



CNR: KAHC010596672023

NC: 2026:KHC:44349-DB
MFA No. 7770 of 2023
C/W MFA No. 7160 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

MISCELLANEOUS FIRST APPEAL NO. 7770/2023 (IDA)

C/W

MISCELLANEOUS FIRST APPEAL NO. 7160/2023 (IDA)

IN MFA No. 7770/2023:

BETWEEN:

MR. PRATEIK FERNANDES
S/O WILFRED FELIX FERNANDES
AGED ABOUT 36 YEARS,
R/AT NO 1-63A, TRUPTHI,
GUDDEANGADI,
UDYAVAR 574 118.
UDUPI TALUK AND DISTRICT.

...APPELLANT

(BY SRI. M.SUDHAKAR PAI, ADVOCATE)

AND:

MRS. EDLE D SILVA,
W/O PRATEIK FERNANDES,
AGED ABOUT 34 YEARS,
R/AT VIEW ENCLAVE,
OPP ASPINAWALL CO,
KULASHAKAR POST,
MANGALURU 575 005 (D K).

...RESPONDENT

(BY SMT. PRATHIMA.S.K., ADVOCATE)

Digitally
signed by
MALA K N
Location:
High Court
of Karnataka



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THIS MFA FILED U/S.55(1) OF INDIAN DIVORCE ACT,,
AGAINST THE JUDGMENT AND DECREE DT.11.08.2023 PASSED
IN MC NO.484/2017 ON THE FILE OF THE I ADDITIONAL
PRINCIPAL JUDGE, FAMILY COURT, D.K, MANGALURU,
DIRECTING TO PAY LUMP-SUM MAINTENANCE OF
RS.15,00,000/- TO THE PETITIONER WITHIN 3 MONTHS FROM
THE DATE OF THIS ORDER.

IN MFA NO. 7160/2023:

BETWEEN:

MRS. EDLE D'SILVA
W/O PRATEIK FERNANDES
AGED ABOUT 33 YEARS
R/AT VIEW ENCLAVE,
OPP ASPINAWALL CO,
KULSHEKAR POST,
MANGALURU 560 045.

...APPELLANT

(BY SMT. PRATHMA.S.K., ADVOCATE)

AND:

MR. PRATEIK FERNANDES
S/O WILFRED FELIX FERNANDES,
AGED ABOUT 35 YEARS,
R/AT NO 1-63A, TRUPTHI,
GUDDEANGADI, UDYAVAR 574 118.
UDUPI TALUK AND DISTRICT.
CURRENTLY WORKING AS
OFFICE ADMINISTRATION -1,
LOWER ZAKUM FIELD DIVISION,
P.O. BOX NO.3500, DAS ISLAND,
ABU DHABI, U.A.E.

...RESPONDENT

(BY SRI. M.SUDHAKAR PAI, ADVOCATE)

THIS MFA FILED U/S 55 OF INDIAN DIVORCE ACT
AGAINST THE JUDGMENT AND DECREE DATED 11.08.2023
PASSED IN MC NO.484/2017 ON THE FILE OF THE I



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ADDITIONAL PRL. JUDGE, FAMILY COURT, D.K.MANGALURU,
ALLOWING THE PETITION FILED UNDER SECTION 10(1)(x) OF
DIVORCE ACT, 1869 ON GROUND OF CRUELTY AND
DISMISSING THE PETITION FILED UNDER SECTION 10(1)(ix)
OF THE DIVORCE ACT, 1869 ON GROUND OF DESERTION.

THESE APPEALS, COMING ON FOR FINAL HEARING, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H. SHANTHI BHUSHAN)

The present appeals are directed against the
judgment and decree dated 11.08.2023 passed by the
First Additional Principal Judge, Family Court, Dakshina
Kannada, Mangaluru, in M.C. No.484 of 2017.

2. For the sake of convenience, the parties shall be
referred to as per their ranking before the Family Court.

3. Briefly stated, the facts of the case are that the
petitioner and the respondent are wife and husband. Their
marriage was solemnized on 24.01.2015 at Holy Cross
Church, Kulshekar, Mangaluru, and the same was



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registered on 11.02.2015 under Registration No.8/2015 before the Registrar of Christian Marriages under the Indian Christian Marriage Act, 1872.

4. The respondent-husband had instituted a petition in M.C.No.482/2018 under Section 22 of the Divorce Act, seeking judicial separation for a period of five years and for consequential reliefs. The petitioner-wife, on the other hand, filed the petition in question under Sections 10(1)(ix), 10(1)(x) and 37 of the Divorce Act seeking dissolution of the marriage on the grounds of desertion and cruelty, respectively, and also sought a direction to the appellant to pay a lump sum maintenance of Rs.2,00,000/-.

5. The petitioner-wife thereafter filed an application seeking clubbing of both the proceedings, namely, M.C. No.482/2018 and M.C. No.484/2017. The learned Family Court permitted the matters to be taken up together and common evidence was recorded. In the



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course of the proceedings, the appellant filed a memo stating that the petition filed by him under Section 22 of the Divorce Act may be dismissed as not pressed.

6. The case of the petitioner, in substance, is that at the time of the marriage, the respondent was working in Abu Dhabi, whereas she was unemployed. According to her, the marriage was cordial only for a short period and thereafter differences arose between them. She has stated that, although the respondent appeared to be sober in character initially, she realised within a few days of the marriage that his behaviour was otherwise. The behaviour of the respondent was not cordial and that his relationship with his own father was strained. According to her, the respondent was required to seek the permission of his mother even in respect of his day-to-day affairs and used to spend most of his time with her. She has alleged that the respondent did not give her sufficient time and had treated her as though she were his property, to be dealt with according to his wishes.



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6.1. It is further the case of the petitioner that, after the respondent returned to Abu Dhabi in connection with his employment, he used to call her and frequently quarrel with her, as a result of which she became nervous even to speak to him. She has stated that, despite her efforts to maintain cordial relations with the members of the respondent's family, she was ignored and her feelings were hurt and whenever the respondent returned from Abu Dhabi, she desired to spend some quality time with him and repeatedly expressed her desire to start a family, however, the respondent did not show any interest and informed her that it was not the appropriate time.

6.2. It is also the case of the petitioner that the mother of the respondent gave greater importance to wealth than to the marital relationship. In the midst of the strained relationship, the respondent informed the petitioner that he wanted to part ways with her. According to the petitioner, she was shocked and completely shattered by the said decision.



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6.3. The petitioner has stated that on 10.10.2016, the respondent sent all her belongings through his driver. On the same day, the father and uncle of the petitioner went to the house of the respondent at Udupi with an intention to resolve the dispute and restore the marital relationship, however, the respondent remained adamant about his decision and was unwilling to take her back.

6.4. It is further case of the petitioner that the mother of the respondent informed the father of the petitioner that, if the petitioner were to accompany them, she would assault her and that she did not want the petitioner to enter the house. The petitioner has alleged that the respondent thereafter completely ignored her. She claims to have made every possible effort to return to the matrimonial home, but the respondent neither responded to her attempts nor called her back and thereby deserted her.



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6.5. The petitioner has further pleaded that the respondent was working as an Administration Officer in a rig in Dubai and was earning approximately Rs.2,00,000/- per month. She has also asserted that the respondent possessed substantial properties and fixed deposits in various banks. According to her, the respondent was legally bound to maintain her and to provide her with food, clothing and shelter in accordance with the standard of living enjoyed by him.

6.6. On the basis of the aforesaid circumstances, the petitioner claimed maintenance and compensation of Rs.2,00,000/- and pleaded that the marital relationship had irretrievably broken down and that there was no possibility of reunion, compelling her to approach the learned Family Court.

7. The respondent appeared before the learned Family Court through counsel and denied the allegations made by the petitioner. He admitted the marriage between



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the parties, which was solemnized on 24.01.2015 according to the rites and ceremonies prevailing in the Christian community.

8. The case of the respondent was that he had always been understanding and supportive towards the petitioner, including in circumstances where she had refused to have a physical relationship with him. He denied having subjected the petitioner to cruelty or having neglected her.

8.1. It was further contended by the respondent that, despite his efforts to preserve the marriage, the petitioner had not cooperated with him. According to the respondent, attempts were made to resolve the differences between the parties through intervention of the priest. In this regard, on 18.12.2016, the priest of the church associated with the respondent called both the petitioner and the respondent and requested them to resolve their differences and continue the marital relationship.



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8.2. According to the respondent, during the said meeting, it was the petitioner who used to quarrel with him without any reason. The respondent contended that he had made sincere efforts to preserve the marriage, but the petitioner had failed to respond positively to such efforts.

8.3. It was the further case of the respondent that, in the circumstances prevailing between the parties, he had expressed his unwillingness to continue the marital relationship and that the petitioner had thereafter not taken any effective steps to restore the relationship. The respondent-husband has further contended in his written statement that the petitioner had never permitted him to have physical intimacy with her. Despite his repeated requests, the petitioner had declined to have a physical relationship with him. He has further stated that the petitioner used to quarrel with him even on trivial and insignificant issues. According to the respondent, such conduct of the petitioner caused him considerable mental



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disturbance and adversely affected his work and professional life.

8.4. The respondent has further contended that the petitioner- wife was always desirous of returning to her parental home and that she had, on certain occasions, threatened and blackmailed the respondent by making monetary demands. It was also contended that the petitioner had suppressed material facts in the petition filed by her seeking dissolution of the marriage. The respondent further contended that the gold ornaments given by him to the petitioner during the subsistence of the marriage were liable to be returned to him. In view of the same, the respondent made a counter-claim seeking return of the gold ornaments mentioned in the schedule to his objections.

9. Upon consideration of the pleadings of the parties, the learned Family Court framed the following issues for consideration:



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(i) Whether the petitioner-wife proves that the respondent-husband treated her with cruelty, as alleged in M.C. No.484/2017?

(ii) Whether the petitioner-wife proves that the respondent-husband deserted her for a period of more than two years, as alleged in M.C. No.484/2017?

(iii) Whether the petitioner-wife is entitled to a decree of divorce as prayed for in M.C. No.484/2017?

(iv) Whether the petitioner-wife proves that she is entitled to lump sum maintenance of Rs.2,00,00,000/- from the respondent-husband, as prayed for in M.C. No.484/2017?

(v) Whether the respondent-husband proves that he is entitled to return of all the jewellery mentioned in the schedule to his objections from the petitioner-wife, as claimed by him in M.C. No.484/2017?

10. Upon framing of the issues, the petitioner-wife filed her affidavit in lieu of examination-in-chief and examined herself as PW-1. Her mother was examined as



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PW-2. The petitioner-wife also produced and marked documents at Exhibits P-1 to P-17.

11. The respondent-husband, on the other hand, filed his affidavit in lieu of examination-in-chief and examined himself as RW-1. He produced and marked documents at Exhibits R-1 to R-10 in support of his case.

12. Upon consideration of the pleadings, oral and documentary evidence on record, the learned Family Court answered the issue relating to cruelty in favour of the petitioner-wife and held that she had established the ground of cruelty. The issue relating to desertion was, however, answered against the petitioner-wife and the petition insofar as the ground of desertion was concerned was dismissed.

13. The Family Court also dismissed the counterclaim made by the respondent seeking return of the gold ornaments. Consequently, the learned Family Court declared that the marriage solemnized between the



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petitioner and the respondent stood dissolved by a decree of divorce with effect from the date of the decree.

14. The Family Court further directed the respondent-husband to pay a lump sum maintenance of Rs.15,00,000/- to the petitioner-wife within three months from the date of the order.

15. Aggrieved by the aforesaid judgment and decree, particularly the direction to pay a sum of Rs.15,00,000/- towards lump sum maintenance and the dismissal of his counterclaim, the respondent/husband has preferred M.F.A.No.7770/2023. The petitioner-wife has also preferred M.F.A.No.7160/2023 seeking enhancement of the amount of lump sum maintenance awarded by the learned Family Court.

16. Undisputedly, the petitioner and the respondent are husband and wife, who marriage was solemnized on 24.01.2015 at Holy Cross Church, Kulshekar, Mangaluru, and registered on 11.02.2015 under Registration



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No.8/2015 before the Registrar of Christian Marriages, Udupi.

17. It is significant to note that the petitioner-wife has not challenged the finding recorded by the Family Court insofar as the ground of desertion is concerned. The challenge in her appeal is confined only to the quantum of lump sum maintenance/alimony awarded by the Family Court and she seeks enhancement of the said amount.

18. Upon a careful perusal of the deposition of the petitioner-wife, it is evident that her grievance was not merely with regard to isolated matrimonial differences, but with the manner in which the respondent conducted himself towards her during the subsistence of the marriage. The evidence of the petitioner indicates that the respondent was more concerned with satisfying his physical desires than with developing a cordial, affectionate and mutually respectful marital relationship. She has stated that, despite her expectation of



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companionship, care and emotional support from the respondent, she was not treated as a wife with the affection and consideration ordinarily expected in a matrimonial relationship.

19. The petitioner has further deposed that the respondent failed to discharge his obligations as a husband and at various stages, completely ignored her. The conduct attributed to the respondent, when considered in the backdrop of the evidence as a whole, had caused the petitioner considerable mental anguish and had made it difficult for her to continue in the matrimonial home. Ultimately, she was constrained to take shelter with her parents.

20. The Family Court, having had the advantage of appreciating the evidence of the parties and observing their demeanour, has, on a careful consideration of the material on record, recorded a finding that the petitioner had been subjected to cruelty by the respondent. We find



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that the said conclusion is supported by the evidence on record and does not suffer from any perversity or material non-appreciation of evidence.

21. In the circumstances, we are of the considered view that the Family Court was justified in holding that the petitioner had established the ground of cruelty and was consequently entitled to a decree of divorce on the said ground. The said finding, having not been challenged by the respondent in the present appeal, does not call for any further interference.

22. During her cross-examination, the petitioner-wife has specifically stated that she and the respondent were living separately from 28.08.2016 and that, on 29.08.2016, the respondent left for Abu Dhabi in connection with his employment. She has further stated that, thereafter, there was no communication whatsoever between the parties. A careful perusal of her cross-examination does not disclose anything having been



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elicited from her so as to discredit or otherwise dispute the case set up by her.

23. The respondent, in his cross-examination, has categorically deposed that he was not interested in continuing the matrimonial relationship with the petitioner. At no stage of his evidence has the respondent stated that he was interested in resuming the marital relationship or in leading a matrimonial life with the petitioner. Thus, the evidence on record makes it clear that neither of the parties was willing to continue the matrimonial relationship. There was, therefore, little possibility of the parties living together and leading a peaceful and happy married life.

24. Upon a careful consideration of the entire evidence of both the petitioner and the respondent, it is evident that the parties have made allegations against each other and that their conduct and evidence demonstrate that they were no longer interested in



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continuing their matrimonial relationship. The material on record, therefore, clearly indicates that the matrimonial relationship between the parties had broken down irretrievably and that there was no reasonable possibility of their reunion.

25. Insofar as the ground of desertion is concerned, the petitioner-wife had sought dissolution of the marriage under Section 10(1)(ix) of the Indian Divorce Act, 1869, on the ground that the respondent had deserted her. In such circumstances, the petitioner was required to establish that the desertion had continued for a period of at least two years immediately preceding the presentation of the petition.

26. The petition came to be presented on 14.02.2017. However, during her cross-examination, the petitioner herself has categorically stated that she and the respondent had been living separately from 28.08.2016. Thus, even according to her own evidence, the period of



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separation preceding the presentation of the petition was substantially less than two years. Consequently, the statutory requirement of desertion for a period of at least two years immediately preceding the presentation of the petition was not satisfied. In the circumstances, the Family Court was justified in dismissing the petition insofar as the ground of desertion was concerned.

27. We do not propose to examine the finding of the Family Court insofar as allowing the petition on the ground of cruelty, as the said finding has not been challenged in the present appeal. The challenge of the respondent is confined to the quantum of lumpsum maintenance awarded in favour of the petitioner-wife.

28. We have carefully considered the evidence of the respondent, including his deposition and the admissions elicited in the course of cross-examination. The material on record indicates that the respondent has the financial capacity to maintain the petitioner and that the



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obligation to provide for her maintenance cannot be disputed.

29. The Family Court, while determining the quantum of maintenance, has taken note of the fact that the respondent was working as an Administration Officer in Abu Dhabi and was earning more than Rs.2,00,000/- per month. Having regard to the financial position and earning capacity of the respondent and the circumstances of the parties, the Family Court awarded a sum of Rs.15,00,000/- towards lump sum maintenance to the petitioner-wife, while dissolving the marriage between the parties by a decree of divorce.

30. In our considered view, the amount of Rs.15,00,000/- awarded by the Family Court is just and reasonable in the facts and circumstances of the case. There is no straightjacket formula for determining the quantum of maintenance. The amount has to be assessed having regard to the facts and circumstances of each case.



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Among the factors which would ordinarily weigh with the Court are the status of the parties, the reasonable needs of the wife, her educational and professional qualifications, whether she has any independent source of income, the sufficiency of such income, if any, and whether she would be able to maintain a standard of living reasonably commensurate with that which she enjoyed during the subsistence of the matrimonial relationship.

31. The Family Court, while determining the quantum, has taken into consideration the status of the parties as well as the financial capacity of the respondent and his ability to provide for the petitioner. The claim for maintenance has been appropriately moulded having regard to the various circumstances brought on record.

32. The Family Court has also taken note of the financial capacity and income of the respondent, his reasonable expenses towards his own maintenance, his obligations towards dependent family members, if any,



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and other liabilities which were required to be taken into consideration for determining a fair and reasonable amount of maintenance.

33. Having regard to the overall circumstances of the case, the status of the parties, the earning capacity of the respondent, the reasonable requirements of the petitioner and the material available on record, we find no ground to interfere with the quantum of Rs.15,00,000/- fixed by the Family Court.

34. Upon a careful consideration of the pleadings and the evidence adduced by the parties, and for the reasons stated hereinabove, we proceed to pass the following order:

(i) M.F.A.No.7770/2023 filed by the husband is dismissed.

(ii) M.F.A.No.7160/2023 filed by the wife is also dismissed.

(iii) The counterclaim made by the husband seeking return of the gold ornaments is also dismissed.



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(iv) The direction issued by the Family Court directing the husband to pay a lump sum maintenance of Rs.15,00,000/- to the wife is hereby confirmed.

(v) It is declared that the marriage between the petitioner-wife and the respondent-husband, solemnized on 24.01.2015 at Holy Cross Church, Kulshekar, Mangaluru, and registered on 11.02.2015 under Registration No.8/2015 before the Registrar of Christian Marriages under the Indian Christian Marriage Act, 1872, stands dissolved by a decree of divorce with effect from the date of the decree.

(vi) The appeals stand disposed of accordingly.

(vii) No order as to costs.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM
List No.: 1 Sl No.: 27