



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD 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. 7439 OF 2018 (FC)

BETWEEN:

SANTHOSH K
S/O SANGAPPA,
AGED ABOUT 38 YEARS
R/O CHIKKAJOGIHALLI VILLAGE,
SHIKARIPUR TALUK-577 427,
SHIVAMOGGA DISTRICT.

...APPELLANT

(BY SRI. S.V PRAKASH, ADVOCATE)

AND:

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

KAVITHA
W/O SANTOSHA K,
AGED ABOUT 35 YEARS
R/O ISSUR VILLAGE,
SHIKARIPURA TALUK-577427,
SHIVAMOGGA DISTRICT.

...RESPONDENT

(BY SRI. R.B. SADASHIVAPPA, ADVOCATE)

THIS MFA IS FILED U/S 19(1) OF FAMILY COURTS ACT
AGAINST THE JUDGMENT AND DECREE DATED:30.06.2018,



PASSED IN MC NO.76/2016 ON THE FILE OF THE PRL. JUDGE,
FAMILY COURT, SHIVAMOGGA, DISMISSING THE PETITION
FILED U/S 13(1)(ia) & (ib) 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 husband against the judgment and decree dated 30.06.2018 passed in M.C.No.76/2016 by the Court of the Family Court, Shivamogga, whereby the petition filed by the appellant/husband under Section 13(1)(ia) and (ib) of the Hindu Marriage Act, 1955 (for brevity, "H.M. Act") was dismissed with costs.

2. The briefly stated facts of the case are:

The marriage between the appellant and the respondent was solemnized on 22.03.2007 at Balasubramanya Temple, Guddekal, Shivamogga, and duly registered before the Sub-



Registrar, Shivamogga. However, it is the specific contention of the appellant that the said marriage was not performed in accordance with the Hindu rites and customs prevailing in their community. It is further alleged that the respondent-wife, along with her family members, forcibly took the appellant without his consent and performed the marriage, followed by its compulsory registration.

3. The appellant has also asserted that, from the date of the alleged marriage, the parties never cohabited as husband and wife. It is brought on record that the appellant, who was employed as a lecturer in a private college, was repeatedly subjected to quarrels initiated by the respondent at his workplace in front of the college authorities, resulting in his dismissal by the college authorities. The pattern is stated to have continued even when the appellant secured employment at different institutions, where similar conduct by the respondent allegedly led to his termination from successive positions. Consequently, the appellant claims to have been rendered unemployed and is presently residing with his family in his native village. As such, he had earlier instituted



proceedings under Section 12 of the Hindu Marriage Act before the Senior Civil Judge, Soraba, in M.C.No.5/2008, which came to be dismissed. Additionally, the respondent initiated proceedings under the Protection of Women from Domestic Violence Act and a criminal case under Section 498A of the Indian Penal Code against the appellant and his family members before the JMFC Court, Shikaripura. In view of the alleged mental and physical hardship suffered by the appellant and his family, a decree of divorce has been sought.

4. The respondent-wife contested the petition by filing her statement of objections, denying the allegations of cruelty and desertion. She contended that the parties were in a long-standing relationship prior to marriage and, due to opposition from their families, solemnized their marriage on 23.03.2007 at Balasubramanya Temple in the presence of villagers and friends. Subsequently, after reconciliation between the families, a reception was held at the appellant's residence.

5. It was further asserted that the parties lived happily for over a year and resided together in a rented house at Hirekerur, where the appellant was employed. Thereafter, the



appellant allegedly began harassing the respondent at the instigation of his family and demanded dowry. The respondent alleged that on 22.02.2008, she was forcibly driven out of the matrimonial home and later subjected to further abuse by her in-laws.

6. The respondent further contended that the appellant had initiated baseless proceedings against her with the intent to harass and estrange her from the marital relationship. She also submitted that maintenance and house rent have been awarded in her favour, and expressed her willingness to resume cohabitation with the appellant. On these grounds, she sought dismissal of the appeal.

7. The Family Court, upon appreciation of the oral and documentary evidence adduced by both parties, framed the necessary issues for consideration. In support of the case of the appellant-husband, he examined himself as PW1 and marked 11 documents as Exs.P1 to P11. The respondent-wife also got examined herself as RW1 and examined two witnesses as RWs.2 and 3.



8. On such assessment, the Family Court dismissed the petition filed by the husband seeking dissolution of marriage, vide impugned judgment dated 30.06.2018. Aggrieved by the said judgment and decree, the appellant-husband has preferred the present appeal.

9. Heard Sri. S.V Prakash, learned counsel for the appellant and Sri. R.B. Sadasivappa , learned counsel for the respondent.

10. The learned counsel appearing for the appellant-husband vehemently contends that the impugned judgment suffers from perversity and illegality, inasmuch as the Family Court has failed to properly appreciate the evidence available on record. It is further contended that the learned Family Judge was swayed by the fact that the appellant had earlier filed a petition before the Civil Judge seeking a declaration of nullity of marriage on the ground that it was performed without his consent. It is further contended that the parties never cohabited as husband and wife and that the marriage was not consummated.



11. It is further contended that the Family Court failed to take into consideration the alleged cruelty inflicted upon the appellant by the respondent through initiation of criminal proceedings under Section 498A of the IPC and the provisions of the Protection of Women from Domestic Violence Act, 2005. Placing reliance on the admission of the respondent - RW.1 in her cross-examination, it is submitted that the parties cohabited only for a period of one year, i.e., from 2007 to 2008, and that the respondent has been residing at her parental home thereafter. It is thus contended that the marital relationship between the parties has irretrievably broken down and become deadwood. On these grounds, the appellant prays for allowing the appeal.

12. *Per contra*, the learned counsel for the respondent, while supporting the impugned judgment, contended that the appellant has failed to establish the allegations of cruelty and desertion as pleaded in the divorce petition. It is contended that the marriage between the parties was a love marriage, solemnized on 22.03.2007 and registered on 23.03.2007, and



that the allegation of force is unfounded, particularly in light of the fact that the parties cohabited for over a year.

13. It is further contended that, after the appellant secured employment at Hirekerur, the parties resided together in a rented house, during which time the appellant allegedly began demanding dowry and ultimately drove the respondent out of the matrimonial home on 22.02.2008. Consequently, the respondent was constrained to initiate proceedings under Section 498A of the IPC and the Protection of Women from Domestic Violence Act. It is also pointed out that the said proceedings culminated in an order granting monthly maintenance to the respondent in Crl.Misc.No.138/2008 by the Civil Judge and JMFC, Shikaripura.

14. The learned counsel emphasized that the respondent neither subjected the appellant to cruelty nor deserted him, and that these aspects were rightly appreciated by the Family Court. On these grounds, dismissal of the appeal is sought.



15. 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 Family Court is justified in dismissing the petition filed by the appellant-husband seeking a decree of divorce?

16. As could be seen from the records, the marriage between the appellant and the respondent was solemnized on 22.03.2007 at Balasubramanya Swamy Temple, Guddekal, Shivamogga, and was registered before the Sub-Registrar, Shivamogga on 23.03.2007. Though the appellant contends that the marriage was a forced one, a perusal of Exs.P5 and P10 (invitation cards) and Exs.P3, P4 and P6 (receipts and other documents issued by the temple), along with the marriage registration certificate, indicates that the marriage was performed with the consent of both parties, without any threat or coercion.

17. The appellant has not produced any material evidence, including any complaint, to substantiate the



allegation of force. On the contrary, in his own evidence, he has admitted the registration of the marriage, which further establishes that the marriage was solemnized with consent.

18. As regards the contention of the appellant that the respondent subjected him to cruelty by lodging a false complaint, a careful perusal of the evidence of respondent - RW.1 indicates that it was suggested on behalf of the appellant that on 22.02.2008 he had driven the respondent out of the matrimonial home, after which she has been residing separately. This suggestion itself shows that the parties cohabited from 2007 till 2008.

19. Further, in his evidence (PW.1), the appellant has admitted that a criminal case was registered against him in the year 2008 for offences punishable under Sections 498A and 506 of the IPC. It is also on record that the respondent initiated proceedings under the Protection of Women from Domestic Violence Act, which was allowed, and she was awarded monthly maintenance of Rs.1,500/- along with Rs.1,000/- towards house rent.



20. It is equally important to note that prior to filing the present divorce petition, the appellant had instituted proceedings in M.C.No.5/2008 seeking annulment of marriage under Sections 12 and 13 of the Hindu Marriage Act. After a full-fledged trial, the said petition came to be dismissed by the learned Magistrate by judgment dated 18.03.2011. The said judgment was not challenged by the appellant. Instead, the appellant subsequently instituted the present petition seeking divorce.

21. On perusal of the evidence on record, it is categorically established that the respondent was always ready and willing to resume cohabitation with the appellant. It is, however, evident that the appellant had deliberately deserted her by driving her out of the matrimonial home. In such circumstances, both the grounds urged by the appellant i.e. cruelty and desertion, for seeking a decree of divorce stand unproved.

22. In view of the foregoing, on careful scrutiny of the entire evidence and documents on record afresh, we are satisfied that the Family Court was justified in dismissing the



appellant's petition for divorce. Accordingly, the point for consideration is answered in favour of the respondent, and as a result, the appeal is ***dismissed***.

SD/-
(JAYANT BANERJI)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE

PKS/K
List No.: 1 Sl No.: 5