alleged that the petitioner was in the habit of consuming alcohol and smoking, and that the liquor stored in the house was for her consumption. It is further stated that the respondent had invested 50% towards the purchase of the apartment and that the medical expenses relating to the petitioner's pregnancy were borne by the petitioner's employer. It is alleged that the petitioner's parents interfered in the matrimonial life of the parties. According to the respondent, the petitioner is highly ambitious and money-minded, desirous of leading a lavish lifestyle, and fond of expensive alcohol. It is contended that when such lavish facilities were denied, the petitioner picked quarrels and insulted the respondent.

5.1 It is alleged that the petitioner used to invite her friends to the house, consume alcohol with them, and compel her male friends to stay in the house despite objections raised by the respondent. It is further stated that the respondent discovered obscene messages exchanged with one Mr. Jay, with whom the petitioner allegedly consumed alcohol and permitted to stay in the house. It is alleged that when the petitioner was confronted with the said messages, she assured the respondent that she would not repeat such conduct.

5.2 It is alleged that the petitioner travelled to Goa with one Mr. Tas, having informed the respondent that she was proceeding on an official trip along with other staff members, including female staff. It is stated that when her personal visit to Goa with the said Mr. Tas was confronted, the petitioner apologized for the same. It is further alleged that the petitioner was in the habit of attending late-night parties, consuming alcohol, and returning home late at night, during which time the respondent took care of the minor child.

5.3 It is further alleged that, prior to the marriage, the petitioner was engaged to one Ravi and had an affair with one Jagdeep Singh. It is stated that, notwithstanding the respondent's care, love, affection, and attachment towards the minor child, the child was kept away from him and he was subjected to harassment. It is further stated that the respondent has expressed his willingness to rejoin the petitioner and the minor child and to continue the matrimonial relationship.

6. The petitioner filed a rejoinder to the statement of objections, contending that the allegations made therein are defamatory.

7. The Trial Court framed the following points for consideration;

- "1. Whether the petitioner is entitled for decree of divorce by dissolving the marriage which was solemnized between the petitioner and the respondent on 15.03.2007 before Mr. J.J.V. Fernandes, Christian Marriage Registrar on the ground cruelty?*
- 2. Whether the petitioner is entitled for permanent alimony of Rs.50,00,000/- for the maintenance of herself and her child as prayed?*
- 3. Whether the respondent is entitled for the restitution of conjugal rights by way of counter claim?*
- 4. What Order?"*

7.1 The above points were answered as under;

- "Point No.1: In the Affirmative*
Point No.2: Partly in the Affirmative
Point No.3: In the Negative
Point No.4: As per final order"

8. Upon consideration of the oral and documentary evidence on record, the Court held that the petitioner had established that the respondent subjected her to cruelty by making false allegations of extra-marital relationships with

other men. It was further held that, as the petitioner was earning more than the respondent, she was not entitled to permanent alimony. However, the Court awarded a sum of ₹15.00 lakhs as permanent alimony towards the educational and other expenses of the minor child. The counter-claim filed by the respondent seeking a decree for restitution of conjugal rights was rejected.

Submissions.

9. Sri Hemanth Kumar, learned counsel appearing for the appellant, submits that the award of alimony in favour of the child is impermissible in law. It is contended that, under Section 37 of the Divorce Act, alimony can be awarded only to the petitioner-wife and not to the child. Learned counsel further submits that the allegations of cruelty pertain to the period when the parties were residing in Dubai and that they never resided together in India. It is also contended that the petitioner-wife is an alcoholic, desirous of leading a lavish lifestyle, and that when such expenses were not met by the respondent-husband, false allegations of cruelty were levelled against him.

9.1 Learned counsel further submits that the petitioner's brother was an alcohol addict and that, when he created a nuisance, he accidentally fell onto the glass dining table while being consoled, thereby sustaining injuries, during which incident the petitioner also suffered injuries. It is contended that the respondent had no role in the injuries sustained by the petitioner or her brother. It is further submitted that, owing to alcohol addiction, the petitioner's brother passed away a few years later due to related ailments. Learned counsel submits that the petitioner and the respondent were leading a happy matrimonial life, had travelled to foreign countries along with the petitioner's parents, and that their relationship was cordial. It is contended that the relationship deteriorated on account of the petitioner's alleged alcohol addiction and her desire to lead a lavish lifestyle involving substantial expenditure.

9.2 It is submitted that, under the laws of Dubai, a license is required to possess alcohol at home, and mere possession of such a license does not indicate an addiction to alcohol. It is contended that the alcohol stored at home was primarily for the petitioner's consumption. However, learned counsel fairly submits that the respondent also consumed

alcohol along with the petitioner. It is further submitted that an e-mail containing false accusations was sent to create a purported cause of action for filing the petition and, in effect, to fabricate evidence. Learned counsel submits that, subsequent to the sending of the e-mail, the petitioner and the respondent spent time together, pardoning the earlier incidents. The photographs of foreign trips produced on record are stated to indicate a cordial relationship and a happy matrimonial life of the parties. It is further submitted that, without any just cause, the respondent was forcibly evicted from the matrimonial home.

9.3 Learned counsel submits that, although it is alleged that the respondent had raised substantial loans and failed to repay the same, the petitioner's apprehension of harassment by creditors is unfounded, as the existence of such loans has not been proved. Details regarding the default or the creditors have not been disclosed. It is further submitted that the petitioner maintained extra-marital relationships with male persons and, on one occasion, travelled to Goa under the pretext of an official trip with one such person. Learned counsel contends that, despite these incidents, the respondent-husband remained willing to continue the marital relationship

with the petitioner, which has been unreasonably denied. On the basis of these submissions, learned counsel prays that the impugned order may be set aside.

10. Sri Cyril Prasad Pais, learned counsel appearing for the respondent, submits that the petitioner-wife suffered injuries on account of the wrongful acts of the respondent-husband while under the influence of alcohol. It is submitted that the injuries sustained by the petitioner are supported by medical certificates and other documentary evidence. Learned counsel further submits that, in the hope that the respondent would change his conduct; no police complaint was lodged at the relevant time. It is stated that the expenses of the foreign tours to Malaysia and Nepal were borne entirely by the petitioner-wife. The respondent, it is submitted, failed to bear any medical expenses relating to the petitioner's pregnancy and delivery and did not take proper care of the petitioner or the minor child.

10.1 It is submitted that the respondent has made false allegations regarding the petitioner's consumption of alcohol and smoking. Learned counsel contends that the respondent's unfounded accusations of extra-marital relationships with

multiple persons amount to mental cruelty towards the petitioner. It is further submitted that the amount of permanent alimony of ₹15.00 lakhs awarded in favour of the minor child is insufficient.

10.2 Learned counsel submits that the Family Court ought to have awarded permanent alimony to the petitioner as well. It is contended that the fact that the petitioner is earning does not, by itself, disentitle her from receiving permanent alimony. Learned counsel further submits that the finding of the Family Court that the petitioner earns more than the respondent-husband is without any basis. On these contentions, learned counsel prays for dismissal of the respondent-husband's appeal, enhancement of the alimony/maintenance awarded to the minor child, and an award of permanent alimony to the petitioner-wife.

11. Considered the submissions of learned counsel for the parties and perused the record.

Analysis:

12. The petitioner contended that the respondent pushed her brother onto a glass dining table, as a result of which the glass top broke and the shards pierced his left leg,

causing profuse bleeding. It is further alleged that the respondent subsequently threw the broken glass pieces at the petitioner, resulting in injuries and bleeding. In support of her contentions, the petitioner produced Ex.P.3 – Medical Report and Ex.P.4 – Receipt. Additionally, photographs marked as Ex.P.5 were also produced on record.

12.1 The evidence of PW.1 reiterates the averments made in the plaint. The respondent, however, stated that the petitioner's brother was an alcoholic and, during an altercation, when the respondent attempted to console him, he accidentally fell onto the glass top of the dining table. As a result of the impact, the glass table broke, and the shattered pieces caused injuries to both the petitioner and her brother. It is noted that the petitioner did not lodge any police complaint regarding the incident and has not produced any medical certificates, except those marked as Ex.P.3 and Ex.P.4.

