

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST 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. 1433 OF 2018 (FC)

BETWEEN:

SURESH H
S/O HOMBALLAIAH
AGED ABOUT 39 YEARS
R/AT NO.350, A-5, 4TH MAIN ROAD,
DOMLUR 2ND STAGE
BANGALORE-560 071

...APPELLANT

(BY SRI. PRABHUGOUDA B TUMBIGI, ADVOCATE)

AND:

SMT. JYOTHI @ SIDDAGOWRAMMA
AGED ABOUT 38 YEARS,
D/O PUTTARAJU
W/O SURESH H
R/AT HOMBALIAHDODDI
KASABA HOBLI
RAMANAGARA TALUK-562 159

...RESPONDENT

(BY SRI. M.T.JAGAN MOHAN, ADVOCATE - ABSENT)

THIS MFA IS FILED U/S 19(1) OF FAMILY COURTS ACT,
AGAINST THE JUDGMENT AND DECREE DATED: 05.01.2018
PASSED IN M.C.NO.3773/2011 ON THE FILE OF THE IV
ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, BENGALURU,
DISMISSING THE PETITION FILED U/S 13(1)(ia) OF THE HINDU
MARRIAGE ACT.

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

THIS APPEAL HAVING BEEN RESERVED FOR JUDGMENT ON 02.04.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, **RAJESH RAI K, J.**, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

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

This appeal is preferred by the husband challenging the judgment and decree dated 05.01.2018 passed in M.C.No.3773/2011 by the Court of the IV Additional Principal Judge, Family Court, Bengaluru, whereby the petition filed by the appellant/husband under Section 13(1)(ia) of the Hindu Marriage Act, 1955 came to be dismissed, and the counterclaim filed by the respondent-wife under Section 23-A of the said Act also came to be dismissed.

2. The briefly stated facts of the case are:

The marriage between the appellant and the respondent was solemnized on 05.06.2008 at Ramanagara in accordance with Hindu rites and customs prevailing in their community. It is observed that shortly thereafter, in July 2008, disputes arose between the parties concerning the respondent's alleged phone calls to unknown persons, following which the respondent-wife

left the matrimonial home and returned to her parental residence.

3. The record further reflects that on 13.07.2009, the respondent-wife lodged a Non-Cognizable Report before Ramanagara Police Station alleging dowry harassment against the appellant and his family members; however, the said complaint was subsequently withdrawn. It is also brought on record that on 22.02.2010, the respondent's brother allegedly assaulted the appellant's mother by striking her with a brick, leading to the registration of a complaint in Crime No.61/2010 at Ulsoor Police Station.

4. It is noted that during counselling held on 25.05.2010 at the said Police Station, the respondent disclosed, for the first time, that she had given birth to a child who was then aged about one year old. The appellant would contend that he had no prior knowledge of the respondent's pregnancy or the birth of the child and that he saw the child for the first time during the said counselling session. Subsequently, pursuant to the counselling, the appellant arranged for separate accommodation near the respondent's parental home at Mengadwadi, where the parties cohabited for approximately

one and a half years. Thereafter, they shifted to Bengaluru in October 2011. However, on 24.10.2011, further disputes arose, culminating in the respondent lodging NCR No.602/2011 at Akkur Police Station.

5. In the aforesaid factual background, the appellant instituted proceedings in MC No.3773/2011 seeking dissolution of marriage on the ground of cruelty.

6. The respondent-wife contested the petition by filing her statement of objections, wherein she denied the allegations of cruelty and desertion as asserted by the appellant. She also preferred a counterclaim. In the said counterclaim, it is averred that, notwithstanding the fulfilment of the dowry demands allegedly made by the appellant, she was subjected to continuous harassment by the appellant and his family members, who allegedly demanded additional dowry and treated her as a domestic servant.

7. The respondent further asserts that the appellant habitually returned home late at night in an inebriated condition, during which he subjected her to physical assault, verbal abuse in filthy language, and threats of being driven out of the matrimonial home. It is her case that she conceived

towards the end of 2008 and, even during her pregnancy, was subjected to ill-treatment. She would contend that during the seventh month of her pregnancy, she was sent to her parental home, where she subsequently gave birth to a male child on 24.09.2009, who is mentally challenged.

8. It is further alleged that, owing to the condition of the child, the appellant and his parents compelled the respondent to leave the matrimonial home on 22.02.2010, which resulted in a dispute between the families and culminated in the appellant's parents lodging a complaint against the respondent's brother before the Ulsoor Police Station. The respondent would contend that pursuant to Police counselling, the appellant arranged separate accommodation at Mengadwadi and commuted to Bengaluru for work. However, the respondent alleges that the appellant continued to make baseless allegations regarding her character, visited the residence irregularly, and ultimately deserted her and the child by failing to provide for their basic necessities and medical care. This, according to her, necessitated intervention by the Ulsoor Police, following which she returned to Bengaluru and resumed cohabitation with the appellant along with the child.

9. The respondent would further contend that in October 2011, she was forcibly driven out of the matrimonial home upon her refusal to consent to a divorce. Consequently, she was constrained to reside at her parental home and, having no other recourse, lodged a complaint against the appellant and his parents before Akkur Police Station on 24.10.2011. Asserting that she remains ready and willing to resume cohabitation, the respondent has sought a decree for restitution of conjugal rights by way of counterclaim.

10. The Family Court, upon appreciation of the oral and documentary evidence adduced by both parties, framed the necessary issues for consideration. In support of his case, the appellant-husband examined himself as PW1 and marked 2 documents as Exs.P1 and P2. On the other hand the respondent-wife also got examined herself as RW1 and another witness on her behalf as RW2 and got marked 14 documents as Exs.R1 to R14.

11. On such assessment, the Family Court dismissed the petition filed by the husband and the counter claim filed by the wife for restitution of conjugal rights, by way of a judgment

dated 05.01.2018. Aggrieved by the said judgment and decree, the appellant-husband has preferred the present appeal.

12. Heard learned counsel Sri Prabhugouda B Tumbagi for the appellant-husband and learned counsel Sri. M.T.Jagan Mohan for the respondent-wife.

13. The learned counsel for the appellant-husband primarily would contend that the impugned judgment and decree passed by the Family Court are unsustainable in law and on facts. He would further contend that the respondent-wife subjected the appellant to mental cruelty by repeatedly approaching the police authorities and lodging false complaints, both by herself and through her family members. The learned counsel would also contend that the respondent used to humiliate the appellant in the presence of his friends and relatives by belittling his educational qualifications.

14. It is also urged that the respondent compelled the appellant to perform menial household chores such as sweeping and cleaning the bathroom and consistently showed disrespect towards his family members. According to the learned counsel, despite the appellant having made arrangements to reside

separately with the respondent, she continued to subject him to mental harassment.

15. The learned counsel would further contend that the marriage between the parties has irretrievably broken down and that there remains no possibility of reconciliation. It is also submitted that the appellant has secured the welfare of the child by availing benefits from the Government under the handicap quota. On these grounds, it is contended that the Family Court failed to properly appreciate the material on record, which has resulted in a miscarriage of justice. Accordingly, the learned counsel prays that the appeal be allowed.

16. *Per contra*, the learned counsel for the respondent-wife vehemently would contend that, from the very inception of the marriage, the appellant subjected the respondent to both physical and mental cruelty. It is submitted that the appellant was addicted to vices and, under the influence of alcohol, frequently assaulted the respondent while demanding additional dowry. In this regard, it is contended that the respondent had lodged a complaint, which came to be registered as an NCR.

17. It is further contended that a false complaint was subsequently foisted by the parents of the appellant against the respondent's brother, which was registered in Crime No.61/2010. Thus, according to the learned counsel, it is evident that the respondent has not lodged any false complaint against the appellant; rather, it is the appellant and his family members who have initiated false proceedings against the respondent and her family.

18. The learned counsel further submits that the respondent is always ready and willing to resume cohabitation with the appellant along with the child. However, the appellant has refused to take her back, allegedly on account of the child being mentally challenged. It is therefore contended that the act of desertion is attributable solely to the appellant. In the above circumstances, it is urged that the Family Court has rightly dismissed the petition for divorce filed by the appellant. Accordingly, the learned counsel prays for dismissal of the present appeal.

19. Having heard the learned counsel for both parties and upon perusal of the material on record, the sole point that arises for our consideration in this appeal is:

Whether the Family Court was justified in dismissing the petition filed by the appellant-husband seeking a decree of divorce?

20. As could be gathered from the records, the respondent has not challenged the dismissal of her counterclaim seeking restitution of conjugal rights. In that view of the matter, the point that arises for consideration in the present appeal is confined to the correctness of the dismissal of the divorce petition filed by the appellant-husband.

21. It is noted that the appellant sought dissolution of marriage solely on the ground of cruelty, alleging that, from the very inception of the marriage, the respondent-wife subjected him to cruelty by lodging false complaints against him before the Police authorities, humiliating and nagging him in the presence of friends and relatives with regard to his educational qualifications, and by showing disrespect towards his family members.

22. On a careful perusal of the evidence of PW.1, it is evident that he has, in his cross-examination, categorically admitted that he and the respondent lived happily for a period of two years after the marriage. He has further admitted that a

complaint was initially lodged against him by the respondent, and thereafter, his mother also lodged a complaint against the respondent. It is also admitted that, at the relevant point of time, the police advised the parties to set up a separate residence, pursuant to which they resided together there for a period of about three months. Thereafter, according to his own admission, the respondent left the matrimonial home in September 2008.

23. The appellant, examined as PW.1, has further made significant admissions to the effect that, "It is true to suggest I did not take the respondent to the hospital while she was pregnant," and "I am not aware that the respondent delivered a baby boy at Vani Vilas Hospital on 24.09.2009." He has also admitted that he did not incur any expenses in connection with the delivery. In the memorandum of the petition, he has stated that he saw the child for the first time only after one year at the Ulsoor Police Station. These admissions, as borne out from the record, assume relevance while appreciating the conduct of the appellant in the context of the allegations made by him.

24. The evidence adduced by the appellant clearly establishes that he failed to discharge the duties expected of a

husband towards the respondent. It is further observed that the respondent has not lodged repeated false complaints against the appellant as alleged; rather, it is the appellant and his family who lodged false complaints against the respondent and her relatives.

25. Moreover, the appellant failed to provide adequate care for his mentally challenged child, notwithstanding that the respondent and the child were dependent on government benefits available under the handicap quota. The appellant has also failed to substantiate his allegation that the respondent humiliated and nagged him in the presence of friends and relatives, as no sufficient evidence has been placed on record in support of this claim. Apart from the omnibus allegations contained in the petition and the appellant's own testimony, there is no corroborative material to demonstrate that the respondent inflicted mental cruelty on the appellant. In view of the above, the claim of cruelty as alleged by the appellant remains unproven.

26. Though the appellant contended that the respondent deserted him and that the marriage had irretrievably broken down, it is pertinent to note that the

petition was filed solely on the ground of cruelty and not on desertion. In her evidence, the respondent (DW.1) categorically stated that she was always ready and willing to resume cohabitation with the appellant along with the child, but the appellant refused to take her and the child back. Despite extensive cross-examination by the appellant's counsel, nothing material was elicited to discredit her testimony.

27. In these circumstances, on careful scrutiny of entire evidence and documents on record afresh, in our considered view, the Family Court has rightly appreciated the evidence on record and correctly rejected the divorce petition filed by the appellant-husband. No interference with the impugned judgment is warranted in so far as the dismissal of the appellant's petition is concerned. Accordingly, we answer the point raised above in the affirmative and as a result, the appeal is ***dismissed***.

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

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

PKS