



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH 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. 7466 OF 2016 (FC)

BETWEEN:

S. LAKSHMI
D/O M. SUBRAMANI MUDALIYAR,
AGED ABOUT 37 YEARS,
R/AT NO.42, SALKYAMURTHY CROSS,
KAMMANAHALLI MAIN ROAD,
RAMASWAMYPALYA,
BENGALURU-560 032

...APPELLANT

(BY SRI. HEMANTH KUMAR .D, ADVOCATE)

AND:

S. AKSHAY
S/O SHANMUGAM MUDALIYAR,
AGED ABOUT 42 YEARS
R/AT NO.24/2, 2ND FLOOR,
JAI JAWAN NAGAR,
BANASWADI,
BENGALURU-560 033.

...RESPONDENT

(BY SRI. S. AKSHAY, PARTY -IN -PERSON)

THIS MFA IS FILED U/S 19(1) OF THE FAMILY COURTS
ACT, AGAINST THE JUDGMENT AND DECREE DATED:
12.08.2016 PASSED IN M.C.NO.2299/2009 ON THE FILE OF

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



THE IV ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, BENGALURU, DISMISSING THE PETITION FILED U/S 13(1)(ia) OF THE HINDU MARRIAGE ACT, FOR DISSOLUTION OF MARRIAGE.

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 appellant-wife against the judgment and decree dated 12.08.2016 passed in M.C. No.2299/2009 by the Court of the IV Addl. Principal Judge, Family Court, Bengaluru, whereby the petition filed by the wife under Section 13(1)(ia) of the Hindu Marriage Act, 1955 was dismissed.

2. The briefly stated facts of the case are:

The marriage between the appellant-wife and the respondent-husband was solemnized on 14.02.2003 at Banaswadi, Bengaluru, in accordance with Hindu rites and



customs. Following the marriage, the parties cohabited in the matrimonial home at Bengaluru. It is contended by the appellant that, from the very inception of the marriage, she was subjected to mental cruelty and harassment at the hands of the respondent and his mother, without any provocation or reason. Thereafter, from the wedlock, the appellant gave birth to a male child, namely Aditya, on 06.02.2006.

3. It is alleged that, during the year 2007, the respondent picked up a quarrel with the appellant, physically assaulted her and her father, and threw her out of the matrimonial home. Pursuant to negotiations, the appellant returned to the matrimonial home. It is further alleged that the respondent's family treated the appellant as a slave and excluded her from the daily affairs of the family. It is further alleged that, in August 2009, the appellant was again thrown out of the matrimonial home, and when she took shelter at her sister's house, the respondent threatened her with dire consequences and



stated that he would snatch away the child. Several such acts of the respondent threatening the appellant created fear in her mind. As such, a decree of divorce was sought.

4. The petition was resisted by the respondent by filing a statement of objections, wherein he denied the allegations of cruelty levelled against him. He contended that he had taken care of his wife and son. He stated that after the delivery of the child, in order to take care of herself and the child, he wanted the appellant to leave her job and either remain relaxed at home or support his business. According to the respondent, when he convinced the appellant of her fault, she agreed to work only for a few months, that too, to clear her father's loan. However, when she did not adhere to her promise, she picked up quarrels and threatened to leave the matrimonial home. He further alleged that the appellant, from time to time, picked up quarrels with him and abused him and his mother. He contended that at no point of time, either he had treated her with cruelty or deserted her and that he is



ready to take care of her and the child even today. In light of the above, the respondent prayed for dismissal of the petition filed by the appellant.

5. The Family Court, upon appreciation of the oral and documentary evidence adduced by both parties, framed the necessary issues for consideration. In support of her case, the appellant-wife examined herself as PW1 and marked documents as Exs.P1 and P2. The respondent-husband also examined himself as RW1 and marked 168 documents as Exs.R1 to R168.

6. Upon such assessment, the Court dismissed the petition filed by the wife seeking dissolution of marriage, vide the impugned judgment dated 12.08.2016. Aggrieved by the said judgment and decree, the appellant-wife has preferred the present appeal.

7. Heard Sri. Hemanth Kumar D, learned counsel for the appellant and respondent/party-in-person.



8. The learned counsel appearing for the appellant-wife 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. He contended that, from the inception of the marriage, the respondent-husband illtreated the appellant-wife and abused her in vulgar and filthy language. He further contended that, after the birth of the child, the respondent beat the appellant, attempted to snatch the baby, threatened her with dire consequences, and threw her out of the matrimonial home on several occasions.

