

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 05-07-2018

Pronounced on : 24-10-2018

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE C. SARAVANAN

Civil Miscellaneous Appeal No. 3233 of 2014

A.K. Padma Kalavani .. Appellant/ Respondent

Versus

V. Arun Sachandra .. Respondent / Petitioner

Appeal filed under Section 19 of The Family Courts Act, 1984 against the Judgment and Decree dated 28.04.2014 made in HMOP No. 905 of 2008 on the file of Family Court, Coimbatore.

For Appellant : Mr. A. Deivasigamani
For Respondent : Mr. Sajeev Kumar
for M/s. Royan Law Associates

JUDGMENT

R. Subbiah, J

The respondent herein has filed HMOP No. 905 of 2008 before the Family Court, Coimbatore under Section 13 (1) (ia) of The Hindu Marriage Act for dissolution of the marriage solemnised between him and the appellant herein on 04.06.2003. He has also filed GWOP No. 967 of 2008 under Section 6 of The Hindu Minority and Guardian Act read with Section 25 of The Guardian and Wards Act, before the same Court, seeking to handover the custody of the minor daughter to him. The Family Court, by a common order dated 28.04.2014 allowed both the petitions filed by the respondent. Aggrieved by the order dated 28.04.2004 passed in HMOP No. 905 of 2008, the appellant has come forward with this appeal.

2. The averments in HMOP No. 905 of 2008 filed by the respondent before the Family Court, Coimbatore are to the effect that proposal for the marriage between him and the appellant was initiated at the instance of one of the family friends of the respondent by name Mr. Subramaniam and after deliberations and discussions among elders of both sides, the marriage between him and the appellant was solemnised on 04.06.2003 at Coimbatore as per Hindu rites and customs. At the time of marriage, there was no demand made by the respondent or his parents for dowry. After the marriage, the respondent and appellant commenced their matrimonial journey at the house of the respondent along with his parents. According to the respondent, the house of the appellant is

situated in the same street where they resided. It is the contention of the respondent that soon after the marriage, the appellant informed him that she did not like the respondent and that she was forced to marry him by her parents. Therefore, according to the respondent, there was no cohabitation between him and the appellant for about 17 months which caused acute mental agony and cruelty to him. Due to non-consummation of the marriage, there were frequent quarrels between them. It is also stated that the appellant was arrogant in her behaviour and she did not respect the elders in the family. When the parents of the appellant questioned the appellant regarding her conduct and behaviour, she openly uttered to them that the marriage was against her wishes and that the respondent is not the one whom she wanted to marry. Later, the appellant became pregnant and she went to her parents house. On 28.02.2007, a female child was born and when the respondent and his parents went to see the new born child, the appellant refused to show the baby to the respondent and humiliated him and his parents. Subsequently, the appellant came to the matrimonial home along with the female child.

3. According to the respondent, during March 2008, he shifted the matrimonial home to Periyanaickenpalayam as the appellant did not like any of the relatives or friends to visit the matrimonial home. He has also provided all the necessary comforts and amenities to the appellant. The matrimonial life was peaceful for some time. However, even after shifting to the new house, the appellant did not allow any one to have a glimpse of the female child. When this was questioned, the appellant scolded the respondent by using filthy words in front of his family members. The appellant also did not serve food to the respondent on many days. According to the respondent, whenever his relatives or friends visited the house with an invitation to attend any function, she would not allow the respondent to attend the same. Therefore, none of the friends or relatives visited the house of the respondent and whenever the respondent tried to convince the appellant, she threatened to end her life by committing suicide. The appellant also did not allow the respondent to take the minor daughter to his parents house even once in a month and thereby he was subjected to harassment and mental agony.

4. It is the further contention of the respondent that the appellant was always quarrelsome and due to her attitude, the house owner directed the appellant and the respondent to vacate the house. Whenever this was questioned the appellant threatened the respondent by saying that she would commit suicide. On 22.08.2008, the respondent informed the appellant that his close friend's brother, who is also his relative, was getting married on 24th August 2008 in the evening and asked the appellant to accompany him to the marriage, but she refused to attend the marriage. The appellant not only refused to accompany the respondent to the marriage, but also said that she will ensure that the respondent could not attend the interview at ELCOT scheduled

in the morning of 24th August 2008. Notwithstanding the same, the respondent proceeded to attend the interview and at about 9.30 am the appellant called the respondent over phone and informed him that she had consumed poison. When asked about the minor child, she replied that she had given poison for the minor child as well. On hearing from the appellant that she had consumed poison and given it to the minor child as well, the respondent, without attending the interview, rushed to his house and was shocked to see the respondent and the minor child in a sinking condition. Immediately, the respondent took the appellant and the minor child to K.R. Hospital, where, the Doctor, on examination, informed that the condition of the appellant and the minor child was critical. Therefore, after administering first aid, the respondent was asked to take the appellant and the minor child to Ramakrishna Hospital where both the appellant and the minor child were given treatment for 11 days in the Intensive Care Unit (ICU). After continued treatment the appellant and the minor child have recovered. The respondent also informed this incident to the police authorities, who, upon reaching the hospital, obtained a statement from the appellant however, no case was registered at the request of the respondent and his parents. According to the respondent, by virtue of such attempts to commit suicide, the appellant ensured that the respondent was kept in tender-hook always so that he will fulfil the desires of the appellant, even if it is unjustifiable. According to the respondent, in the five years of his married life, he suffered enough at the hands of the appellant and there is no point in continuing the matrimonial relationship any further. After this incident, the parents of the appellant agreed to treat the appellant in their house for her psychiatric ailment and accordingly the appellant left the matrimonial home. However, on 01.10.2008, the appellant returned to the matrimonial home and physically assaulted the mother of the respondent, forcibly snatched the keys of the respondent's room and took the cell phone of the respondent and other important document. Such an attitude of the appellant would show that she was not mentally stable and thereby the respondent was subjected to immense hardship and mental agony. In the above circumstances, apprehending danger to his life and that of the minor child, the respondent has filed the Original Petition for dissolution of the marriage on the ground of cruelty.

5. Repudiating the averments made in the original petition, the appellant filed a counter affidavit contending that the respondent was living in a house barely few furlongs away from her residence, both the families did not know about each other before the marriage. According to the appellant, she is a very simple girl hailing from a traditional family and her needs and requirements were very simple. After the marriage, the appellant and the respondent lived happily and the marriage was also consummated, however, it was the mother of the respondent who caused a matrimonial rift between her and the respondent and she was instrumental for all the problems that confronted the family. Therefore, it is false

to allege that there was no cohabitation between the appellant and the respondent for 17 months, as alleged. The mother of the respondent was more aggressive and fully controlled the respondent after the marriage in all forms and manifestations. The appellant was made to do all the household chores and she was treated like a servant maid after the respondent left the home for his office. However, in the evening, when the respondent and his father returned from their work, the attitude of the mother of the respondent will completely change and she would pretend as if she treats the appellant well. The appellant was also not permitted to visit her mother, who is residing nearby. The house where the appellant and the respondent commenced their matrimonial journey belonged to the mother of the respondent and therefore, she often dominated the appellant, respondent as well as the father of the respondent. The mother of the respondent often complained that the articles brought in by the appellant to the matrimonial home is inferior or grossly insufficient. In this context, the mother of the respondent often ridiculed the appellant in the presence of the relatives and other but the appellant withstood all those humiliation with the expectation that everything will be all right in the future. However, within six months of the marriage, the appellant was driven out of the matrimonial home and a meeting was convened in the presence of the elders of both sides for re-union. It is during such meeting that the appellant was made to write a letter as dictated by the mother of the respondent. In the letter, the appellant was made to apologise for certain acts and deeds allegedly committed by her. The fact remains that at no point of time did the appellant commit any such mistake as stated in the letter. The appellant was also made to write as if she was forced to marry the respondent, which is far from truth. However, after re-union, the appellant became pregnant and a child was also born. Even during the pregnancy, the appellant did not want a ceremony called Seemantham performed because of much hostility towards her by the in laws in the matrimonial home. Further, even after the birth of the child, the mother of the respondent did not change her hostile attitude towards the appellant. When the appellant was in her parents house, the respondent visited her occasionally without the knowledge of his mother and he could not dare to stand up against his mother since his employment itself was very insecure and he depended heavily on his mother.

6. According to the appellant, the mother of the respondent suggested for setting up a separate house for her and the respondent and accordingly, a rented tenement was arranged at Periyanaickenpalyam close to the place of employment of the respondent. However, after shifting the house to Periyanaickenpalayam, the respondent mostly stayed in his home along with his father and mother leaving the appellant and the minor child in the lurch. While so, on 24.08.2008, the respondent left the house without even giving any intimation to her as to where he was going. There was no

water supply for the preceding ten days and the stored water had been exhausted. The appellant was alone in the house with the minor child and she could not even clean the baby due to lack of water. She waited the whole day and tried to take the help of the house owner, who herself was facing acute water shortage. In such circumstances, out of frustration, she consumed some toxic substance and had also given it to the minor child. When the toxic substance began to work on her, she became panic-ridden and telephoned to the respondent who rushed and took the appellant and the minor child to the hospital. When she recovered from the medical crisis and was discharged, she was sent to her parents' house for recuperation. When the appellant was staying in her parents' house, the rented house was vacated and all the articles were shifted to the house of the mother of the respondent. On 01.10.2008, when the appellant came to the house to take some of her personal belongings, the mother of the respondent raised a hue and cry and pushed the appellant out of the house. The appellant was so humiliated and therefore filed suit in O.S. No. 2145 of 2008 before the District Munsif Court, Coimbatore to restrain the parents of the respondent from entering into the matrimonial home. According to the appellant, she and the minor child were not taken care by the respondent as a dutiful husband. The appellant had no complaint, whatsoever against the respondent and it is the mother of the respondent who had ruined the matrimonial life. In such circumstances, the appellant prayed for dismissal of the Original Petition.

7. Before the Family Court, the respondent examined himself as PW1, his father was examined as PW2 and Mr. Subramaniam, who was instrumental for the marriage between the appellant and respondent, was examined as PW3. Exs. P1 to P10 were marked on the side of the respondent. On behalf of the appellant, she examined herself as RW1 but no document were marked. The Family Court, upon analysing the oral and documentary evidence concluded that the appellant, for a trivial reason, had consumed poison and also administered it to the minor daughter and such a conduct of the appellant would have caused acute mental agony and unrest in the mind of the respondent. The Family Court further concluded that for a trivial dispute, the appellant went to the extent of committing suicide and also attempted to kill her own daughter which would definitely fall within the scope and ambit of the definition "cruelty" within the meaning of Section 13 (1) (i-a) of The Hindu Marriage Act. The Family Court also took note of the explanation offered by the appellant for taking the extreme steps as not convincing and therefore, the Family Court allowed the petition filed by the respondent and granted a decree of divorce, as prayed for by the respondent. Even though the Family Court has also allowed the petition in GWOP No. 967 of 2008 filed by the respondent/husband and directed the appellant/wife to handover the custody of the minor daughter to the respondent, the appellant has not filed any appeal as against the said order.

8. The learned counsel for the appellant-wife would contend that the Family Court failed to take note of the fact that it is the appellant who was subjected to matrimonial cruelty at the instance of the mother of the respondent, which was also narrated by the appellant in her deposition as RW1. In her deposition, the appellant has cited various instances where she was subjected to matrimonial cruelty at the instance of the mother of the respondent. Further, the appellant has categorically deposed that her mother in law ridiculed her in the presence of her relatives and that they dreaded to visit the appellant in the matrimonial home. The appellant was constantly humiliated by citing the financial status of the appellant and her family and often cited that the appellant is lower in status. The appellant was also restrained from visiting her parents house, which is situated very near from the matrimonial home. When the appellant attempted to commit suicide, her statement was recorded by the Judicial Magistrate and even at that time, the appellant did not say anything adverse against the respondent or his parents which only goes to show that the appellant discharged her status as a dutiful Hindu wife at all times. Even otherwise, the appellant had clearly stated that due to depression coupled with frustration, she had taken the extreme step to commit suicide by consuming pesticide. She has also deposed that she did not commit suicide to cause threat to the respondent in any manner. While so, it is contended by the learned counsel for the appellant that even though the appellant had taken a hasty decision to end her life, the circumstances which forced her to take such extreme step has to be taken note of, particularly, when the appellant has deposed that she has not attempted to commit suicide to cause threat to his husband/ respondent herein.

9. As regards the alleged letter written by the appellant admitting her guilt, the appellant specifically deposed before the Family Court that she was made to sign a draft letter by the respondent and his mother as a condition precedent for joining the matrimonial home and it is in those circumstances, she signed the letter with an intention to return to the matrimonial home. Therefore, the intention of the appellant is to join the matrimonial company of the respondent at any cost and that the contents of the letter cannot be put against the appellant to dissolve the matrimonial tie. In this context, the learned counsel for the appellant relied on the decision of the Honourable Supreme Court in the case of (Suman Singh vs. Sanjay Singh) reported in (2017) 4 Supreme Court Cases 85 to contend that certain solitary instances or conduct relating to the behaviour of one of the spouse cannot be taken into account to dissolve the matrimonial tie. The learned counsel for the appellant therefore prayed for allowing the appeal.

10. Per contra, the learned counsel for the respondent would contend that the appellant is not an illiterate, but an Engineering Graduate. The appellant had written a letter dated 31.08.2005 admitting all her misdeeds committed towards

the respondent and his parents during her stay in the matrimonial home. The contents of the letter speaks volumes about the misdeeds committed by the appellant. However, the appellant would simply contend that she was made to write a letter of such nature admitting her guilt. The letter dated 31.08.2005 was marked as Ex.P4 on behalf of the respondent before the Family Court. Above all, in the letter, Ex.P4, the appellant herself admitted that she had taken treatment for her psychiatric ailment and that she would take efforts to reform herself. This would amply show that the appellant had committed several misdeeds and also admitted the same in the letter, Ex.P4. Ex.P4 dated 31.08.2005 was written by the appellant in English and this would only show the extent of knowledge the appellant possess and it is not open to her to contend that she was innocent and made to sign the letter. The Family Court, taking note of the letter, Ex.P4 written by the appellant had concluded that the respondent has clearly proved the averments in the Original Petition against the appellant and demonstrated that he was subjected to matrimonial cruelty. Therefore, it was held by the Family Court that the respondent is entitled for a decree of divorce.

11. The learned counsel for the respondent would further contend that the appellant had consumed pesticide and administered it to the minor daughter for a trivial reason. The appellant also admitted having consumed pesticide, having administered the same to the minor daughter, the period of hospitalisation and her consequential recovery from the effect of poisoning. In such circumstances, the respondent cannot be expected to live with the appellant as he apprehends that even for a trivial reason, the appellant may commit suicide and would throw the blame on him. The Family Court also has concluded that the reasons assigned by the appellant for attempting to commit suicide are not sufficient and justifiable. In any event, the Family Court has given various reasons to hold that the respondent was subjected to matrimonial cruelty at the instance of the appellant and rightly dissolved the marriage solemnised between the respondent and the appellant. In order to buttress his submission, the learned counsel for the respondent relied on the decision of the Honourable Supreme Court in the case of (Suman Kapur vs. Sudhir Kapur) reported in (2009) 1 Supreme Court Cases 422 to contend that mental cruelty can be both physical and mental and if the injury is caused to bodily or physical injury, it depends upon the degree and extent of such injury and if it is mental, the impact of such treatment on the mind of the other spouse who sustained such injury. By placing reliance on the above decision, the learned counsel for the respondent would contend that by virtue of the act of the appellant in attempting to commit suicide by consuming pesticide besides administering it to the minor daughter, which was also admitted by the appellant herself, it can be construed that the respondent was subjected to acute mental agony and disturbance and on that ground he is entitled for a decree of divorce. According to the learned counsel for the respondent, the Family Court has rightly

examined the above aspects and granted a decree of divorce and it does not call for any interference by this Court. The learned counsel for the respondent therefore prayed for dismissal of this appeal.

12. We have heard the counsel for both sides and perused the materials placed on record. As we have dealt with the factual aspects projected by the appellant as well as the respondent at some required length, we refrain from dealing with the same any further. However, for the purpose of disposal of this appeal, we reiterate certain facts which are absolutely necessary for consideration.

13. The respondent has filed the Original Petition for dissolution of marriage on the ground of cruelty. To demonstrate that he was subjected to matrimonial cruelty at the instance of the appellant, he cited the instance where the appellant consumed pesticide and also administered it to the minor female child, however, both the appellant and the minor child were saved after 11 days of hospitalisation and treatment in the intensive care unit. This incident, according to the respondent, has caused him enormous mental cruelty and he has a reasonable apprehension that the appellant would repeat it once again. According to the respondent, the fact that the appellant attempted to commit suicide by consuming pesticide and administering it to the minor daughter is sufficient to dissolve the marriage solemnised between him and the appellant on the ground of cruelty as defined under Section 13 (1) (i-a) of The Hindu Marriage Act. In the light of the above, it has to be examined as to whether the respondent was subjected to matrimonial cruelty at the instance of the appellant and whether the respondent is entitled for a decree of divorce. Before dealing with the factual aspects leading to the filing of the present appeal, it would be necessary to examine as to what constitutes cruelty. The Honourable Supreme Court in the case of (Suman Kapur vs. Sudhir Kapur) reported in (2009) 1 Supreme Court Cases 422 relied on by the counsel for the respondent, had elaborately considered as to the circumstances that could be inferred to hold that one of the spouse was subjected to matrimonial cruelty. In Para Nos. 35 to 37, it was held as follows:-

35. In Shobha Rani vs. Madhukar Reddi, (1998) 1 SCC 105, this Court examined the concept of Cruelty. It was observed that the term cruelty has not been defined in the Hindu Marriage Act. It has been used in Section 13 (1) (i-a) of the Act in the context of human conduct and behaviour in relation to or in respect of matrimonial duties or obligations. It is a course of conduct of one spouse, which adversely affects the other spouse. The cruelty may be mental or physical, intentional or unintentional. If cruelty is physical, it is a question of degree which is relevant. If it is mental, the enquiry must begin as to the nature of the cruel treatment and then as to the impact of

such treatment on the mind of the other spouse. Whether it caused reasonable apprehension that it would be harmful or injurious to live with the other, ultimately, is a matter of inference to be drawn by taking into account the nature of the conduct and its effect on the complaining spouse.

36. There may, however, be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect of the other spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted. The absence of intention should not make any difference in the case. If by ordinary sense in human affairs, the act complained of could otherwise be regarded as cruelty. Mens rea is not a necessary element in cruelty. The relief to the party cannot be denied on the ground that there has been no deliberate or wilful ill-treatment.

37. In V. Bhagat vs. D. Bhagat, (1994) 1 SCC 337, the Court observed: (SCC pp.347 & 348, paras 16 & 17)

Mental cruelty in Section 13 (1) (i-a) can broadly be defined as that conduct which inflicts upon the other party such mental pain and suffering as would make it not possible for that party to live with the other. In other words, mental cruelty must be of such a nature that the parties cannot reasonably be expected to live together. The situation must be such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with the other party. The cruelty may be mental or physical, intentional or unintentional. If it is physical, it is a question of fact and degree. If it is mental, the enquiry must begin as to the nature of the cruel treatment and then as to the impact of such treatment on the mind of the spouse. Whether it caused reasonable apprehension that it would be harmful or injurious to live with the other, ultimately, is a matter of inference to be drawn by taking into account the nature of the conduct and its effect on the complaining spouse. There may, however, be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect on the other spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted. The absence of intention should not make any difference in the case, if by ordinary sense of human

affairs, the act complained of could otherwise be regarded as cruelty. Intention is not a necessary element of cruelty. The relief to the party cannot be denied on the ground that there has been no deliberate or wilful ill-treatment or conduct and continue to live with the other party. It is not necessary to prove that the mental cruelty is such as to cause injury to the health of the petitioner. While arriving at such conclusion, regard must be had to the social status, educational level of the parties, the society they move in, the possibility or otherwise of the parties ever living together in case they are already living apart and all other relevant facts and circumstances which it is neither possible nor desirable to set out exhaustively. What is cruelty in one case may not amount to cruelty in another case. It is a matter to be determined in each case having regard to the facts and circumstances of that case. If it is a case of accusations and allegations, regard must also be had to the context in which they were made."

14. In the light of the above guidelines laid down by the Honourable Supreme Court as to what constitutes cruelty, the evidence made available in the present case has to be examined. On behalf of the respondent, heavy reliance was placed on Ex.P4, a letter dated 31.08.2005 written by the appellant herself. In the letter, the appellant has admitted that she married the respondent forcibly and out of compulsion of her parents and therefore, initially, she did not like the matrimonial life. She also admitted having informed the respondent that he is not the apt match for her as he is dark in complexion. The appellant also admitted having insulted the respondent by calling him in singular. Thus, the contents of the letter, Ex.P4 are self-explanatory in which the appellant has admitted her misdeeds committed towards the respondent. However, the appellant would contend that she was made to write such a letter as a condition precedent for joining the respondent in the matrimonial home. We are not inspired by such a stand taken by the appellant. The appellant is educated and a holder of Engineering Degree and she cannot simply contend that she was made to sign a letter without reading the contents of the letter or knowing fully well about the contents of the letter and the adverse consequences the letter may have in her matrimonial life. The appellant cannot be expected to write such a letter without really having committed the misdeeds referred to therein. If the appellant did not really commit such mistakes, as stated in the letter, Ex.P4, she would not have signed the same even if she was coerced or compelled to do so. In any event, the contents of the letter, Ex.P4 would only show that the appellant was guilty of certain misdeeds and that she was ready and willing to reform herself

thereafter. By filing the said letter, Ex.P4 the respondent has proved the averments he had made in the Original Petition relating to matrimonial cruelty to which he was subjected to. It is a fact that after writing the letter dated 31.08.2005, Ex.P4, the appellant re-joined the matrimonial company of the respondent.

15. The next contention urged on behalf of the respondent is that on 22.08.2008, the respondent informed the appellant that his close friend's brother is getting married on 24th August 2008 and asked the appellant to accompany him in the evening. However, the appellant, not only refused to accompany the respondent to the marriage, but had thrown a challenge as to how he could attend the marriage on that day in the evening. On 24.08.2008, in the morning, the respondent went to attend an interview at ELCOT and at that time, he received a phone call from the appellant informing him that she had consumed poison and also administered it to the minor daughter. Immediately, the respondent rushed home, took the appellant and the minor child to K.R. Hospital, where, the Doctor, on examination, informed that the condition of the appellant and the minor child is critical. Therefore, after administering first aid, the respondent was asked to take the appellant and the minor child to Ramakrishna Hospital and accordingly, they were taken to the said hospital. At Ramakrishna Hospital, the appellant and the minor daughter were given treatment for about 11 days in the Intensive Care Unit (ICU) and after continued and sustained treatment, the appellant and the minor child were recovered from the ailment. In this context, when the appellant was examined before the Family Court, she deposed as follows:-

"என் குழந்தைக்கு 1 1/2 வயது இருக்கும் போது நானும் பாய்சன் சாப்பிட்டேன். என் குழந்தைக்கும் விஷம் கொடுத்தேன். குழந்தையை ஐசியூவில் 10 நாட்கள் வைத்திருந்தார்கள். குழந்தைக்கு விஷ மருந்து கொடுத்தால் அது எந்தளவுக்கு சைட் எபக்ட் இருக்கும் என்ற அளவும் படிப்பறிவும் உண்டு எனக்கு தெரியும். பெரியநாயக்கன் பாளையத்தில் என் கணவரும் நானும் என் குழந்தையும் தனியாகக் குடியிருந்தோம். அது ஒரு ரெசிடென்டல் ஏரியா. நாங்கள் மேல் மாடியில் இருந்தோம். கீழ் மாடியில் ஓனர் குடியிருந்தார். அந்த அத்திக்கடவு, தண்ணீர் வாரத்தில் 4 நாட்கள் வரும். குடிக்கும் தண்ணீர் 10 நாட்களுக்கு ஒரு முறை வரும். தண்ணீர் இல்லை கரண்ட் இல்லை என்பதால் ப்ரஉட்டேசன் ஆகி (மன உளைச்சல்) ஏற்பட்டு தற்கொலை முயற்சி செய்தேன். அதற்காகத் தான் செய்தேன். " .

16. It is evident from the deposition of the appellant, as RW1, that on the fateful day, there was no electricity supply or water for consumption or domestic purpose and therefore, she got frustrated and attempted to commit suicide by consuming pesticide and also administered it to the minor child, who was 1 1/2 years by then. Though this explanation of the appellant is only a lame excuse, such admission and attempt on the part of the appellant to commit suicide would certainly cause mental agony and disturbance to the respondent. We are of the view that the appellant was cruel

to the respondent by attempting suicide for frivolous and trivial discomfort. The respondent cannot, thereafter, be expected to live with the appellant without panic and fear. In the circumstances of this nature, no prudent or normal husband could thereafter be expected to live with the wife. A matrimonial life between a spouse must be peaceful, blissful and joyful and no one could be expected to live with panic, anticipating as to what would befall the next moment and how it would adversely affect his normal life. Therefore, we are of the view that the act of the appellant, in attempting to end her life by consuming pesticide besides administering it to the minor daughter, would fall within the definition of cruelty as defined under Section 13 (1) (i-a) of The Hindu Marriage Act. The Family Court also rightly held that the explanation offered by the appellant for taking the extreme step to end her life is not justifiable and we are in agreement with the same.

17. In the result, we confirm the Judgment and Decree dated 28.04.2014 made in HMOP No. 905 of 2008 on the file of Family Court, Coimbatore. Consequently, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

rsh

To

The Presiding Officer
Family Court
Coimbatore

+1cc to M/s. Royan Law Associates , Advocate SR.No. 72569
+1cc to Mr. A. Deivasigamani , Advocate SR.No. 72617

ASK(09/01/2019)

CMA No. 3233 of 2014