



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH 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. 9022 OF 2019 (FC)

BETWEEN:

SRI. BALAPPA TUKKAR,
S/O SRI.APPANNA TUKKAR,
AGED ABOUT 56 YEARS,
R/AT NO.30, 1ST CROSS,
K.H.B QUARTERS BEHIND,
L.R.BANDE, R.T.NAGAR,
BENGALURU-560 032.

...APPELLANT

(BY SRI.SRIKANTH.M.P., ADVOCATE AND
SMT.P.N.SHOBHA, ADVOCATE)

AND:

SMT.SHUBHA,
CLAIMED TO BE R/AT NO.38/7,
6TH CROSS, NEAR RAGHAVENDRA
SERVICE STATION, ADARSHANAGAR,
BENGALURU-560 032.

...RESPONDENT

(BY SMT.KAVERI P.CHINCHOLI., ADVOCATE)

THIS MFA IS FILED UNDER SECTION 19(1) OF FAMILY COURT ACT, AGAINST THE JUDGMENT AND DECREE DATED 08.11.2019 PASSED IN M.C.NO.3181/2014 ON THE FILE OF THE IV ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT,

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by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



BENGALURU, ALLOWING THE PETITION FILED UNDER SECTION 13(1)(ia) OF THE HINDU MARRIAGE ACT.

THIS APPEAL, COMING ON FOR FINAL 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 JAYANT BANERJI)

Heard the learned counsel for the appellant and learned counsel for the respondent.

2. This appeal is filed by the husband, who was the respondent in M.C.No.3181/2014 that was filed by the wife before the Family Court, Bengaluru, which matrimonial case, by the judgment and decree dated 08.11.2019 passed by the IV Additional Principal Judge, Family Court, Bengaluru, came to be allowed granting the decree of divorce and dissolving the marriage of the parties.

3. The parties are being referred by their ranks as appearing before the Trial Court for the sake of convenience.



4. The petition for divorce was filed on 23.07.2014 by the petitioner under Section 13(1)(i-a) of the HM Act¹, in which it was stated that she was married with the respondent on 13.04.2000 at Lakshmi Temple, Gokak, Belgaum District, as per Hindu rites and customs. The marriage is also registered before the Marriage Officer at Gokak. From the wedlock, one female child by the name of Amruthia, then aged 13 years was born, who was stated to be under the care and custody of the respondent. It was stated that the respondent was a School Master at Agasi Maruthi School, Bangalore and the petitioner was a student in the same school in 10th Standard. The respondent had forcible physical relationship with the petitioner and she was threatened not to inform the same to any persons. It is alleged that thereafter the petitioner conceived which was intimated to the respondent. The petitioner was forced to marry the respondent which was not intimated to the mother of the petitioner. After the marriage, the petitioner was taken to the parents' house of the respondent at Gokak, where she stayed for 3 months.

¹ Hindu Marriage Act, 1955



5. Later, the respondent left the petitioner with his parents and brother in search of job and during the absence of the respondent, the mother and brother of the respondent harassed the petitioner every day, as the petitioner had conceived before the marriage and had not brought any dowry, and the marriage was against their wishes. On a phone call being made by the petitioner to her mother, she asked the petitioner to come with the respondent and stay at Bangalore, where a separate house was made for the petitioner and the respondent at Bannerghatta. They stayed there for 1½ years during which period the petitioner gave birth to a daughter. All medical expenses were paid by the mother of the petitioner, as the respondent was unemployed. In view of the financial crisis, she had to take up a job in a Garment Factory and was taking care of the entire family. The respondent developed the habit of staying at home and forcing the petitioner to provide money. On failing to do so, the petitioner was harassed mentally and physically by the respondent. After 5 years, the respondent took up a job in a private school. He was addicted to bad vices such as alcohol, smoking, etc. The petitioner changed her job and started tailoring and during this time, the respondent fell ill



and forced the petitioner to arrange Rs.30,000/- for his Ayurvedic treatment. When the respondent was not cured, he started suspecting the petitioner and mentally harassed her for no fault of her's.

6. The respondent changed his school to Vijaya Bharathi School for 5 years and he was working at Bruhath Bangalore Mahanagara Palike, Shivajinagar. Due to a ruptured appendix of the respondent, the petitioner helped the respondent for his recovery by spending huge money. However, the respondent harassed the petitioner and assaulted her physically and also used to lock her inside the house. Allegations of demands for unnatural sex were also made and on failure to do so, the respondent spread rumours against the petitioner stating that she had affair with various men and leading adulterous life in front of the child itself. The petitioner approached a Family Counseling Center on 04.06.2014 and lodged a complaint before the D.J. Halli Police Station, Bangalore, on 13.06.2014, which did not yield any result. This was so because the respondent was working in the BBMP and was wielding huge influence. The respondent had kept the



petitioner under constant threat by defaming the petitioner for no fault on her part.

7. A statement of objection was filed by the respondent, in which the allegations made against him by the petitioner were denied as concocted. He stated that both the petitioner and the respondent were in love with each other and they eloped and got married at Gokak. After the marriage, the petitioner had lived with the respondent only for 15 days at Gokak and thereafter they came to Bangalore, as the respondent was working in the School by then. It is alleged that, after the couple had eloped, the mother of the petitioner was not in good terms and she had preferred complaint before the K.G. Halli Police Station in Crime No.128/2000 against the respondent on 10.04.2000 under Section 363 of IPC. The police, after recording the statement of the couple, filed 'B' report on 17.05.2000 before the jurisdictional Magistrate. It has been stated that without informing the respondent, the petitioner took her daughter away and she was not traceable. In such circumstances, a complaint dated 29.07.2004 was made by the respondent at D.J. Halli Police Station. The respondent had sought for dismissal of the petition.



8. The petitioner examined herself as PW.1 and got marked certain documents as Ex.P1 to Ex.P3. The respondent examined himself as RW.1 and got marked certain documents as Exs.R1 to R6.

9. The following points were formulated by the Family Court for consideration:

1. *Whether the petitioner proves that she was subjected to cruelty at the hands of the respondent in the matrimonial home?*
2. *What order?*

10. The findings of the Family Court on above points were as follows.

1. *Affirmative.*
2. *As per the final order.*

11. After considering the contention made on behalf of the parties and the evidence on record, the Court observed that though the respondent had denied the allegations of character assassination and defamatory statements made by him against the petitioner as well as her mother, however, the printout of the SMS messages sent by the respondent to the petitioner,



marked as Ex.P2, indicated that the petitioner and her mother were not only abused by the respondent in derogatory language, but he also defamed the image of the petitioner and her mother by referring to them that they have developed illicit relationship with other men. The respondent had admitted his cell phone number as was appearing in Ex.P2. It was noted that no rebuttal evidence was filed before the Court to disprove Ex.P2. Accordingly, the Court inferred that when the petitioner lived with the respondent, as she was going for work outside, she was abused in filthy language by the respondent by making character assassination and making allegations of adultery. It was therefore held that, abusing the petitioner and her mother by the respondent constituted mental cruelty to the petitioner. Therefore, the first point was answered in the affirmative. The decree of divorce was accordingly granted.

12. Learned counsel for the appellant/husband has stated that the Family Court has relied upon the photographs of the SMS without there being any certificate as prescribed under Section 65B of the Indian Evidence Act. It is also stated that there are no pleadings made in the petition in respect of which the aforesaid evidence could be relied upon. It is stated that



the address of the petitioner is wrongly mentioned in the matrimonial case, which has been deliberately done to mislead the Court. As a matter of fact, the petitioner is residing in Mysore.

13. Learned counsel for the respondent/wife states that the case of mental cruelty and harassment is clearly made out from the record of the matrimonial case and therefore, the Family Court was justified in granting the decree of divorce. Learned counsel has referred to Ex.P2 which are the photographs of the SMS to contend that the language and abuse used therein, which is admitted by the respondent, clearly reflect the allegations of adultery and illicit relations.

14. We have gone through the record of the case. The petitioner filed her affidavit in lieu of oral evidence as PW.1, wherein she reiterated the contents of the petition. In her examination-in-chief, she marked Ex.P1 containing two photographs and Ex.P2 which were printouts of SMS sent by the respondent in 32 pages. In her cross-examination, she stated that the respondent was forcing her to attend tuitions and to have physical intimacy with him. She denied the



suggestion that though the respondent was not taking any tuition, for that reason she had created a story. She denied the suggestion that though she had not resided at the respondent's native place for 3 months, she was deposing falsely that she was allegedly harassed by the respondent's parents and brother. She stated that after marriage she was not allowed to enter the house and then the respondent took her to his friend's house. She denied that she was beaten up by the brother of the respondent when she stayed at Gokak. The PW.1 was recalled and sworn on 05.12.2018. She stated that she was residing in Kerala since 22.07.2014. She admitted giving her Mysore address while purchasing Honda Activa and that her daughter studied in 10th Standard at Mysore. She stated that after giving representation before the Vanita Sahayavani on the advice of her maternal uncle, she did not visit the authority again. The suggestion was denied as false that despite the respondent appearing before the Authority, she did not appear as the matter would be settled between themselves. After the reconciliation, the respondent quarreled with her and for this reason she had filed a complaint with the police. However, on the advice of the respondent's friends, she did not approach the



police again. She denied having voluntarily left the matrimonial home, though the respondent was capable to look after his family and her. She also denied the suggestion that even till that day the respondent was having same love and affection towards her, which he had at the time of marriage.

