

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. 6640 OF 2023 (FC)

C/W

MISCELLANEOUS FIRST APPEAL NO. 6996 OF 2023

IN MFA No. 6640/2023

BETWEEN:

B.R HARISH KUMAR
S/O B.P RAMASHETTY
AGED ABOUT 42 YEARS
R/AT NO 233, 6TH MAIN
RAVI KIRLOSKAR LAYOUT
CHIKKABIDAREKALLU
BANGALORE-560 073

...APPELLANT

(BY SRI. ARUN GOVINDRAJ, ADVOCATE)

AND:

B.R SHWETHA
W/O B.R HARISH KUMAR
D/O SMT. RAJAKUMARI
AGED ABOUT 40 YEARS
R/AT NO 1946/1
INKALGRAMA
KASABA HOBLI
VIJAYANAGAR 3RD STAGE
MYSORE-570 017

...RESPONDENT

(BY SRI. ABUBACKER SHAFI, ADVOCATE)

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

THIS MFA IS FILED U/S.19(1) OF FAMILY COURTS ACT, AGAINST THE JUDGMENT AND DECREE DT.31.08.2022 PASSED IN MC NO.970/2022 ON THE FILE OF THE III ADDITIONAL PRL. FAMILY JUDGE, MYSURU, DISMISSING THE PETITION FILED U/S.13(1)(i-a) OF HINDU MARRIAGE ACT.

IN MFA NO. 6996/2023

BETWEEN:

B.R. HARISH KUMAR
S/O. B. P. RAMASHETTY,
AGED ABOUT 42 YEARS,
R/AT NO. 233, 6TH MAIN,
RAVI KIRLOSKAR LAYOUT,
CHIKKABIDAREKALLU,
BANGALORE-560 073.

...APPELLANT

(BY SRI. ARUN GOVINDRAJ, ADVOCATE)

AND:

B. R. SHWETHA
W/O. B. R. HARISH KUMAR,
D/O. SMT. RAJAKUMARI,
AGED ABOUT 40 YEARS,
R/AT NO. 363,
'C' BLOCK, VIJAYANAGAR,
3RD STAGE, MYSURU-570 017.

...RESPONDENT

(BY SRI. ABUBACKER SHAFI, ADVOCATE)

THIS MFA IS FILED U/S.19(1) OF FAMILY COURT ACT, AGAINST THE JUDGMENT AND DECREE DT.31.08.2023 PASSED IN MC NO.123/2022 ON THE FILE OF THE III ADDITIONAL PRL. FAMILY JUDGE, MYSURU, ALLOWING THE PETITION FILED U/S.9 OF HINDU MARRIAGE ACT.

THESE APPEALS HAVING BEEN RESERVED FOR JUDGMENT ON 24.03.2026 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)

1. These two appeals are by the husband. While MFA.No.6640/2023 is filed seeking to set aside the judgment dated 31.08.2023 passed in MC.No.970/2022 preferred by the husband for decree of divorce, MFA.No.6996/2023 is filed seeking to set aside the judgment dated 31.08.2023 passed in MC.No.123/2022 filed by the wife for decree of restitution of conjugal rights.

2. The material facts, which are undisputed, disclose that the marriage between the appellant-husband and the respondent-wife was solemnized on 14.05.2009. It is evident that soon after the marriage, differences arose between the parties, affecting their marital relationship. The respondent suffered a miscarriage during her first pregnancy. She was employed as a teacher at Jindal School, Bengaluru, from 2009 until 2015. In the interregnum, a female child was born to the parties in the year 2013. The respondent resigned from her employment in the year 2015. Further, the matrimonial discord

escalated, culminating in a complaint lodged by the appellant before the Commissioner of Police, Bengaluru, on 22.08.2015, which was referred to Madanayakanahalli Police Station. Notwithstanding such intervention, the parties expressed their willingness to cohabit peacefully. However, the relationship remained strained, and in 2016, the parties lived separately for a period of about five months, after which the respondent rejoined the matrimonial home along with the minor child.

3. The differences persisted unresolved, and on 06.09.2020, the respondent lodged a complaint before Madanayakanahalli Police Station, which was registered as Non-Cognizable Report (for short, "**NCR**") and recorded the statement of the appellant, wherein the appellant indicated that the dispute would be resolved before the Family Court. Shortly thereafter, on 15.09.2020, the respondent along with her minor daughter left the matrimonial home by taking all her belongings and returned to her parental residence. Since then, the child has remained in the care and custody of the respondent.