9. He also contended that, as the appellant was residing in the matrimonial home, she tolerated all the harassment for the sake of the child and did not file any complaint against the respondent and his family for the same reason. As such, he submits that the appellant had made out a case for divorce before the Family Court, despite which the Family Judge dismissed the petition.



Hence, interference with the impugned judgment is called for, and accordingly, he prays that the appeal be allowed by granting a decree of divorce.

10. *Per contra*, the respondent, appearing party-in-person, while supporting the judgment and decree, contended that the allegations of mental cruelty made by the appellant are wholly untrue and that the appellant has miserably failed to prove any such incidents with tangible evidence or documents. The respondent further by placing reliance on the documents produced by him, contended that the said documents wholly disproved the contentions of the appellant. Hence, he prays for dismissal of the appeal.

11. Having heard the learned counsel for appellant and the respondent/party-in-person 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–wife seeking
a decree of divorce?*

12. As could be gathered from the records, the marriage between the appellant and the respondent was solemnized on 14.02.2003 at Banaswadi, Bengaluru, and after the marriage, they resided together in the matrimonial home. From the wedlock, the appellant begot a male child in 2006. The allegation of the appellant is that, ever since the date of marriage, the respondent ill-treated her and failed to perform his duties as a dutiful husband.

13. On perusal of the evidence of PW.1, though the appellant has stated that the respondent used to abuse and threaten her, she has not specifically narrated, either in the pleadings or in her evidence, the incidents or the derogatory words used by the respondent or his mother which caused her mental cruelty. Except her self-serving statements, no documentary evidence has been placed to show that, during her stay in the matrimonial home, she



was subjected to physical/mental cruelty. The records also reveal that the appellant never lodged any complaint against the respondent with respect to her alleged ill-treatment or harassment.

14. Further, it is also revealed from the records that the appellant has admitted in her evidence that she went on trips, picnics, and excursions, and visited temples with the respondent on many occasions. This aspect of the matter is corroborated with the photographs and other documents produced by the respondent. She has also admitted that the respondent gifted her gold articles.

15. The respondent, who appeared in person, admitted that there were petty differences between them, and that no such incidents had taken place as alleged by the appellant. He stated that, for the care of the child and due to certain events that had occurred in the family, he had requested the appellant to leave her job and either take care of the child or remain relaxed at home. He placed 168 documents on record in support of his



testimony, which, reveal that he looked after the appellant and the child as a dutiful husband, and that the appellant herself, without any valid reason, left the matrimonial home. In the testimony of the respondent, it is seen that the respondent was ready to make any compromise to suit the convenience of the appellant for living together.

16. In this regard it is necessary to quote the finding of the Apex Court, in the case of **SAVITRI PANDEY Vs PREM CHANDR PANDEY - AIR 2002 SC 591**, wherein paragraph 6 of the judgment, it is held that

"6. Treating the petitioner with cruelty is a ground for divorce under Section 13(1)(ia) of the Act. Cruelty has not been defined under the Act but in relation to matrimonial matters it is contemplated as a conduct of such type which endangers the living of the petitioner with the respondent. Cruelty consists of acts which are dangerous to life, limb or health. Cruelty for the purpose of the Act means where one spouse has so treated the other and manifested such feelings towards her or him as to have inflicted bodily injury, or to have caused reasonable apprehension of bodily injury, suffering or to have injured health. Cruelty may be



physical or mental. Mental cruelty is the conduct of other spouse which causes mental suffering or fear to the matrimonial life of the other. "Cruelty", therefore, postulates a treatment of the petitioner with such cruelty as to cause a reasonable apprehension in his or her mind that it would be harmful or injurious for the petitioner to live with the other party. **Cruelty, however, has to be distinguished from the ordinary wear and tear of family life. It cannot be decided on the basis of the sensitivity of the petitioner and has to be adjudged on the basis of the course of conduct which would, in general, be dangerous for a spouse to live with the other.** "

(Emphasis supplied)

17. In the instant case, on careful scrutiny of entire evidence and documents on record afresh, as discussed supra, except the petty quarrels between the husband and wife in the ordinary wear and tear of family life, there were no such fundamental or temperamental difference between the parties or even the appellant has not filed any complaint before any authority as regards the cruelty meted out to her by the respondent. As such, we are



satisfied that the Family Court was justified in dismissing the appellant's petition for divorce. Accordingly, the point for consideration is answered, and as a result, the appeal is ***dismissed***.

SD/-
(JAYANT BANERJI)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE