



CNR: KAHC010159402026

NC: 2026:KHC:44669-DB
MFA No. 1678 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

MISCELLANEOUS FIRST APPEAL NO.1678/2026 (FC)

BETWEEN:

SRI. AJAY NAYAK
S/O NAMDEV NAYAK,
AGED ABOUT 42 YEARS,
RESIDING AT AJAY, DOOR NO. 5/97/1,
PADAVINANGADY, BONDEL POST,
MANGALURU - 575 008.

...APPELLANT

(BY SMT. SUSHEELA.S, SENIOR ADVOCATE FOR
SRI. TRIVIKRAM.S.S, ADVOCATE)

AND:

SMT. SHALINI NAYAK
W/O AJAY NAYAK
AGED ABOUT 38 YEARS,
RESIDING AT BANK ROAD,
UPPINANGADY - 574 241

...RESPONDENT

(BY SMT.UDITA RAMESH, ADVOCATE)

THIS MFA FILED U/S.19(1) OF FAMILY COURT ACT,
AGAINST THE JUDGMENT AND DECREE DT. 08.01.2026
PASSED IN MC NO.224/2022 ON THE FILE OF THE PRL JUDGE
FAMILY COURT, D.K. MANGALURU, ALLOWING THE PETITION
FILED U/S.13(1)(ia) OF THE HINDU MARRIAGE ACT, 1955.

Digitally
signed by
MALA K N
Location:
High Court
of Karnataka



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

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

The present appeal is directed against the judgment and decree dated 08.01.2026 passed by the Principal Judge, Family Court, D.K., Mangaluru, in M.C.No.224/2022 ('the Family Court' for brevity) whereby the petition filed by the petitioner-wife under Sections 13(1)(ia) of the Hindu Marriage Act, 1955 ('the Act' for short), came to be allowed and the marriage solemnized between the petitioner and the respondent on 20.02.2011 at C.V.Nayak Hall, Mangaluru City, was dissolved by a decree of divorce.

2. For the sake of convenience, the parties shall be referred to as they were arrayed before the Family Court.



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3. The petitioner-wife filed M.C. No.224/2022 under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, seeking dissolution of her marriage with the respondent on the ground of cruelty. The marriage between the parties was solemnised on 20.02.2011 at C.V. Nayak Hall, Mangaluru City and was subsequently registered on 02.04.2011. After the marriage, the parties initially resided together at Bengaluru and thereafter jointly purchased an apartment at Singasandra. A male child was born out of the wedlock on 24.07.2017. The petitioner alleged that, during the matrimonial life, she was subjected to repeated physical, mental and financial cruelty by the respondent and that, despite her efforts to preserve the marriage, the situation progressively deteriorated.

4. The petitioner specifically relied upon several incidents of assault, abusive behaviour and humiliation, culminating in an incident dated 29.06.2021, when she



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alleged that the respondent assaulted her in the presence of his parents and the minor child. According to her, she was thereafter compelled to leave the matrimonial house on 01.07.2021 and take shelter at her parental home. She contended that it had become impossible for her to continue the matrimonial relationship and that her attempts at reconciliation had failed. Apart from divorce, she sought permanent alimony of Rs.1,00,00,000/- maintenance for the minor child, recovery of Rs.40 lakh allegedly contributed towards the Bengaluru property and return of her gold, silver articles, personal belongings and documents.

5. The respondent admitted the factum of marriage and the birth of the minor child, but denied the allegations of physical, mental and financial cruelty. His case was that he had discharged his responsibilities towards the petitioner and the child and had provided for their welfare. He contended that the Bengaluru apartment



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was jointly purchased out of his hard-earned money and that he had also transferred about Rs.37 lakhs to the petitioner's account for the benefit of their son. He denied having subjected the petitioner to any physical or mental harassment and maintained that the allegations made against him were unfounded.

6. The respondent further contended that the petitioner had voluntarily left the matrimonial house in July 2021 without any sufficient or reasonable cause. According to him, there were differences between the petitioner and his parents and the petitioner was insisting upon a separate residence, which led to disputes between the parties. He, therefore, alleged that it was the petitioner who had withdrawn from his society without reasonable excuse and sought restitution of conjugal rights by way of counterclaim. He maintained that he was willing to resume matrimonial life and that the marriage could still be preserved.



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7. The petitioner entered the witness box and gave evidence in support of the allegations made in the petition. She deposed regarding the incidents of physical and mental cruelty, the circumstances in which she was compelled to leave the matrimonial home and the subsequent conduct of the respondent. Her evidence was supported by several documentary exhibits, including WhatsApp conversations exchanged between the parties, the audio recording relied upon as Ex.P-26 and its English translation at Ex.P-26(a), besides documents relating to her jewellery, personal belongings and financial claims.

8. The petitioner also relied upon the forensic examination of the audio recording. The recording was sent to the Forensic Science Laboratory and the Scientific Officer was examined as CW-1. The FSL opinion indicated similarity between the voice in the disputed recording and the sample voice of the respondent. The petitioner also relied upon the WhatsApp conversations in which the



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respondent had apologised to her, expressed regret for his conduct and indicated his willingness to undergo treatment and counselling. The Court considered this documentary and expert evidence along with the petitioner's oral testimony while assessing the allegations of cruelty.

9. The respondent entered the witness box and denied the allegations made against him. He sought to explain the matrimonial disputes from his perspective and maintained that the petitioner had voluntarily left the matrimonial home. He relied upon documents relating to the Bengaluru apartment, the housing loan, his financial position and the payments made by him towards the welfare of the petitioner and the minor child. He also disputed the authenticity and evidentiary value of the audio recording and questioned the correctness of the forensic opinion relied upon by the petitioner.

10. The respondent further relied upon his assets and liabilities statement and other financial documents to



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oppose the claim for permanent alimony and maintenance. He contended that the petitioner was herself employed and financially independent. With regard to the jewellery and other articles, his case was that the petitioner had taken the valuables with her when she left the matrimonial home. However, during cross-examination, he admitted that he had not actually seen the petitioner taking all the valuables claimed by her. The Court therefore found that his assertion in this regard was not established by satisfactory evidence.

11. On the basis of the pleadings and the rival contentions, the Family Court framed six principal issues for consideration.

"1. Whether the petitioner had proved that, after solemnisation of the marriage, the respondent had treated her with cruelty?

2. Whether the respondent proved that the petitioner without reasonable excuse in July 2021 has withdrawn from his society and started residing separately in her parental house?



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3. Whether the petitioner is entitle for permanent alimony and maintenance for her minor child?

4. Whether the petitioner is entitle for return of gold ornaments, silver articles, personal belongings and documents remain in the matrimonial House?

5. Whether the petitioner is entitle for decree of divorce?

6. Whether the respondent is entitle for the decree of restitution of conjugal rights?

7. What order?"

12. On an overall appreciation of the oral and documentary evidence, the learned Family Court found that the petitioner had established that she was subjected to physical, mental and financial cruelty by the respondent. The Family Court placed reliance not only upon her evidence regarding the incidents in the matrimonial home, but also upon the WhatsApp conversations exchanged between the parties and the audio recording produced in evidence. The respondent's messages containing apologies, his acknowledgment of the



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difficulties faced by him and his willingness to undergo treatment and counselling were found to lend support to the petitioner's version. The Court also accepted the FSL evidence regarding the voice recording and rejected the objections raised by the respondent regarding its admissibility. Applying the standard of preponderance of probabilities applicable to matrimonial proceedings, the Court held that the cumulative effect, intensity and gravity of the conduct complained of were such that the petitioner could not reasonably be expected to continue the matrimonial relationship with the respondent.

13. The Court also rejected the respondent's contention that the petitioner had withdrawn from his society without reasonable excuse, observing that the circumstances in which she left the matrimonial home furnished sufficient justification for her to reside separately. The Court further found that the respondent had failed to establish that the petitioner had taken away



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all her gold and other valuables when she left the matrimonial home and therefore, directed their return. Having regard to the evidence as a whole, the Court concluded that the petitioner had proved the ground of cruelty under Section 13(1)(ia) of the Act and was entitled to dissolution of the marriage. Consequently, the petition was allowed and the respondent's counterclaim for restitution of conjugal rights was dismissed.

14. The point that arises for consideration in the present appeal is:

"Whether the judgment and decree dated 8th January 2026 passed by the learned Principal Judge, Family Court, D.K. Mangaluru M.C. No.224/2022, in allowing the petition filed by the petitioner under Section 13(1)(i-a) of the Hindu Marriage Act, suffers from any illegality or infirmity warranting interference by this Court?"

15. We have heard Smt.S.Susheela, learned Senior Counsel appearing on behalf of the petitioner as well as Smt.Udita Ramesh, learned counsel appearing for the



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respondent and have carefully perused the records of the case.

16. Having regard to the rival submissions and upon consideration of the material on record, we proceed to pass the following order:

17. On a careful consideration of the evidence of both parties, it is seen that the petitioner, in her evidence as PW-1, has spoken in detail about the conduct of the respondent and the manner in which she was treated during the matrimonial relationship. Her evidence regarding the incidents of physical and mental cruelty is supported by the contemporaneous WhatsApp conversations exchanged between the parties and the audio recording produced in evidence. The respondent, on the other hand, has denied the allegations and has sought to contend that the petitioner had left the matrimonial home without sufficient cause. However, the material brought on record, particularly the communications



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between the parties, the respondent's own expressions of regret and willingness to undergo treatment and the other circumstances surrounding the separation, lend substantial support to the version of the petitioner. The Family Court has considered the evidence in its entirety and has rightly appreciated the same on the touchstone of preponderance of probabilities. In our considered view, the evidence of the petitioner inspires confidence and sufficiently establishes that she was subjected to physical, mental and financial cruelty. The finding of the learned Family Court that the conduct of the respondent was of such gravity that the petitioner could not reasonably be expected to continue the matrimonial relationship, therefore, does not call for interference.

18. The learned Family Court has, in our view, rightly allowed the petition under Section 13(1)(ia) of the Hindu Marriage Act and dissolved the marriage between the parties. The Court has also rightly rejected the



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counterclaim filed by the respondent seeking restitution of conjugal rights, having found that the respondent failed to establish that the petitioner had withdrawn from his society without reasonable excuse. The evidence on record does not warrant interference with either of these findings.

19. Insofar as the claim for permanent alimony is concerned, the material on record discloses that the petitioner is employed and has an independent source of income. She had produced her salary certificate and other financial records and the Family Court, after considering her income, assets and financial position, found that she was capable of maintaining herself. In such circumstances, the decision of the learned Family Court in declining to grant permanent alimony to the petitioner is also justified. The findings recorded by the learned Family Court, therefore, being based upon a proper appreciation of the evidence on record, do not suffer from any perversity or infirmity warranting interference by this Court.



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20. Insofar as maintenance of the child is concerned, we have considered the rival submissions and the material placed on record. It is not in dispute that the minor child, Aditya, was born out of the wedlock and that, after the petitioner left the matrimonial home on 31.07.2021, the child has been in her care and custody. The responsibility of maintaining the child is, therefore, primarily a joint responsibility of both parents. At the same time, while determining the appropriate amount of maintenance, the Court cannot lose sight of the financial position and obligations of both parties. The object of awarding maintenance is to ensure that the child is adequately provided for and is able to live with reasonable comfort consistent with the status of the family and not to impose an unreasonable financial burden upon either parent.

21. In the present case, the evidence discloses that the petitioner is herself employed and was earning



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Rs.1,42,873/- per month. It is also brought on record that she has financial assets, including a fixed deposit of about Rs.45 lakhs. The respondent, on the other hand, is required to meet his own living expenses and has financial commitments including the monthly housing-loan EMI of Rs.26,064/, besides his responsibility towards his parents. These circumstances, in our view, have to be kept in mind while determining the appropriate amount payable towards the maintenance of the minor child. The learned Family Court was justified in holding that the child is entitled to maintenance from the respondent and in directing periodical enhancement having regard to inflation and the increasing educational needs of the child. However, having regard to the respective financial circumstances of the parties, we are of the view that the quantum fixed by the Family Court calls for modification.

22. The maintenance awarded to the child must be sufficient to meet his reasonable needs, particularly his



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food, clothing, medical and educational expenses, while at the same time being commensurate with the actual financial capacity of the respondent. Keeping all these factors in view, we consider Rs.20,000/- per month to be a just and reasonable amount towards the maintenance of the minor child from the date of the petition till the date of decree. Having regard to the fact that the child's expenses are likely to increase as he grows older, particularly towards education and other necessities, the amount is enhanced to Rs.25,000/- per month from the date of decree, with a further enhancement of Rs.5,000/- every two years until the child attains majority and becomes economically independent.

23. The respondent has raised a grievance that he has been deprived of access to the minor child and that, for several years, he has not had a meaningful opportunity to meet the child. It is his case that whenever he sought to exercise visitation rights, the petitioner avoided or



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postponed the same on one or the other ground. He has further contended that, despite orders passed in the earlier proceedings regarding visitation, the petitioner had not fully complied with the same. In these circumstances, the respondent has filed an application seeking implementation of a shared parenting plan in respect of the minor child, Master Aditya, relying upon the principle of shared parenting and seeking appropriate parenting time and visitation rights, as well as an opportunity to participate in matters relating to the child's education, health and overall welfare. The respondent has stated that he desires to have a meaningful relationship with his son and to discharge his responsibilities as a father by providing him with love, affection and care and by participating in his upbringing.

24. Having regard to the rival contentions and the fact that there have been several proceedings between the parties concerning visitation rights, we are of the view that



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it would be in the best interest of the child to put an end to the recurring dispute and prescribe a clear and workable arrangement for visitation. The custody of the minor child shall continue to remain with the mother, namely, the petitioner. At the same time, the respondent, being the father of the child, is entitled to have meaningful contact with his son. Accordingly, the petitioner shall facilitate **physical visitation by the respondent every weekend, for a period of three hours on Saturday and three hours on Sunday evening.** The petitioner shall not evade, obstruct or otherwise prevent the respondent from exercising the visitation rights so granted. The respondent shall exercise such visitation right in a manner conducive to the welfare and comfort of the child and shall extend due love, affection and care towards him. In addition to physical visitation, the respondent shall also be permitted to have **video-call access to the child,** and the petitioner shall not unnecessarily obstruct or object to such communication. The petitioner shall also be



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at liberty to accompany the child during the physical visitation, if she considers it necessary. This arrangement is intended to ensure that the child retains a meaningful relationship with both parents and that the respondent is able to participate in the child's upbringing, education, health and welfare.

25. We are also of the view that the direction issued by the learned Family Court regarding return of the petitioner's gold ornaments, silver articles and personal belongings does not call for interference. The respondent has not satisfactorily established that the said articles were taken away by the petitioner when she left the matrimonial home. The direction to return the articles is, therefore, justified. Accordingly, while maintaining the entitlement of the minor child to maintenance and the direction regarding return of the petitioner's articles, the quantum of maintenance is modified as aforesaid.

26. The appeal is, accordingly, ***allowed in part.***



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The judgment and decree of the learned Family Court stands modified to the extent as observed hereinabove.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM
List No.: 1 Sl No.: 24