4. It is not in dispute that the parties have lived separately from September 2020 and they had no contact thereafter. In this background, the appellant instituted MC

No.970/2022 seeking dissolution of marriage on the ground of mental cruelty. The respondent, on the other hand, filed MC No.123/2022 seeking restitution of conjugal rights, contending that the appellant had withdrawn from her society without reasonable cause.

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 the case of the appellant-husband examined himself as PW1 and marked 38 documents as Exs.P1 to P38. On the other hand the respondent-wife also got examined herself as RW1 and another witness on her behalf as RW2 and got marked 18 documents as Exs.R1 to R18.

6. On such assessment, the Court dismissed the petition filed by the husband in MC No.970/2022 seeking dissolution of marriage, while allowing the petition instituted by the wife in MC No.123/2022 for restitution of conjugal rights, by way of a common judgment dated 31.08.2023. Aggrieved by the said judgment and decree, the appellant-husband has preferred the present appeals.

7. Heard learned counsel Sri Arun Govindraj for the appellant-husband and learned counsel Sri. Abubacker Shafi for the respondent-wife.

8. 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 urged that, from the very inception of the marriage, the relationship between the parties was strained, and the respondent-wife, without any justifiable reason or prior intimation, frequently visited her parental home along with the child.

9. It is further contended that the appellant, upon enquiry, came to know that the respondent was suffering from a serious nervous disorder, on account of which she would frequently faint, apart from other undisclosed ailments which, according to him, were suppressed by her family at the time of marriage. The learned counsel submits that, after obtaining her postgraduate degree, the respondent began comparing her educational qualifications, status, and income with that of the

appellant, thereby creating discord in the matrimonial relationship.

10. It is also contended that during her pregnancy, the respondent failed to adhere to medical advice and undertook travel, which allegedly resulted in miscarriage of the first pregnancy, causing the appellant to incur substantial medical expenses. According to the appellant, the respondent maintained an indifferent and disrespectful attitude towards him and his parents, often insulting them and failing to maintain cordial relations.

11. The learned counsel further submits that after the birth of the female child, the respondent's behaviour deteriorated, as she allegedly neglected the appellant and his parents and frequently visited her parental home. It is alleged that she conducted the naming ceremony of the child without consulting the appellant or his family members, thereby causing humiliation to them. It is also alleged that the respondent's conduct became increasingly erratic and aggressive, including instances of alleged physical altercations with the appellant and his parents over trivial matters, which purportedly led to hospitalization of the appellant's mother and

caused severe distress to the family, even driving the appellant's father to attempt suicide. Despite efforts made by the appellant to reconcile the disputes through the respondent's family members, it is contended that the appellant was subjected to ill-treatment and threats by the respondent's family members.

12. The learned counsel further contends that the respondent resigned from her employment at Jindal School on the pretext of caring for the child and, on 22.08.2015, allegedly assaulted the appellant and left the matrimonial home with the child. Consequently, the appellant lodged a complaint before the Commissioner of Police, Bengaluru, which resulted in registration of NCR, and the matter was closed upon advising the parties to lead a harmonious marital life.

13. It is further submitted that the respondent failed to resume cohabitation thereafter and, instead, initiated multiple complaints against the appellant and his family members, including the complaint dated 06.09.2020. According to the appellant, the respondent was in the habit of approaching the police authorities frequently and allegedly threatened to

implicate the appellant and his family members in false criminal cases.

14. The learned counsel further contends that the Family Court has failed to properly appreciate the material placed on record, which, according to him, unequivocally establishes acts of cruelty on the part of the respondent. It is urged that the respondent has not adduced cogent evidence to rebut or disprove the allegations of cruelty attributed to her. In such circumstances, it is contended that the Family Court ought to have held that the appellant had made out a sufficient ground for dissolution of marriage.

15. Lastly, the learned counsel submits that the appellant and his family members have been subjected to grave cruelty, ridicule, and humiliation at the hands of the respondent. It is further urged that the petition for restitution of conjugal rights filed by the respondent is nothing but a counterblast to the divorce proceedings initiated by the appellant. According to the appellant, the respondent has neither made any genuine effort to resume cohabitation nor responded to his alleged attempts to seek access to their daughter, Huvana. In the aforesaid circumstances, it is

contended that the Family Court ought to have allowed the petition for divorce and dismissed the petition for restitution of conjugal rights. In support of his submission, he would rely on the following judgments of the Hon'ble Apex Court:

- 1. Samar Ghosh vs Jaya Ghosh - (2007) 4 SCC 511*
- 2. K. Srinivas Rao vs D.A. Deepa - (2013) 5 SCC 226*
- 3. Narendra vs Meena - (2016) 9 SCC 455*
- 4. Harsha vs Bhagya - M.F.A.No.2403/2012 (FC)*
passed by this Court

Accordingly, he prays to allow the appeals.

