

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2020

CORAM :

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

C.M.S.A.NO.17 OF 2020

Sivakumar

... Appellant/Appellant/Petitioner

Vs.

Kamatchi

... Respondent/Respondent/Respondent

Appeal filed under Section 28 of the Hindu Marriage Act, 1955 read with Section 100 of the Code of Civil Procedure against the judgment and decree dated 11.11.2019 passed in C.M.A.No.15 of 2019 on the file of the Principal District Court, Villupuram confirming the judgment and decree dated 06.02.2019 passed in H.M.O.P.No.109 of 2015 on the file of the Principal Subordinate Court, Villupuram.

For Appellant : Mr.S.Satish

J U D G M E N T

The appellant, who is the husband of the respondent, has filed the above Civil Miscellaneous Second Appeal challenging the concurrent judgments of the Courts below made in C.M.A.No.15 of 2019 on the file of the Principal District Court, Villupuram confirming the order made in H.M.O.P.No.109 of 2015 on the file of the Principal Subordinate Court, Villupuram.

2.The appellant filed the Original Petition in H.M.O.P.No.109 of 2015 for divorce on the ground of cruelty. According to the appellant, the respondent had lodged a police complaint and also filed Domestic Violence complaint against him, therefore, the filing of police complaint and domestic violence case amounts to cruelty. In order to prove the act of cruelty, the appellant examined three witnesses on his side and also marked two documents. On the side of the respondent - wife, three witnesses were examined. However, no document was marked.

3.On a perusal of the order passed by the trial Court, it is clear that the appellant had failed to establish the cruelty committed by the respondent. Mere filing of a police complaint and a domestic violence case against the appellant shall not

amount to cruelty. Since the appellant had not established the averment stated in the petition by adducing oral and documentary evidences, the trial Court rightly dismissed the petition, which was also rightly confirmed by the Lower Appellate Court.

4.I do not find any ground much less any substantial question of law to interfere with the concurrent judgments of the Courts below. The Civil Miscellaneous Second Appeal is liable to be dismissed. Accordingly, the Civil Miscellaneous Second Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal District Court,
Villupuram.

2.The Principal Subordinate Court,
Villupuram.

+1cc to M/s.P.Sivagaminathan, Advocate, S.R.No.23850

C.M.S.A.No.17 of 2020

VSNII(CO)
CS/10/09/2020

सत्यमेव जयते

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