



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 27<sup>TH</sup> DAY OF APRIL, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE JAYANT BANERJI**

**AND**

**THE HON'BLE MR. JUSTICE RAJESH RAI K**

**MISCELLANEOUS FIRST APPEAL NO. 1427 OF 2019 (FC)**

**BETWEEN:**

SMT. AMRUTHAVANI  
W/O SHRI HEMANTH N  
AGED ABOUT 33 YEARS,  
R/AT MAHADEVAPURA  
SHRI RANGAPATTANA TALUK,  
MANDYA DISTRICT-571 438  
KARNATAKA STATE.

...APPELLANT

(BY SRI. D. BASAVARAJAPPA, ADVOCATE)

**AND:**

SHRI HEMANTH N  
S/O LATE NANJUNDA SWAMY,  
AGED ABOUT 37 YEARS,  
ORIGINALLY RESIDENT OF NO.194/2  
YARAGANAHALLI, BANNUR MAIN ROAD,  
MYSURU CITY-570 001,  
KARNATAKA STATE.

NOTICE MAY SERVED TO  
HEMANTH N  
PERSONAL NO.00101839  
94 BN BSF, HQR.DG.B.S.F  
BLOCK NO.10 C.G.O. COMPLEX  
LODHI ROAD, NEW DELHI-110003

...RESPONDENT

Digitally signed by  
PANKAJA S  
Location: HIGH  
COURT OF  
KARNATAKA



(BY SRI. H.M. MANJESH, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 19(1) OF FAMILY COURT ACT, 1984, AGAINST THE JUDGMENT AND DECREE DATED 17.12.2018 PASSED ON MC.NO.472/2016 ON THE FILE OF THE II ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, MYSURU, ALLOWING THE PETITION FILED U/S 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 RAJESH RAI K

**ORAL JUDGMENT**

(PER: HON'BLE MR. JUSTICE RAJESH RAI K)

This appeal is filed by the wife against the judgment and decree dated 17.12.2018 passed in M.C.No.472/2016 by the Court of the II Addl. Prl. Judge, Family Court, Mysore, whereby the divorce petition filed by the respondent/husband under Section 13(1)(ia) of the Hindu Marriage Act, 1955 was allowed.

2. The briefly stated facts of the case are:

The marriage between the appellant-wife and the respondent-husband was solemnized on 31.05.2012. At the relevant time, the respondent was employed as a constable at



Danthiwada, Gujarat, and subsequent to the marriage, the appellant resided in the matrimonial home situated at Yaraganahalli, Mysore.

3. It is alleged that during her stay in the matrimonial home, the appellant conducted herself in a manner unbecoming of a spouse, inasmuch as she used abusive language towards the respondent and his family members and engaged in quarrels, particularly with the respondent's mother. It is further alleged that the appellant extended threats of initiating criminal proceedings against the respondent and his family, and that her own family members interfered in the domestic affairs of the respondent's household.

4. The material on record indicates that thereafter the appellant left the matrimonial home and returned to her parental house, and has not resumed cohabitation with the respondent. It is further contended that when the respondent took the appellant to his residential quarters at the BSF Camp in Jammu, she created disturbances in the neighbourhood and threatened to terminate her pregnancy.



5. Subsequently, upon being taken back to her parental home, the appellant is stated to have failed to inform the respondent about the birth of the child. It is alleged that when the respondent and his family members visited her parental house to see the child, they were subjected to humiliation and sent away without being permitted to see the child. It is also asserted that, to date, the respondent has not been informed even of the name of the child.

6. When the appellant failed to evince any intention to return to the matrimonial home, the respondent caused a legal notice to be issued seeking restitution of conjugal rights. It is further alleged that the appellant initiated multiple proceedings against the respondent under the provisions of domestic violence and other criminal laws, thereby subjecting him to litigation before various courts at Mysore.

7. It is the case of the respondent that, owing to the alleged acts of harassment by the appellant towards him and his family members, and in view of the failure of all efforts at conciliation, the parties have been living separately since the



year 2015. In the aforesaid circumstances, the respondent sought a decree of divorce.

8. The appellant, however, appeared in person and participated in proceedings, has not filed statement of objections.

9. The Family Court, upon due appreciation of the oral and documentary evidence adduced by the respondent-husband, framed the necessary points for consideration. In order to substantiate his case, the respondent-husband examined himself as PW1 and got marked 10 documents as Exs.P1 to P10.

10. On assessment, the Court allowed the petition filed by the husband seeking dissolution of marriage, vide impugned judgment dated 17.12.2018. Aggrieved by the said judgment and decree, the appellant-wife has preferred the present appeal.

11. Heard Sri. D. Basavarajappa, learned counsel for the appellant and learned counsel for the respondent remained absent.



12. The learned counsel appearing for the appellant-wife contends with vehemence that the impugned judgment is vitiated by perversity and illegality, as the Family Court has failed to properly appreciate the material available on record. It is urged that, although the appellant appeared in person before the Family Court on 20.09.2016, the respondent-husband assured her on that day that he would withdraw the divorce petition and resume cohabitation with her. Acting upon such representation, the appellant did not engage counsel to defend her case. It is further contended that the respondent continued to extend such assurances, and owing also to her financial constraints, the appellant was unable to effectively participate in the proceedings by engaging legal representation.

13. In consequence, the appellant neither filed her statement of objections nor cross-examined PW1 - respondent-husband, nor adduced any evidence in her defence. In this backdrop, it is contended that the Family Court proceeded to allow the petition solely on the basis of the unchallenged pleadings and evidence of the respondent-husband. The non-contestation of the proceedings by the appellant, it is



submitted, was thus occasioned by the false assurances of the respondent and her financial incapacity.

14. It is further argued that the Family Court, without a proper evaluation of the evidence, has mechanically accepted the case of the respondent and rendered a cryptic judgment dissolving the marriage. The appellant has denied the allegations of harassment and asserts that, in fact, the element of desertion is attributable to the respondent. She maintains that she has always been ready and willing to resume matrimonial life, but the respondent failed to take her back.

15. Additionally, it is contended that the respondent subjected the appellant to both physical and mental cruelty, including an alleged assault with a knife, pursuant to which a criminal case in Crime No.291/2014 was registered at Nazarbad Police Station for offences punishable under Sections 307, 323, 504 read with Section 34 of the IPC. According to the appellant, these circumstances clearly demonstrate the cruelty meted out to her by the respondent, which the Family Court has failed to consider, thereby resulting in a miscarriage of justice. On these grounds, it is prayed that the appeal be allowed, or in the



alternative, that the matter be remitted to the Family Court with an opportunity afforded to the appellant to contest the case on merits.

16. Having heard the learned counsel for the appellant and on perusal of the material on record, the sole point that would arise for our consideration in this appeal is -

*Whether the matter requires  
reconsideration at the hands of  
Family Court?*

17. As could be gathered from the records, it is evident that the marital relationship between the appellant and the respondent is not in dispute, and that subsequent to their marriage, both parties resided together at Yaraganahalli, Mysore. At the relevant point in time, the respondent was serving as a constable in the 94<sup>th</sup> Battalion at Danthiwada, Gujarat.

18. The material on record further discloses that within a short span after the marriage, the relationship between the parties became strained. It is also not in dispute that a child was born from the wedlock. The case of the respondent-



husband is that, thereafter, the appellant deserted the matrimonial home and failed to return for a period of about two and a half years.

19. It is further asserted in the evidence of PW1 - respondent-husband, that the appellant subjected him to harassment by lodging complaints before the police against him and his family members, and that she also behaved in a manner that caused insult to his family.

20. Upon careful perusal of the Trial Court records, it is evident that, though the appellant appeared before the Family Court, she did not contest the proceedings. The explanation offered by her is that the respondent-husband had assured her that he would withdraw the divorce petition and resume cohabitation; however, be that as it may, it is an admitted position that she neither filed her statement of objections nor cross-examined PW1, nor adduced any evidence in support of her case.

21. The evidence of PW1 - respondent-husband, discloses that he has produced, inter alia, the certified copy of



the judgment in S.C.No.250/2016, the orders in Crl.Misc.No.1736/2014, and the judgment in Crl. Appeal No.133/2016. A perusal of these documents indicates that, although the criminal cases initiated at the instance of the appellant resulted in acquittal of the accused, the appellant and her mother had supported the prosecution case therein. It is also borne out from the record that the appellant had instituted proceedings under the provisions of the Protection of Women from Domestic Violence Act in C.Misc.No.56/2014, wherein she was awarded maintenance of Rs.6,000/- per month.

22. However, on a careful scrutiny of the impugned judgment, it appears that the Family Court has not undertaken a proper examination or appreciation of the oral and documentary evidence placed on record by the respondent. The impugned judgment has been rendered in the absence of contest by the appellant, without a comprehensive evaluation of the material available, thereby raising serious concerns as to its sustainability in law.

23. In view of the foregoing, we are of the considered opinion that the impugned judgment passed by the Family



Court is in violation of the principles of natural justice, inasmuch as the appellant was not afforded sufficient opportunity to contest the proceedings. On this ground alone, the impugned judgment is liable to be set aside, and accordingly, the matter requires to be remanded to the Family Court for reconsideration of the same in accordance with law.

24. In view of the above discussion, we proceed to pass the following:

**ORDER**

- (a) The appeal is allowed.
- (b) The matter is remanded to the Family Court concerned for fresh consideration of the same.
- (c) The impugned judgment dated 17.12.2018 passed in M.C.No.472/2016 on the file of the II Addl. Prl. Family Court, Mysore, is set aside and the petition is restored.
- (c) The Family Court is directed to provide an opportunity to the appellant/respondent-wife to file her



statement of objection and to cross-examine PW.1 and permit her to lead evidence and produce documents if any. On such evidence, the respondent /petitioner-husband is at liberty to cross examine her.

- (d) The parties are directed to appear before the Family Court on **22.06.2026** without awaiting any notice.
- (e) Registry is directed to transmit the records forthwith to the concerned Family Court.

In view of disposal of the appeal, pending applications, if any, do not survive for consideration.

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

**SD/-**  
**(RAJESH RAI K)**  
**JUDGE**