16. *Per contra*, the learned counsel appearing for the respondent-wife supports the impugned judgment and contends that the marriage between the parties was performed in a grand manner by the respondent's family, who allegedly incurred substantial expenditure and provided cash of Rs.5,00,000/- along with gold ornaments weighing about 200 grams. It is submitted that after the marriage, the respondent resided in the matrimonial home and the parties lived cordially for about one year. Thereafter, it is alleged that the appellant and his family members began subjecting the respondent to harassment by belittling her capabilities, comparing her with

other women, and demoralizing her, coupled with demands for divorce.

17. It is further contended that the appellant frequently insulted the respondent by asserting his superior earnings and expressing disinterest in the marital relationship. It is also alleged that he made attempts to remove the *mangala sutra*, thereby undermining the marital bond. According to the respondent, the continuous mental harassment and cruelty meted out by the appellant and his family members resulted in severe emotional distress, which ultimately led to the miscarriage of her first pregnancy.

18. The learned counsel further contends that the appellant's intention was to extract money from the respondent and her family. In that regard, it is alleged that the appellant persistently compelled the respondent to transfer her salary to his bank account, which, coupled with other circumstances, constrained her to resign from her employment.

19. It is further submitted that the appellant, with an intent to harass the respondent, lodged a false complaint - Ex.P4 against her which came to be registered as a Non-Cognizable Report. The said proceedings were concluded upon

the appellant stating that he would take care of the respondent. Notwithstanding the same, it is alleged that the appellant and his family members continued to subject the respondent to harassment, which compelled her to lodge another complaint in the year 2020 - Ex.P9, which was also registered as a Non-Cognizable Report. In the said proceedings, the appellant is stated to have declared that he would not permit the respondent to enter the matrimonial home and that the dispute would be resolved before the Family Court. It is contended that despite repeated attempts made by the respondent to rejoin the matrimonial home and resume cohabitation, such efforts were unsuccessful. Consequently, having been left with no alternative, the respondent instituted a petition seeking restitution of conjugal rights.

20. It is lastly contended that the Family Court, upon a meticulous appreciation of the evidence on record, has rightly dismissed the petition for divorce filed by the appellant and allowed the petition for restitution of conjugal rights filed by the respondent by way of a well-reasoned common judgment. The said judgment, it is urged, does not warrant any interference by this Court. Accordingly, the learned counsel prays for dismissal of the appeals.

21. Having heard the learned counsel for both the parties and on perusal of the material on record, the sole point that arises 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 petition filed by the respondent-wife for restitution of conjugal rights?

22. As could be gathered from records, the marriage between the appellant and the respondent was solemnized on 14.05.2009, and from the wedlock, a female child, namely Huvana, was born, who is presently aged about 13 years. Though it is the contention of the appellant that, from the inception of the marriage, the respondent failed to discharge her matrimonial obligations and subjected him and his family members to physical and mental cruelty, it is an admitted fact that both parties continued to reside together until the year 2020.

23. No doubt that the appellant had lodged a complaint, marked as Ex.P4, in the year 2015, alleging, inter alia, that the respondent was suffering from a serious nervous disorder even

prior to the marriage and that the same was suppressed by her family, and further alleging various acts of misconduct on her part, including frequent quarrels, desertion from the matrimonial home without intimation, and acts of physical assault upon him and his mother. However, in order to substantiate the allegations made in Ex.P4, the appellant has not produced any independent or corroborative evidence, apart from his own self-serving statement. The allegations, as set out in the petition as well as in Ex.P4, are general and omnibus in nature, lacking specific particulars such as dates or instances.

24. It is also pertinent to note that no medical records, such as wound certificates or other documentary evidence, nor the testimony of any independent witnesses, have been placed on record to establish the alleged acts of physical or mental cruelty. On the contrary, the statement of the respondent recorded in the Non-Cognizable Report pursuant to Ex.P4 indicates that she had categorically denied the allegations and had sought intervention against the appellant's alleged conduct of picking quarrels on trivial issues and subjecting her to physical harassment. The appellant, in his statement, is also stated to have assured that he would take care of the respondent in a cordial manner. It is an admitted position that

thereafter, the respondent returned to the matrimonial home and continued to reside there for a considerable period.

25. The testimony of the appellant, examined as PW.1, further discloses that he has attributed mental harassment to the respondent on account of the complaint lodged by her as per Ex.P9 dated 06.09.2020 before the Madanayakanahalli Police Station against him and his family members. However, a careful perusal of Ex.P9 indicates that the respondent had primarily alleged harassment at the instance of the appellant's mother, who, according to her, was instigating the appellant, and notably, no specific allegations were made against the appellant himself. The respondent had, in fact, requested the police to advise her mother-in-law and the appellant to refrain from such conduct in future. It is also an admitted position that the respondent did not initiate any further proceedings, either under the penal law, including the IPC/BNS, or under the provisions of the Protection of Women from Domestic Violence Act, nor did she seek maintenance. On the contrary, in Ex.P4, it is the appellant who had levelled serious allegations against the respondent and her family members. In such circumstances, the mere lodging of Ex.P9 by the respondent cannot, by itself,

be construed as constituting mental cruelty against the appellant.

26. It is evident from the impugned common judgment that the Family Court has dismissed the petition for divorce primarily on the ground that the appellant had made only vague and general allegations, without furnishing specific instances or cogent evidence to substantiate the same. The Family Court has, thus, held that the appellant has failed to establish the ground of "mental cruelty" in accordance with law, which formed the principal basis for rejecting the petition seeking dissolution of marriage.

27. It is further observed that, regarding the appellant's allegation that the respondent harassed his family through repeated police complaints, the Family Court, upon careful appreciation of the evidence on record, noted that the appellant himself had initiated the practice of approaching the police from August 2015, filing complaints marked as Ex.P4, Ex.P7, and Ex.P8. In contrast, the respondent did not lodge any complaint against the appellant or his parents until 06.09.2020, which was registered as Ex.P9.

28. The next limb of argument of the learned counsel that the respondent deserted the company of the appellant without any cause is concerned, the Family Court specifically addressed the alleged incident where the respondent purportedly attempted to “break open” the house lock using a duplicate key. While the appellant relied on Ex.P22 to Ex.P30 (photographs) and Ex.P31 (pen drive) to substantiate his claim of cruelty, the Court found that the appellant and his parents had intentionally locked the door and left, leaving the respondent and their minor daughter effectively “on the street.” Consequently, the respondent’s use of force to enter the matrimonial home with the help of police and the locksmith was deemed to be a consequence of “inevitable circumstances” rather than an act of cruelty. Further, this fact also clarifies that the respondent has made her best efforts to join the matrimonial home and it is the appellant who has deserted her. In such circumstances, the appellant cannot contend that the respondent has deserted him and was not willing to continue the marital relationship.

29. Upon a comprehensive appreciation of the evidence and materials produced before it, the Family Court concluded that the appellant had failed to establish that the respondent

subjected him to cruelty. Rather, it found that the disputes arose primarily due to the conduct of the appellant himself. In view of these findings, the Family Court has rightly held that the appellant was not entitled to a decree of divorce.

30. Learned counsel for the appellant would rely on the judgment of the Hon'ble Apex Court in **SAMAR GHOSH V. JAYA GHOSH – (2007) 4 SCC 511**, to contend that mental cruelty is characterized by mercilessness and hard-heartedness, and that the act of lodging complaints against one's spouse itself constitutes cruelty.

31. However, in the above judgment, the Hon'ble Apex Court clarified that, in all cases of cruelty, the entirety of the matrimonial relationship must be examined, particularly when the alleged cruelty consists not of overt violence but of reproaches, complaints, accusations, or taunts. Applying this principle to the facts of the instant case, it is evident that the respondent did not subject the appellant to mental cruelty. On the contrary, it was the appellant and his family members who repeatedly lodged complaints against the respondent and her family, which ultimately compelled the respondent, despite multiple efforts, to reside at her parental home. The other

judgments relied upon by the appellants in support of his case also are not applicable to the facts and circumstances of this case.

32. In view of the foregoing, on careful scrutiny of entire evidence and documents on record afresh, in our considered view, the Family Court was justified in dismissing the appellant-husband's petition for divorce while allowing the respondent-wife's petition for restitution of conjugal rights. Accordingly, we answer the point raised above in the affirmative and as a result, both appeals are ***dismissed***.

SD/-
(JAYANT BANERJI)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE

PKS/K