



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH 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. 2737 OF 2019 (MC)

C/W

MISCELLANEOUS FIRST APPEAL NO. 2738 OF 2019

BETWEEN:

N.G ASHOK
AGED ABOUTN 40 YEARS,
S/O GANGEOWDA
R/O NARUGONDANAHALLI
BINDIGE NAVILE HOBLI
NAGAMANGALA TALUK
MANDYA DISTRICT

...APPELLANT
[COMMON]

(BY SRI. H.S SANTHOSH, ADVOCATE)

AND:

SMT. SHANTHA KUMARI
@ CHANNAMMA
AGED ABOUT 39 YEARS,
W/O N.G ASHOK
D/O S. DEVEGOWDA
R/O HONAGANAHALLI VILLAGE,
KASABA HOBLI, MANDYA TALUK
MANDYA DISTRICT

...RESPONDENT
[COMMON]

(BY SRI. PRAVEEN KUMAR RAIKOTE, ADVOCATE)

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:22446-DB
MFA No. 2737 of 2019
C/W MFA No. 2738 of 2019

THIS MFA NO.2737 OF 2019 IS FILED UNDER SECTION 28(1) OF HINDU MARRIAGE ACT, 1956, AGAINST THE JUDGMENT AND DECREE DATED 08.02.2019 PASSED IN M.C.NO. 97/2014 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND CJM, MANDYA, DISMISSING THE PETITION FILED UNDER SECTION 13(1)(i-a) OF THE HINDU MARRIAGE ACT, 1955 AND ALLOWING THE COUNTER CLAIM FILED BY RESPONDENT UNDER SECTION 9 OF HINDU MARRIAGE ACT.

THIS MFA NO.2738 OF 2019 IS FILED U/S 28(1) OF HINDU MARRIAGE ACT, 1956, AGAINST THE JUDGMENT AND DECREE DATED:08.02.2019 PASSED IN MC NO.97/2014 ON THE FILE OF THE PRL.SENIOR CIVIL JUDGE & CJM, MANDYA, DISMISSING THE PETITION FILED BY THE PETITIONER UNDER SECTION 13(1)(ia) OF HINDU MARRIAGE ACT, 1955.

THESE APPEALS, 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)

These appeals are by the husband against the judgment and decree dated 08.02.2019 passed in M.C.No.97/2014 by the Court of the Principal Senior Civil Judge and CJM, Mandya, whereby the petition filed by the appellant/husband under Section 13(1)(ia) the Hindu Marriage Act, 1955 was dismissed and the counter claim filed by the respondent/wife under Section 9 of the Hindu Marriage Act was allowed.



2. The briefly stated facts of the case are:

The marriage between the appellant-husband and the respondent-wife was solemnized on 12.12.2011 at Mandya. Following the marriage, the parties cohabited in the matrimonial home. The appellant was employed as a Government school teacher, while the respondent was serving as a lecturer at a Government Pre-University College.

3. It is contended by the appellant that, from the very inception of the marriage, the parties did not enjoy a harmonious marital relationship. The respondent is alleged to have, on several occasions, abused the appellant and subjected him to mental cruelty. It is further alleged that the respondent repeatedly threatened the appellant with the initiation of criminal proceedings for dowry harassment against him and his family members.

4. Despite intervention and advice from elders during panchayat proceedings, the respondent is stated to have remained unresponsive. The appellant further asserts that the respondent made unfounded allegations regarding his alleged illicit relationship with the wife of a senior teacher. It is also



alleged that, with intent to harass the appellant, the respondent attempted to commit suicide after leaving behind a note, and thereafter left the matrimonial home to reside with her parental family.

5. The appellant further contends that the respondent visited his workplace and spread defamatory rumours against him, thereby causing damage to his reputation. In view of the aforesaid circumstances, the appellant sought a decree of divorce.

6. The petition was resisted by the respondent-wife by filing a statement of objections, wherein she denied the allegations of cruelty leveled against her. In addition, the respondent preferred a counterclaim.

7. In the counterclaim, the respondent asserted that the parties had, in fact, led a happy marital life and described the appellant as a caring and responsible husband. She contended that, while she was working as a lecturer at Pavagada, she used to visit the appellant once a week, during which time he attended to her welfare. However, she alleged that the appellant's mother instigated him to harass her.



8. It was further stated that, upon her transfer to Kestur College near Maddur, the appellant used to visit her. The respondent maintained that she had not subjected the appellant to any form of cruelty, as alleged in the petition. On the contrary, she contended that it was the appellant who had intentionally deserted her, despite her continued willingness and readiness to resume cohabitation in the matrimonial home. In light of the above, the respondent prayed for dismissal of the petition filed by the appellant and for allowing her counterclaim.

9. 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 other witnesses on his behalf as PWs.2 to 4 and marked 13 documents as Exs.P1 to P13. The respondent-wife also got examined herself as RW1.

10. On such assessment, the Court dismissed the petition filed by the husband seeking dissolution of marriage, while allowing the counter claim instituted by the wife for



restitution of conjugal rights vide impugned judgment dated 08.02.2019. Aggrieved by the said judgment and decree, the appellant-husband has preferred the present appeal.

11. Heard Sri. H.S. Santosh, learned counsel for the appellant and Sri.Praveen Kumar Raikote, learned counsel for the respondent.

12. 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 submitted that, from the inception of the marriage, the respondent subjected the appellant to harassment on trivial grounds. The appellant, being educated up to M.Sc., B.Ed., and the respondent being an M.A. graduate employed as a lecturer in a Government Pre-University College at Kotaguda, it is alleged that the respondent displayed a lack of respect towards the appellant.

13. It is further contended that the respondent repeatedly threatened to initiate criminal proceedings for dowry harassment against the appellant and his family members and



subjected his parents to abusive and derogatory language, disregarding their age. The respondent is also alleged to have made unfounded accusations regarding the appellant's alleged illicit relationship with the wife of a senior teacher.

14. The learned counsel has further submitted that the Family Court has failed to duly consider the contents of the suicide notes marked as Ex.P4 and Ex.P7, which, according to the appellant, indicate that the respondent had threatened to commit suicide while leaving behind notes implicating the appellant. Such conduct, it is urged, constitutes mental cruelty within the meaning of Section 13(1)(ia) of the Act.

15. On the basis of the aforesaid submissions, it is contended that the appellant had established a case for dissolution of marriage before the Family Court; however, the petition was erroneously dismissed. Accordingly, it is contended that the impugned judgment warrants interference, and it is prayed that both the appeals be allowed by granting a decree of divorce and by rejecting the respondent's counterclaim for restitution of conjugal rights.



16. *Per contra*, the learned counsel appearing for the respondent-wife, by supporting the impugned judgment and decree, has contended that the allegations of mental cruelty made by the appellant are wholly unsubstantiated and devoid of truth. It is submitted that the appellant has failed to establish any such allegations by producing cogent evidence or reliable documentary material. According to the respondent, the parties had, in fact, led a harmonious marital life from the date of marriage. Though she was working as a lecturer at Pavagada, she used to visit the appellant's residence once in a week, and the appellant maintained cordial relations with her. It is, however, alleged that the appellant's mother interfered in the matrimonial affairs and instigated the appellant to harass the respondent on trivial grounds.

17. It is further contended that the appellant, in collusion with his family members, deliberately drove the respondent out of the matrimonial home, despite her willingness to continue cohabitation with her husband. The learned counsel has also challenged the authenticity of the documents marked as Ex.P4 and Ex.P7, contending that the



alleged suicide notes are fabricated and do not bear the signature of the respondent.

18. It is also submitted that PW.2 and PW.3 are interested and hearsay witnesses who have deposed at the instance of the appellant. In their cross-examination, they have admitted that they have no personal knowledge of the matrimonial affairs between the parties. In view of the respondent's consistent visit to the appellant's residence and the absence of credible evidence, it is contended that the allegation of cruelty remains unproven.