15. Ex.P1 are two photographs which were perhaps taken at the time of wedding of the parties. Ex.P2 contains photographs of SMS messages, in which phone number 9980475079 is appearing. These messages have been perused by us. They are in English script but in Kannada language. The same have been perused by my esteemed brother and the messages contain abuses. These exhibits, it is pertinent to mention, were marked by the petitioner during her further examination-in-chief on 30.06.2018.

16. The examination-in-chief by way of affidavit of the respondent as RW.1 was filed on 17.07.2019. He has got marked 6 documents, they being respectively, Ex.R1 is 'B' Register extract reflecting the address of the petitioner. Ex.R2 is a copy of a notice dated 08.02.2018 sent by the advocate of the respondent to the Principal of Maharshi High



School seeking information about the period during which his child has pursued her studies in the school and whether transfer certificate had been issued and if so, to which institution. Ex.R3 is a copy of the postal acknowledgment. Ex.R4 is the response of the Headmaster of Maharshi High School to the legal notice aforesaid. Ex.R5 is a letter dated 21.12.2015 issued by the passport officer stating that the application of the petitioner is pending for 1 year and if response is not received, it would lead to closure of the file. Ex.R6 is also a letter issued by the Regional Passport Authority on 29.01.2016 stating that the file of the petitioner had been closed. These documents are filed to demonstrate the address of the petitioner.

17. In the cross-examination, RW.1 admitted that there was a gap of 18 years between himself and the petitioner. He stated that the petitioner was studying in 8th standard and he was also the teacher for the petitioner in the said school from 8th to 10th standard. The petitioner was in 10th standard in the year 2000. He denied physical relationship with the petitioner when she was in 10th standard and that for this reason only she became pregnant. He admitted that, in his objection statement



he had stated that they both were in love and got married in Gokak. Ex.P1 photo was taken at the studio and in another photo his sister, his brother and neighbours were there, but no one from the side of the petitioner.

18. The photographs were taken on the day of marriage. He denied that he had lost his job due to his misbehaviour with the petitioner while he was working as a Kannada teacher at Shri Asangi Maruthi High School, Nagavara since 1993 to 2002. He denied the suggestion that while he was suffering from Jaundice, he had asked the petitioner to bring Rs.30,000/- for his treatment. He had joined Vijaya Bharathi Public School as a teacher in the year 2006 and at that time, he was working with BBMP High School on contract basis. He admitted that he fell ill during February, 2014. However, he denied the suggestion that when he fell ill, the petitioner was taking care of his health as well as treatment expenses. He denied the suggestion that, at that time, he was forcing the petitioner for physical relationship and also assaulted her physically. He denied that he was propaganda that the petitioner was having relationship with others.



19. He admitted that his mobile number is 9980475079. He also admitted that his number was reflecting in Ex.P2. He denied the suggestion that he was abusing the petitioner that she was young in age and she would elope with some other person and that she had relationship with others. He admitted that, he had filed a complaint against the petitioner before the police, which was pending for adjudication. He also denied that, despite, the petitioner having left for her sister's house after being unable to bear his torture, he continued to torture her.

20. Having considered the evidence, what emerges is that the respondent-husband admits his mobile number as reflected in Ex.P2. That being his admission, the plea being raised by his counsel that the certificate as required under Section 65B of Indian Evidence Act would be required, does not appear to be correct. Moreover, Section 14 of the Family Courts Act empowers the Family Court to receive as evidence any report, statement, documents, information of matter that may, in its opinion assessed it to deal effectively with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act. Therefore, in view of



this provision, the Family Court was justified in relying upon this evidence - Ex.P2. The allegation of cruelty against the petitioner-wife is proved and we find no error in this regard in the impugned judgment and decree passed by the Family Court. The allegation of a wrong address being filed by the petitioner-wife, has no material bearing on the merits of the case. This appeal is therefore, found to be without merit and is accordingly ***dismissed***.

All pending Interlocutory applications stand disposed of.

SD/-
(JAYANT BANERJI)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE