



WEB COPY

CMA No. 1664 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-08-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

AND

THE HON'BLE MRS.JUSTICE N. MALA

CMA No. 1664 of 2021

R.Prakash

..Appellant(s)

Vs

P.Kalaivani

..Respondent(s)

PRAYER:Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act, 1988, praying to set aside the Judgment and decree dated 12.02.2021 made in F.C.O.P.No.321 of 2013 on the file of the Family Court, Salem.

For Appellant(s): Mr.R.Marudhachalamurthy

For Respondent(s): Mr.T.Shanmugam



Judgment

WEB COPY (Judgment of the Court was delivered by P.T.Asha J.)

Challenging the dismissal of his petition for divorce, the unsuccessful husband has filed the above Civil Miscellaneous Appeal.

2.The fact of the case are as follows and the parties are referred to in the same array as before the Family Court, Salem.

The petitioner had filed F.C.O.P.No.321 of 2013 on the file of the Family Court, Salem seeking dissolution of the marriage between him and the respondent which was solemnized on 09.09.2002. It is the contention of the petitioner that after their wedding, they had set up their matrimonial home in the house of the petitioner. Out of the marriage, the respondent had given birth to two sons, Kowsick and Kavikishore. The petitioner would submit that he had taken a room at Chinnathirupathi, Salem for preparing for the VAO examination, which he had passed, and was working as VAO, Kollapatty, Vazhapady Taluk, Salem. In the course of discharging his duties as VAO, he was having a relationship with one Saraswathi. This relationship has been misunderstood by the respondent and she suspected the petitioner of having married the said Saraswathi and



having illicit intimacy with her. The petitioner would submit that the respondent lavishly spent his earnings and when questioned about the same, there was a quarrel between him and the respondent. He would state that the respondent ran away from his house in the year 2012 and has been living separately. Thereafter, she had sent a petition against him before the higher officials stating that he was in an illicit relationship with the said Saraswathi. The petitioner would submit that these acts had caused mental agony and that there is no possibility of living together. Therefore, he has filed the petition for dissolution of marriage on the ground of cruelty. The allegations of cruelty were as follows:

- (i) The respondent suspected the petitioner.*
- (ii) The respondent had picked up a quarrel since the petitioner had questioned her about her lavish spending and*
- (iii) The respondent had lodged a complaint with the higher officials.*

3. The respondent has filed a counter, *inter alia*, denying the allegations contained in the petition. She would submit that she had conceived for the third time and on the compulsion of the petitioner had aborted the third child. During this period, she had become seriously ill



and nearly died on account of the wrong drugs given by the petitioner on his own accord. It was her sister-in-law who had thereafter rescued her and provided her with proper treatment. The respondent would submit that it was her parents who had given necessary monetary assistance to the petitioner to study and pass the VAO examination by putting him in a coaching class. In the course of attending the coaching class, the petitioner had come in contact with one Saraswathi and developed an illicit relationship with her. Till such time as he had met Saraswathi he was leading a happy matrimonial life with the respondent. Thereafter, his entire attitude had undergone a change and he never returned to the matrimonial home. Both the respondent's parents as well as the petitioner's parents went to the place where he was living with Saraswathi and demanded that he return to the matrimonial home and live with the respondent. However, the petitioner stayed with the respondent for a few days and thereafter left the matrimonial home and once again returned to stay with the said Saraswathi. The respondent had complained to the District Collector and during the enquiry, the said Saraswathi had stated that she would not interfere with the matrimonial life of the petitioner and the respondent. Therefore, on the basis of this endorsement, the complaint was closed. However, the relationship continued between the petitioner



and Saraswathi and the petitioner had a child through the said Saraswathi.

The petitioner had taken away the first son and is living with the first son along with the said Saraswathi. The second son is in the custody of the respondent. The respondent would submit that the petitioner has not even maintained her and her younger son. He has also taken away all the valuable materials like jewels and household articles given to her by parents. She therefore prayed that the petition be dismissed.

4. The petitioner had examined himself as P.W1 and marked Exs.P1 to P8. The respondent had examined herself as R.W1 and Marked Exs.R1 to 21. The learned Judge, Family Court, Salem, by her order dated 12.02.2021, had dismissed the petition. Aggrieved by the same, the present Civil Miscellaneous Appeal has been filed.

5. A perusal of the evidence and the averments in the petition would clearly indicate that the main ground on which the petitioner would allege cruelty is the allegation made by the respondent that the petitioner was having an illicit relationship with one Saraswathi and that she had filed a complaint with his superior making these allegations. An innocuous second ground has also been pleaded that the respondent was living a



lavish life and when questioned, she had quarrelled with him. As regards the second ground, there is no proof of the same. With reference to the allegation that the respondent had made a false accusation, the evidence would reveal otherwise. The respondent has marked Ex.R5, which is the birth certificate of a female daughter, wherein the petitioner's name is shown as the petitioner. In the said certificate, the residential address of the child's parents is the very same address of Saraswathi which is found in her statement in Ex.P2, which is the complaint filed by the respondent before the District Collector, where the respondent and Saraswathi had given their statements. The very same address is also shown in Ex.R6 which contains the vehicle particulars of the two-wheeler belonging to Sarawathi. In the column relating to son/wife/daughter, the petitioner's name has been given. That apart Ex.R9 and R21, which are the personal and official documents relating to Saraswathi are found in the e-mail of the petitioner. There is no explanation as to why the petitioner should have such personal details of another woman in his e-mail. Therefore, the allegation of the petitioner that the respondent has made a wild and false accusation that he was in an illicit relationship with one Saraswathi has been proved to be false. Therefore, the only ground on which the petition for divorce has been filed has no legs to stand. Hence, we are not inclined



to interfere with the well considered order of the trial Court. Accordingly,
this Civil Miscellaneous Appeal is dismissed. No costs.

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(P.T.A.,J.) (N.M.,J.)
19-08-2026

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

SRN

To

The Judge,
Family Court, Salem.



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**P.T.ASHA J.
AND
N.MALA J.**

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