12.2 The incident is alleged to have occurred on 01.02.2014. Dr. Abraham Mathew was consulted the following day for treatment of the injuries, which were reported as resulting from domestic violence. Ex.P.3 – Medical Report details the treatment provided to the petitioner and her brother

and advises removal of stitches after ten days. Ex.P.4 – Receipt, issued by Dr. Abraham Mathew, records consultation, cleaning, and dressing of the injuries over a period of ten days.

12.3 As admitted by PW.1, Dr. Abraham Mathew was consulted on only two occasions. It is further stated that the Mathew Medical Centre, where Dr. Abraham Mathew practices, is situated approximately 40 kilometres from the location where the injuries were sustained. PW.1 has also admitted that Dr. Abraham Mathew is a friend of her father. While Exs.P.3 and P.4 may cast a shadow of doubt, they nonetheless corroborate the statements of both parties to the extent of confirming that injuries were suffered, as neither party has disputed the incident of the glass top of the dining table breaking or the injuries sustained as a result of the impact.

12.4 The evidence on record, including the photographs and medical certificates, does not establish that the respondent caused injuries to the petitioner or her brother. The Family Court erred in holding that Ex.P.3 substantiated physical abuse by the respondent. The Court failed to appreciate that the evidence relating to the injuries does not, in any manner, prove that such injuries were inflicted by the respondent. Apart from

the oral testimony of PW.1, there is no other evidence to support the claim.

13. It is further contended that the respondent is an alcohol addict and, for the purpose of consuming alcohol, has obtained an alcohol license issued by the Dubai Government. It is common ground between the parties that an alcohol license is required to store liquor at home. It is also undisputed that the petitioner consumes alcohol. Ex.P.29, being a copy of the alcohol license, does not indicate the quantity of alcohol purchased by the respondent. There is no evidence on record as to the amount of alcohol purchased or consumed by him. Mere possession of an alcohol license cannot lead to a finding that the respondent is an alcoholic or that he expends all his earnings on alcohol. It is established that both parties consume alcohol, albeit possibly on different occasions and in varying quantities.

13.1 As regards the photographs depicting the respondent holding a hookah, the same, by itself, does not establish that he is an alcoholic. Similar photographs showing the petitioner holding a hookah are also available on record (Ex.P.19). These photographs cannot be relied upon to draw

any definitive conclusion against either party. It is difficult to hold that mere consumption of alcohol would constitute cruelty towards the petitioner. Accordingly, the finding of the Family Court in this regard is unsustainable.

14. The respondent alleged that the petitioner maintained extra-marital relationships with several persons. It is further contended that the petitioner travelled to Goa with Mr. Tas, who was said to be her colleague, under the pretext of an official business trip; however, it is alleged that the trip involved an extra-marital relationship.

14.1 The petitioner has denied the said allegations by filing a counter-affidavit to the statement of objections. Although the petitioner was cross-examined on this aspect, no substantive or material evidence was elicited. The respondent has reiterated these allegations in his affidavit examination-in-chief. However, apart from the oral assertions and bald allegations contained in the affidavit, no supporting evidence has been placed on record.

14.2 The respondent claims to have derived knowledge of the petitioner's alleged relationships from e-mails and Facebook. If such information existed, there was nothing to

prevent the respondent from producing the same in support of his case. Given the gravity of the allegations levelled against the petitioner, failure to establish the same would amount to character assassination. Such unsubstantiated allegations warrant strict scrutiny and a cautious approach by the Court. The evidence on record does not, in any manner, provide the slightest proof of the allegations.

14.3 The Hon'ble Supreme Court in **Vijaykumar Ramchandra Bhate -vs- Neela Vijaykumar Bhate**,² at paragraph 7, has held as under;

"7. The question that requires to be answered first is as to whether the averments, accusations and character assassination of the wife by the appellant husband in the written statement constitutes mental cruelty for sustaining the claim for divorce under Section 13(1)(i-a) of the Act. The position of law in this regard has come to be well settled and declared that levelling disgusting accusations of unchastity and indecent familiarity with a person outside wedlock and allegations of extramarital relationship is a grave assault on the character, honour, reputation, status as well as the health of the wife. Such aspersions of perfidiousness attributed to the wife, viewed in the context of an educated Indian wife and judged by Indian conditions and standards would amount to worst form of insult and cruelty, sufficient by itself to substantiate cruelty in law, warranting the claim of the wife being allowed. That such allegations made in

² (2003) 6 SCC 334

the written statement or suggested in the course of examination and by way of cross-examination satisfy the requirement of law has also come to be firmly laid down by this Court. On going through the relevant portions of such allegations, we find that no exception could be taken to the findings recorded by the Family Court as well as the High Court. We find that they are of such quality, magnitude and consequence as to cause mental pain, agony and suffering amounting to the reformulated concept of cruelty in matrimonial law causing profound and lasting disruption and driving the wife to feel deeply hurt and reasonably apprehend that it would be dangerous for her to live with a husband who was taunting her like that and rendered the maintenance of matrimonial home impossible."

14.4 Having regard to the gravity of the offences alleged, this Court is inclined to hold that the allegations contained in the written statement and reiterated in evidence are likely to cause mental pain, anguish, and suffering, amounting to a modern conception of cruelty and emotional disruption, thereby deeply affecting the petitioner. In the absence of any evidence to substantiate such allegations, it must be inferred that they were made with the intent to humiliate the petitioner, wound her feelings, and cause her suffering. Such conduct, therefore, constitutes cruelty. The petitioner has successfully established that she was subjected to cruelty by the respondent.

14.5 The finding of the Family Court on this ground is based on the settled position of law as referred to therein and

is supported by the evidence on record. No contrary evidence has been placed before this Court to warrant a different conclusion.

15. The next finding of the Family Court, that the entire marriage expenses were borne by the petitioner and that the respondent made no contribution, is of little consequence in the present case. It is not the case of the petitioner that she was compelled to spend her money on marriage expenses, and there is no averment or evidence on record to that effect. The exhibits relied upon to show the loans raised and payments made for marriage expenses merely indicate the expenses incurred for the marriage and cannot be construed as a demand made by the respondent that would constitute cruelty.

16. The further finding that the petitioner contributed towards the purchase of an apartment in the joint names of the parties is not disputed. Both the petitioner and the respondent were employed, and if they jointly invested their earnings in the purchase of the apartment, it can, at most, be regarded as a mutual investment. In the absence of any contrary pleadings or evidence, such contribution cannot be construed as constituting cruelty.

17. The petitioner has alleged that she bore the entire expenses of her pregnancy. The respondent, however, contends that such expenses were reimbursed by the petitioner's employer and that she did not personally incur any costs. The evidence on record merely demonstrates withdrawals from a bank account. This ground is of little consequence in the context of the present case.

18. The petitioner has also sought enhancement of the permanent alimony awarded to the minor child from ₹15.00 lakhs to ₹30.00 lakhs, and an award of ₹30.00 lakhs as permanent alimony in her favour.

18.1 The Family Court, while awarding maintenance of ₹15.00 lakhs, took into consideration the income of both parties and the educational expenses of the minor child. The maintenance so awarded may be reviewed at a later stage in the event of a change in circumstances. To consider any enhancement of maintenance for the child or an award of permanent alimony to the petitioner, it is necessary for both parties to file their respective lists of assets and liabilities. In the absence of such details, this Court finds it difficult to assess

or reassess the quantum of maintenance or permanent alimony for the child and the petitioner.

18.2 However, the petitioner would be entitled to seek permanent alimony in separate proceedings in accordance with law. In the absence of the requisite details, this Court is not inclined to examine the issue of enhancement of maintenance for the minor child or the award of permanent alimony to the petitioner at this stage. The same is, however, kept open for adjudication in appropriate legal proceedings.

Conclusion:

19. Except as noted in the observations above, the appeals fail and are, accordingly, dismissed.

Pending application, if any, stand disposed of.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

MV