



WEB COPY

CMA No. 1887 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2026

CORAM

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

and

THE HON'BLE MRS.JUSTICE N. MALA

CMA No. 1887 of 2026

R. Jayasudha
D/o.Rajendran,
No.9, Ambedkar Street,
Baby Nagar,
Chennai- 600 042.

..Appellant(s)

Vs

R.Vishnu Vardhan
S/o.Ravanaya,
No.11, Dr.Ambedkar Colony,
Velacherry, Baby Nagar,
Chennai- 600 042.

..Respondent(s)

Civil Miscellaneous Appeal is filed under Section 19(1) of the Family Court Act, 1984 read with Section 28 of Hindu Marriage Act, to set aside the fair and final order dated 27.01.2026 passed in HMOP No.3167 of 2025 on the file of the Vth Additional Family Judge, Chennai.

For Appellant(s): Mr.D.Jayakumar

For Respondent(s): No appearance



JUDGMENT

(Judgment of the Court was delivered by N.MALA J.)

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(1) The Civil Miscellaneous Appeal is filed by the wife, challenging the fair and final order dated 27.01.2026 dismissing the H.M.O.P.No.3167/2025, filed by her for dissolution of marriage on the ground of cruelty under Section 13(1) (i-a) of the Hindu Marriage Act, 1956 r/w. Section 7 of the Family Courts Act, 1986.

(2) The facts in a nutshell leading to the filing of the Civil Miscellaneous Appeal are as under:

The couple fell in love, got married on 17.04.2013, as per Hindu rites and customs and registered their marriage on the same day. The petitioner was a working woman and she resumed work within a month of the marriage. Thereafter, she conceived and on Doctors advice, with the consent of the husband, which consent she claims was given belatedly the foetus was aborted in the 7th month of the pregnancy for retarded brain development. The petitioner in her petition stated that she was blamed by the husband's family for the abortion, which itself amounted to cruelty. The petitioner later conceived for the second time and gave birth to a baby boy on 07.11.2014. The petitioner stated that her husband was an alcoholic and that she knew of his drinking habit even before the marriage. The petitioner filed a 12 page affidavit which contains mostly general and vague allegations of cruelty by her mother-in-law



and the husband. However, from a reading of the entire affidavit, the only incidents of cruelty that we could cull out are the physical assault of the petitioner by her husband and mother-in-law, illicit relationship of her husband with another girl and doubting nature of the husband. On the basis of the said allegations, the petitioner stated that she was put to lot of emotional stress and psychological torture in the matrimonial home. The petitioner therefore filed H.M.O.P. for decree for divorce on the ground of cruelty.

(3) The husband remained *ex parte* before the Family Court. The petitioner examined herself as P.W1 and marked Exs.P1 to P4 in support of her petition for divorce. The Family Court was of the view, that eventhough the husband remained *ex parte*, the wife was not absolved of the burden of proving the allegations of cruelty made by her in her affidavit. The Family Court after framing the point for consideration, on the basis of the petitioner's affidavit, evidence and documents on record, dismissed the petition on the ground that the allegations of cruelty were bereft of particulars and further the petitioner failed to discharge the burden of proving the allegations of cruelty made by her against her husband. Aggrieved by the dismissal of the petition for divorce, the petitioner has filed the above Civil Miscellaneous Appeal.

(4) We heard the learned counsel for the petitioner on admission of the appeal and perused the materials placed on record.

(5) The point for consideration that arises in the Civil Miscellaneous Appeal is whether the petitioner is entitled to a decree for divorce on the ground of



cruelty?

(6) The learned counsel for the petitioner submitted that since the husband/respondent remained *ex parte*, the Family Court ought to have allowed the divorce petition on the basis of the affidavit, oral evidence and the documentary evidence filed by the petitioner. In other words, the contention of the learned counsel for the petitioner is that since the respondent remained *ex parte*, the petitioner is automatically entitled for a decree for divorce. We are afraid, we cannot countenance the said argument of the learned counsel for the petitioner, since, even if the respondent remained *ex parte*, the petitioner is bound to prove by reliable evidence, her case for divorce on the ground of cruelty. As rightly pointed out by the Family Court, just because the husband remained *ex parte*, the petitioner is not absolved of the burden cast on her of proving her case by leading cogent evidence. In this regard, it would be relevant to refer to the judgment of the Hon'ble Supreme Court in the case of **Balraj Taneja & Anr. vs Sunil Madan & Anr.** reported in (1999) 8 SCC 396, wherein the Hon'ble Supreme Court held that in the absence of a written statement, the Trial Court cannot automatically allow the proceedings, but has to consider the petitioner's case on merits. In view of the said dictum of the Hon'ble Supreme Court, we find no infirmity in the finding of the Family Court that the petitioner was bound to prove her case. The Family Court found that the evidence placed before it by the petitioner was not sufficient to substantiate the allegations of cruelty alleged by the petitioner.



(7) From the allegations made in the petition, we find that most of the allegations are standard allegations, without any specific and clear account of the alleged acts of cruelty. Even the allegations regarding the physical assault by the husband and mother-in-law and the extra marital relationship of the husband, are general in nature and lacking in particulars like date, time, place etc. When the petitioner has filed the petition for divorce raising serious allegations of extra marital affair and physical abuse by the husband and the mother-in-law, the petitioner ought to have examined some independent witness like her parents or other relatives or atleast have filed some documentary evidence to show that she took immediate action by filing a police complaint. The only documents filed by the petitioner under Exs.P1 to P4, are copy of the extract of the Hindu marriage register, copy of Aadhar card, copy of birth certificate of the son and joint photo respectively. The said documents in our considered view, are not sufficient to prove the grave and serious allegations of extra marital relationship and physical assault. If there was any semblance of credibility in the petitioner's allegations, then she would have led better evidence. Based on the aforesaid documents and her own statements in evidence, we do not think that a decree for divorce can be granted. We also add that we have gone through the testimony of the petitioner and we find that it is neither reliable nor convincing.

(8) In our view, to decree the petition solely on the basis of uncorroborated testimony would be fraught, with the risk of reaching the conclusion in a slender



and uncertain evidential foundation. We are therefore of the view that, in the absence of any independent and corroborative evidence, lending assurance to the testimony of the petitioner, it would be wholly unsafe and unreasonable to decree the petition solely on the petitioner's uncorroborated evidence.

(9) In the light of the above discussions, we are of the view that the fair and final order of the Family Court does not call for any interference and hence, it is confirmed.

(10) Accordingly, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

(P.T.A.,J.) (N.M.,J.)
13-08-2026

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



To

1. The Vth Additional Family Judge,
Chennai.

2. The Section Officer,
V.R. Section, High Court, Madras.



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

dsn

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