19. On the contrary, it is urged that the respondent has always been ready and willing to resume cohabitation, and therefore, the Family Court has rightly allowed her counterclaim for restitution of conjugal rights. Accordingly, it is prayed that both the appeals be dismissed.

20. Having heard the learned counsel for both the parties and on perusal of the material on record, the sole point that would arise for our consideration in these appeals is -



Whether the Family Court is justified in dismissing the petition filed by the appellant-husband seeking a decree of divorce and in allowing the counter claim filed by the respondent-wife for restitution of conjugal rights?

21. As could be gathered from records, it is evident that the marriage between the appellant and the respondent was solemnized on 12.12.2011. It is an admitted fact that the appellant was employed as a teacher in a Government school, while the respondent was serving as a lecturer at a Government Pre-University College at Koteguda, Pavagada Taluk. The appellant was residing at Mandya, and the respondent used to visit the matrimonial home periodically either once in a week, fortnight or month.

22. A careful appreciation of the evidence on record discloses that the aforesaid arrangement appears to have been a source of discord between the parties, leading to allegations and counter-allegations. Although the appellant has asserted that the respondent subjected him to mental cruelty by belittling his educational qualifications and profession, it is his



own admitted case that the respondent regularly visited the matrimonial home.

23. The respondent, on her part, has admitted that she maintained cordial relations with the appellant; however, she has attributed the matrimonial discord to the interference of the appellant's mother, who, according to her, instigated the appellant to harass her.

24. On a careful perusal of the cross-examination of PW.1, it is evident that he has admitted that the marriage between the appellant and the respondent was solemnized on 12.12.2011, and that the respondent resided with him for a period of about one and a half year thereafter. It is further admitted that, subsequent to her posting at Pavagada as a lecturer, the respondent used to visit the matrimonial home periodically, either once in a week, fortnight, or month. In such circumstances, it is apparent that the appellant instituted the petition for divorce after the respondent had been residing at Pavagada for about one and a half year.



25. It is also observed that the appellant has failed to adduce any cogent or tangible evidence with regard to specific instances of alleged mental cruelty, apart from making general and omnibus allegations. Although it has been contended that the respondent habitually threatened to commit suicide by leaving behind suicide notes, a perusal of Ex.P4 and Ex.P7 reveals that the said documents do not bear the signature of the respondent, nor have they been subjected to verification by a handwriting expert by comparison with her admitted handwriting. Be that as it may, as rightly observed by the Family Court, the contents of Ex.P7, even if taken at its face value, appear to reflect the emotional state of the respondent arising out of the prevailing family circumstances.

26. Further, a careful perusal of the cross-examination of PW.1 reveals that he has categorically admitted that, despite the respondent being ready and willing to rejoin the matrimonial home, he was not inclined to take her back. He has also admitted that a complaint was lodged by the respondent against him, pursuant to which an enquiry was conducted by the police. During the course of the said proceedings, the



appellant had agreed to reside separately with the respondent and their child; however, he failed to adhere to the said assurance.

27. On a careful appreciation of the evidence of PW.2 to PW.4, it emerges that they have deposed regarding the disputes between the appellant and the respondent and the convening of a panchayat, wherein the appellant is stated to have agreed to reside separately with the respondent and the child, but subsequently failed to honour the said assurance. They have also admitted that the respondent used to visit the matrimonial home periodically, either once in a week, fortnight, or month. In view of such admissions, it is evident that they do not possess direct or personal knowledge of the day-to-day matrimonial affairs between the parties. Consequently, their testimony assumes the character of interested and hearsay evidence.

28. Further, upon scrutiny of the evidence of the respondent, it is clear that she has consistently deposed that she is ready and willing to resume cohabitation with the



appellant. However, despite such willingness, the appellant has not permitted her to rejoin the matrimonial home.

29. 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 while allowing the respondent's counter claim for restitution of conjugal rights. Accordingly, the point for consideration is answered in favour of the respondent, and as a result, both appeals are ***dismissed.***

SD/-
(JAYANT BANERJI)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE