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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.12.2025

PRONOUNCED ON : .01.2026

CORAM

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

CMA No.673 of 2016
and
CMP No.5479 of 2016

Vanasundari

Appellant(s)

Vs

Prakash

Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act to allow this Appeal, set aside the fair and decretal order dated 12.01.2016 in H.M.O.P. No.2 of 2014 passed by the Court of the Family Judge, Villupuram and to grant the relief sought for by the appellant.

For Appellant(s): Mr.F.W.H.Pithasan
for Mr.L.S.M.Hasan Fizal

For Respondent(s): M/s.R.Meenal

JUDGMENT

(Judgment of the Court was made by C.V.Karthikeyan, J.)

The respondent in HMOP No.2 of 2014, on the file of the Family Court at Villupuram, aggrieved by an order dated 12.01.2016 allowing the petition filed under section 13(1) (ia) (ib) of the Hindu Marriage Act, 1955, is the appellant herein.

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2.HMOP No.2 of 2014 had been filed by the respondent herein seeking dissolution of the marriage between him and the appellant herein held on 28.11.2004. He had filed the said petition on the ground of cruelty and desertion. In the petition, it had been stated that the appellant herein had insisted of setting up a separate residence within three months from the date of marriage and the respondent also complied with the said demand. He was able to arrange for a thatched house. The appellant however often quarrelled stating that she cannot live in such a house. Thereafter, they shifted to a rented house. It was again contended that the appellant again raised a quarrel stating that the house did not have sufficient facilities. Thereafter, the respondent and his parents built a new house in the year 2006 by selling the properties of his parents and also borrowing a sum of Rs.7,50,000/- from third parties. The front portion was occupied by the parents while the back portion was occupied by the appellant and the respondent. A boy was born on 16.04.2008. The appellant came back to the matrimonial house in August 2008 and thereafter, left to her parents house in October 2008. She then came back on 17.11.2008 and left finally to her parents house. She then lodged a complaint before the All Women Police Station, Villupuram, alleging cruelty. The respondent was brought to the Police Station and verbally abused and threatened. He was also assaulted and he was directed to arrange for a new rented house. The respondent was not able to comply with the said demand. After three years, another complaint was

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lodged at the All Women Police Station by the appellant against the respondent and his parents and an FIR in crime No.67/2011 was registered. The respondent was arrested and remanded to judicial custody. He was released on bail after seven days. His parents were also thereafter enlarged on bail. It was stated that the appellant continued to pick up quarrels and had caused untold pain and cruelty to the respondent and his family members. The respondent issued a legal notice on 05.12.2008 which was received, but reply was not given. It was under those circumstances that the petition was filed seeking dissolution of the marriage on the grounds of cruelty and desertion.

3.In the counter affidavit, the allegations against the appellant were denied and it was alleged that the respondent and his parents demanded three sovereigns of gold and drove the appellant away from the matrimonial house. It was contended that the respondent and his parents did not visit her house to see the child after his birth. It was stated that when she went back to the matrimonial house, her belongings were thrown outside and she was told that she could not enter the house without bringing three sovereigns of gold. She then lodged a complaint before the All Women Police Station who advised her and the respondent, but however again she was prevented from entering into the matrimonial house. It was contended that the respondent had abused her unnecessarily. She had contributed five sovereigns of gold towards the

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construction of the house, however, that respondent did not permit her to reside in the said house. She was also assaulted with an iron pipe and took treatment at Government Hospital, Villupuram. She then lodged a complaint before the All Women Police Station and an FIR in crime No.67 of 2011 was registered and the trial, at the time of filing of the petition, was pending before the learned Judicial magistrate I, Villupuram. She had stated that the respondent informed her not to take the legal notice seriously and it was for that reason that she did not issue any reply and sought that the petition should be dismissed.

4.During trial, the respondent examined himself as PW1 and his mother as PW2. He also marked Exs.P1 to P4, which included the copy of the Advocate notice and the FIR copy, Exs.P2 and P4 respectively. The appellant examined herself as RW 1 and examined another witness, RW 2 and her mother as RW 3. She marked Exs.R1 to R4. The certified copy of the judgment in C.C.No.97 of 2012 was marked as Ex.R1.

5.On consideration of the oral and documentary evidence, the trial Court held that the allegations of cruelty had been established and granted dissolution of marriage on that ground. Ex.R1 was also examined, wherein, the respondent and his parents and sister were acquitted off all charges. It was however held

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that the complaint had been lodged without good intention. It was also noted that the allegations of the appellant herein causing of cruelty on the respondent was proved and on that ground, the petition seeking divorce was granted, however, the ground of desertion was not acceded to by the trial Court.

6.Challenging this judgment, the present appeal has been filed.

7.The learned counsel for the appellant took the Court through the facts of the case. It was contended that the Trial Judge had misdirected himself in appreciation of the evidence with reference to the judgment delivered by the criminal Court acquitting the respondent and his parents and sister of all charges. It was contended that the acquittal was granted only owing to a settlement reached among the parties. It was further contended that the grounds of cruelty had not been made out and the learned counsel insisted the appeal should be allowed.

8.The learned counsel for the respondent however contended that the ground of cruelty had been established through oral and documentary evidence by the respondent. The very fact that the appellant has lodged a false complaint for demand of dowry not only against the respondent, but also against his

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parents and also his sister itself would show that she was not interested in continuing with the matrimonial life. The learned counsel stated that the maintenance amount as directed has been paid to both the appellant and also the son. It was contended that the trial Court had correctly appreciated the evidence and the judgment requires no interference.

9.We have carefully considered the arguments advanced and perused the materials on record.

10.The respondent herein/ husband had filed HMOP No.2 of 2014, before the Family Court at Villupuram, seeking dissolution of the marriage solemnized between him and the appellant on 28.11.2004. The petition had been filed under section 13(1) (ia) (ib) of the Hindu Marriage Act, 1955, seeking dissolution of the marriage on the grounds of cruelty and desertion.

11.A perusal of the pleadings reveals that respondent herein had stated that initially after the marriage, he and the appellant had lived together with his parents and owing to demand of the appellant, they had moved to a thatched house. This house was also not to the satisfaction of the appellant and thereafter, they had moved to a rented house. Again dissatisfaction was

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expressed necessitating construction of a new house. More importantly, on two separate occasions, the appellant herein had lodged complaints against the respondent herein. On the first occasion, the matter was closed at the Police Station itself. However, on the second occasion, an FIR in Crime No.67 of 2011, had been registered at the All Women Police Station, Villupuram, for the offences punishable under sections 498A and 324 IPC and under Section 4 of the Dowry Prohibition Act. The accused was not only the respondent, but also his parents and his sister. After trial, all the accused were acquitted of all charges.

12.During trial in the criminal case, the prosecution had examined 12 witnesses and also marked 9 documents. The mother of the appellant, who had been examined as RW3 before the Family Court, had been examined as PW2 during the trial in the calendar case. She had reiterated the demand of dowry. This demand had been held not to have been proved after trial. It is thus evident that the appellant had lodged the complaint, which was found to be not true and not substantiated after trial. But however, lodging of such complaints not only against the respondent, but also against his parents and his sister would certainly have caused much mental trauma on all of them. This amounts to cruelty. It had also been stated across the Bar that the respondent had also remarried and a child had also been born. But however, maintenance amounts have been

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directed to be paid to the appellant and to the son and no grievance has been raised that the said amounts have not been paid. The claim that the appellant was willing to join back in the matrimonial relationship cannot be accepted as being a claim made with honest intention. Even a perusal of the counter affidavit filed by the appellant shows that she has raised counter allegations as against the respondent herein. There has not been any expression of intent to join back in the matrimonial life. On the other hand, she had reiterated the demand of dowry, which demand had also been reiterated by her mother during her evidence. The fact that the said demand for dowry had not been established during the course of trial in the criminal case very clearly shows that the demand was false to the knowledge of the appellant.

13.A perusal of the judgment of the trial Court also shows that the appellant herein had lodged complaints against respondent on three earlier occasions in the year 2005, 2008 and again in the year 2009. The fourth complaint was lodged in the year 2011. Filing of these repeated complaints, itself would categorize constituting cruelty on the respondent and his family members.

14.In view of all these reasons, we hold that the appellant has not made out any ground to interfere with the order of the trial Court. We are not inclined to hold that the appellant had not caused the acts of cruelty against the

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respondent. The Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

(C.V.K., J.) (K.B., J.)
23.01.2026

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
sli

To

The Family Judge, Villupuram.

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C.V.KARTHIKEYAN, J.
and
K.KUMARESH BABU, J.

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Pre-delivery Judgment
in
CMA No. 673 of 2016

23.01.2026

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