

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on
07.01.2021

Judgment Pronounced on
09.02.2021

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CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA
and
THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

CMA No.1851 of 2017

M.Premkumar ... Appellant/Petitioner

Vs.

Jemima Susan ... Respondent/Respondent

This Civil Miscellaneous Appeal is filed under Section 19 (1) of the Family Court Act against the order and decree dated 07.04.2017 made in FCOP No.53 of 2014 on the file of Family Court, Vellore, Vellore District (IDOP No.2 of 2010 on the file of the Principal District Court, Vellore).

For Appellant : Mr.Narendran
for Mr.M.R.Senthilkumar

For Respondent : Mr.D.Saravanakumar

JUDGMENT

(Judgment of the Court was made by G.CHANDRASEKHARAN.J)

This Civil Miscellaneous Appeal is filed against the order of the learned Family Court Judge, Family Court, Vellore in FCOP No.53 of 2014, formerly IDOP No.2 of 2010.

2. The appellant as the petitioner filed petition under Section 10(i)(x) of Divorce Act, (Amendment Act 2001 (51 of 2001)) on the ground of cruelty. The parties are being referred in this Appeal as they were referred before the trial Court.

3. The case of the petitioner, as seen from the petition averment, in brief is as follows:-

(i) Petitioner and respondent are Christians belonging to "Layman Evangelical Fellowship" Church. Petitioner was a Hindu by birth and subsequently, converted to Christianity. The marriage between the petitioner and respondent was solemnised on 13.01.2009 at Apostolic Fellowship Tabernacle Church, Vellore according to Christian



worship. After marriage, petitioner and Respondent stayed at the respondent's house on 13.01.2009 and 14.01.2009 and thereafter, they came to petitioner's house on 15.01.2009. Reception was held at the residence of petitioner on 16.01.2009. Both of them stayed in the petitioner's house for two days and left to Ooty on 18.01.2009 as a pleasure trip and from there went to Bangalore on 19.01.2009. During the short stay at petitioner's house, the respondent ill-treated the petitioner's parents cruelly. Respondent is a fanatic in christianity and she treated the parents of the petitioner as untouchables. She told that she totally discard and disrespect the family members of petitioner including his parents, because of the fact that all are Hindus. She started showing indifferent attitude towards the family of the petitioner. The respondent was pestering the petitioner to have the separate residence and she was unwilling to live with the parents of the petitioner. Petitioner requested the respondent several times to change her attitude and pacified her to live with his parents. But the respondent did not mend her ways.

(ii) Petitioner and respondent left to Bangalore on 19.01.2009 and started hunting for a rented house. With much difficulty, the petitioner rented a house at White Field Main Road, Siddhapura, Bangalore on 24.01.2009. Even after making arrangement for a separate living, the respondent started quarrelling with the petitioner on 05.02.2009 and asked him to take her to her parents' home at Vellore immediately. The petitioner expressed his inability to avail the leave, but the respondent left to her parental home without bothering or minding the words of the petitioner. She returned to Bangalore on 13.02.2009 along with her grandmother. The respondent was torturing the petitioner to forsake and to neglect his parents. He told her that he is the only son to his parents and he has to take care of them. On 03.03.2009, the petitioner left to Netherlands for his official work and returned on 23.03.2009. The respondent quarrelled with the petitioner and asked him to quit the job and settle at Vellore with her parents. On one day, she left the house at 12'0 Clock in the night and started quarrelling with the petitioner in the street without any reason or cause. Petitioner with the help of his well wishers Mr.Mahind and Mr.Shyla Mahind pacified the respondent. The respondent removed the Thali and threw on the face of the petitioner. Only on the advice of Mr.Mahind and Mr.Shyla Mahind, she started wearing the Thali again.

(iii) On 12.04.2009, the petitioner and respondent came to Coimbatore to celebrate Easter. While travelling, the respondent started quarrelling with the petitioner and attempted to jump from the bus to commit suicide. Petitioner pacified her and came to Coimbatore and immediately after attending Easter Vigil mass, they left to Bangalore. The respondent stated that she was reluctant to drink even the



water in the house of the petitioner. The petitioner informed the acts of cruelty and brutal behaviour of the respondent to Rev. Bro. Daniel Job, who was instrumental in arranging the marriage between the petitioner and respondent. When the parents of the petitioner visited Bangalore, respondent did not show the courtesy of inviting them and gave respect. Therefore, the parents of the petitioner stopped visiting the petitioner's house. Petitioner tolerated the cruel behaviour of the respondent on hope that she would mend her ways and change her character and attitude, but that was not happening.

(iv) On 03.05.2009, respondent quarrelled with the petitioner and left the house and settled with her parents by deserting the petitioner without sufficient cause or reason. She sent a message on 09.05.2009 to the petitioner that "O.K. Prem we'll legally part as U wanted V put an end 2 all this please this is final. No more changes, let's not be dragging this tell me as 2 where n when I shd cum sign the ... whatever "please make it fast" Jemmima susan". After deserting the petitioner, the respondent preferred a complaint to All Women Police Station (AWPS), Vellore. Petitioner and his parents applied for anticipatory bail and that was dismissed as "No case has been registered against the petitioner and his parents". Petitioner sent a legal notice to the respondent on 23.06.2009, Notice was acknowledged by the respondent on 27.06.2009, no reply was sent. Subsequently another notice dated 03.08.2009 was sent to the respondent informing her to accept her belongings. Respondent sent reply on 07.08.2009 with false and untenable allegations. In the said circumstances, this petition is filed for divorce on the ground of cruelty.

4. The case of the respondent in brief is as follows:-

(i) The respondent admits their marriage, which was conducted and denied all the other allegations. On 18.11.2001, petitioner and respondent had gone to Ooty to visit petitioner's relatives and not as a pleasure trip. It is unbecoming to state that the respondent started torturing her in-laws cruelly within a short span of time, just in five or six days of marriage. Respondent is a pious, docile and orthodox person, but the petitioner failed to understand the respondent's character and misunderstood her as a proud girl. The respondent's unsocialising and introvert nature made them to have a wrong impression and opinion about her, particularly in the mind of the petitioner's mother. Such a wrong impression on the part of petitioner's mother lasted longer and continued to linger in her mind and prompted her to poison the petitioner for the separation from the respondent. Petitioner is the only son of his parents and hence, they are highly possessive and over anxious on the petitioner's welfare and future. Respondent is also equally affectionate towards the petitioner. Petitioner reciprocated the same love and affection to the respondent. Respondent is always willing to live with her husband. In fact, she went to Bangalore twice



after 03.05.2009, and the petitioner avoided meeting the respondent. Petitioner's mother is not happy with the respondent for not bringing a car as a gift. Petitioner and respondent lived happily at Bangalore. Petitioner used to converse with his mother daily at about 11 p.m to 12 p.m. and immediately after the conversation, his behaviour and conduct invariably changed and he picked up quarrel with the respondent. Petitioner's mother gave a wrong and motivated ill advice to him. Due to the nature of work, petitioner used to come late at night to the house. It was the lonely place. Therefore, the respondent requested the petitioner to fetch her grandmother from Vellore to help her. Petitioner could not avail leave, but he sent respondent to Vellore to fetch her grandmother and he saw her off at Bangalore bus stand on 05.02.2009. The respondent never prevented petitioner from showing care and affection to his parents. Due to global recession, petitioner was apprehensive and insecure about his job. Respondent came across a job advertisement in CMC and she believed that she could suggest this job advertisement to the petitioner. She never forced him to change his residence to Vellore. She never removed the Thali. In fact, it was the petitioner, who removed the Thali and on the advice of his friends, he tied it again to the respondent. The allegation that on 12.04.2009, the respondent was attempting to jump out of the bus is not correct and false. They were travelling in AC Coach bus and claim of the petitioner that the respondent tried to jump out of the bus is a blatant lie. Under the pretext of medical check up to the respondent, petitioner took the respondent to Vellore on 03.05.2009 and left her in her parents house and respondent has not left matrimonial home on her own accord or deserted the petitioner. The respondent tried to contact the petitioner several times, but the petitioner failed to respond her phone calls. Respondent was driven to the brim of insanity by separation and unable to tolerate the condition of living apart from her husband, she sent the message. No criminal complaint was given against the petitioner or his parents. The notice was suitably replied. The allegations of cruelty are imaginary and unfounded. Respondent is willing and longing to have peaceful and joyful family with the petitioner. Therefore, the respondent prays for dismissal of this petition.

5. During the course of trial, petitioner was examined as PW.1 and her mother was examined as PW.2. Exs.P1 to P21 were marked on the side of the petitioner. Respondent was examined as RW.1 and Thiru.Gnana Prakasam was examined as RW.2 and Thiru.Daniel was examined as RW.3. Exs.R1 and R2 were marked.

6. On considering the oral and documentary evidence, the learned trial Judge found that there is no ground available to grant the relief of divorce to the petitioner and dismissed the petition. Against the said order, this Civil Miscellaneous Appeal is filed.



7. The learned counsel for the petitioner submitted that the order of the learned Family Court Judge is bereft of any details and no reason whatsoever has been given for negating the claim of the petitioner. The learned trial Judge failed to appreciate the oral and documentary evidence produced in support of cruelty and ill treatment meted out to the petitioner and his parents at the hands of the respondent from the day of marriage until she deserted the petitioner on 03.05.2009. The oral and documentary evidence had not been discussed in the order. The learned trial Judge failed to take note of the fact that the petitioner and respondent were living separately from 03.05.2009 till today. Respondent always tried to get away from matrimonial home and refused to live with the petitioner and his parents. The respondent has given false complaint before All Women Police Station (AWPS), Vellore and has initiated proceedings under Domestic Violence Act to harass the petitioner and his parents. Respondent has not only disregarded the matrimonial relationship between the petitioner and respondent, disrespected, ill treated not only the petitioner but his parents and his relatives by saying that they are untouchables. She threw her Thali away and then attempted to commit suicide trying to jump out of the running bus. Though the petitioner produced sufficient evidence and proved these allegations, unfortunately, learned Family Court Judge not considered a single bit of oral and documentary evidence and came to a wrong conclusion and dismissed the Divorce Petition. Therefore, learned counsel for the petitioner prayed for setting aside the order of learned Family Court Judge in FCOP No.53 of 2014 by allowing this CMA with the grant of divorce in favour of petitioner against the respondent.

8. Per contra, learned counsel for respondent submitted that the claim of the petitioner that the respondent ill-treated petitioner, his parents and relatives within a short span of five or six days from the date of marriage is highly unbelievable. No one would dare to disrespect or ill-treat the husband and parents-in-law and other relatives within a short span of time, especially at the place of the petitioner's residence at Coimbatore. Petitioner is a pious, religious and docile. She was not used to socialise with others. Therefore, she was misunderstood by the petitioner, his parents and family members. Her affinity towards Christianity does not mean that she was hatred towards Hindu Religion. She never used to any words of alleged ill-treatment or disrespect against petitioner, his parents and his relatives. Without giving sufficient time to have mutual understanding between the newly married couple and parents-in-law and the members of the family of her husband, the mother of the petitioner precipitated small issues and magnified it as big problems and was responsible for initiating this divorce proceedings. She used to make calls to the petitioner after 11 P.M everyday and poisoned his mind. After speaking



to his mother, invariably the petitioner's behavior changed rough and he started picking quarrel with the respondent. Though the respondent initiated proceedings under Maintenance and Domestic Violence Act, at the initiation of mediation and the outcome of mediation, she withdrew the petition and she is always ready and willing to live with the petitioner. So saying, learned counsel for respondent prayed for confirming the order of the learned Family Court Judge and dismissal of this Appeal.

9. Points for consideration in this Appeal are:-

1. Whether the appellant has made out a case for the grant of divorce on the ground of cruelty under Section 10(i)(x) of Divorce Act ?
2. Whether the dismissal of the petition filed for divorce on the ground of cruelty by the Family Court, Vellore is correct?

10. Point Nos. 1 and 2:-

Marriages are made in Heaven: But it is our responsibility to make them work. It is seen from the pleadings and submissions made on both sides that there is no dispute with regard to the solemnisation of marriage between the petitioner and respondent on 13.01.2009 at "Apostolic Fellowship Tabernacle Church". Though petitioner claimed in the petition that no 'Banns' were performed and no procedures as contemplated under Christian Marriage Act was followed in the petition, nothing seriously canvassed with regard to the procedural formalities adopted during the solemnization of marriage in the Appeal. Therefore, We are not concerned about the observance or non-observance of procedural formalities, proclamation of the 'Banns' etc., in this Appeal. Petitioner has produced the marriage invitation, photo, marriage certificate as Exs.P1, P2 and P10. RW.2 Rev.Br. Gnana Prakasam performed the marriage between the petitioner and respondent. He spoke about solemnization of marriage and the licence given to him for performing marriage between Indian Christians. He produced the copy of the Marriage Register Book for registration of the marriage between the petitioner and respondent as Ex.R1 and copy of the Licence given to him by Government of Tamil Nadu to solemnise marriage and grant certificates for Indian Christians as Ex.R2. Thus it is proved that there is no dispute with regard to the solemnization of marriage between the petitioner and respondent on 13.01.2009.

11. Petitioner filed this petition under Section 10(i)(x) of Divorce Act. It reads as follows:-

"[REDACTED] Grounds for dissolution of marriage.--

(1) Any marriage solemnized, whether before or after the commencement of the Indian Divorce (Amendment) Act, 2001 (51 of 2001), may, on a petition presented to the District Court either



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by the husband or the wife, be dissolved on the ground that since the solemnization of the marriage, the respondent---

(i)

(ii)

....

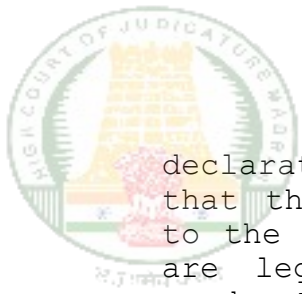
(x) has treated the petitioner with such cruelty as to cause a reasonable apprehension in the mind of the petitioner that it would be harmful or injurious for the petitioner to live with the respondent. "

12. Thus it is clear from this Section that to get an order of divorce, it is necessary for the petitioner to prove that the respondent treated the petitioner with such cruelty as to cause a reasonable apprehension in his mind that it would be harmful or injurious for him to live with the respondent.

13. As already stated and at the risk of repetitions, the petitioner lists the acts of cruelty alleged to have been committed by the respondent against him, his parents and relatives as follows:-

1. The marriage was solemnised on 13.01.2009. Petitioner and respondent stayed in the respondent house on 13.01.2009 and 14.01.2009, they came to petitioner house at Coimbatore on 15.01.2009 and they stayed there for two days and left Ooty on 18.01.2009 and then, went to Bangalore on 19.01.2009. During this period, reception was held on 16.01.2009. It is alleged that the respondent ill-treated petitioner's parents as untouchables and she showed indifferent attitude towards the family of the petitioner.
2. She was unwilling to live with the parents of the petitioner at Coimbatore and insisted on separate residence.
3. She left the petitioner on 05.02.2009 without respecting or minding the petitioner and went to Vellore.
4. She insisted the petitioner to leave his job and settle at Vellore.
5. She threw her Thali and only at the instance of the petitioner's well wishers, she wore the Thali again.
6. She tried to jump from a running bus while travelling from Bangalore to Coimbatore on 12.04.2009 and attempted to commit suicide.
7. She did not welcome petitioner's parents and she showed disrespect to them when they visited them at Bangalore.
8. Finally, she deserted the petitioner on 03.03.2009 on her own will and volition.

14. In order to prove these allegations, the petitioner has examined only one witness on his side and that is his mother. The documents produced by the petitioner in the form



declaration form and Ex.P19-list of articles would only show that the petitioner returned the household articles provided to the respondent at the time of marriage. Ex.P3 and Ex.P5 are legal notices, Exs.P4 and P6 are the acknowledgement cards, Ex.P7 is the reply notice. Petitioner has filed Ex.P9-anticipatory bail order, Ex.P11-copy of the petition sent by respondent to District Social Welfare Officer, Ex.P13-Copy of Form-1, Domestic Incident Report. Ex.P14 is the copy of Form-2, Ex.P15-Copy of Form-3, Exs.P16-Copy of the counter filed in DVMC No.14/2010. Ex.P20 is the order of learned Chief Judicial Magistrate in CrI.M.P.No.1253 of 2011. Ex.P21 is copy of the petition in DVAMC No.14 of 2010 (Domestic Incident Report). All these documents, Ex.P9-anticipatory bail order, Exs.P11, P13 to P16, P20 and P21 have been filed to show that the respondent initiated the proceedings by giving criminal case before All Women Police Station (AWPS) and filed petition under the Domestic Violence Act against the petitioner, his family members and his parents with a view to harass and ill-treat them. According to the learned counsel for the petitioner, the act of giving complaint to the police and initiating the proceedings under DMVA clearly demonstrated the devious mind of the respondent to harass the petitioner, his parents and it amounts to cruelty.

15. However, it is seen from the averments made in the petition in para-13 that the anticipatory bail petition filed by the petitioner was dismissed for the reason that "no case has been registered against the petitioner and his parents". During the course of his evidence, the petitioner admitted that he has not produced any material, especially the CSR to show that the respondent gave police complaint against the petitioner and his family members. Therefore, it is clear from his own admission in the petition and his evidence that his claim that respondent gave a criminal complaint against him and his parents is obviously not true.

16. Further it is seen from his evidence, the respondent filed a petition under Domestic Violence Act and another petition seeking maintenance and he admitted that the respondent had withdrawn both the petitions. He also admitted that Joshwa Daniel had mediated between families. The respondent also stated that at the instance of Joshwa Daniel, she withdrew the petitions filed under Domestic Violence Act and the petition claiming maintenance against the petitioner. Therefore, it is clear from the oral evidence of petitioner and respondent that though the respondent had initiated proceedings under Domestic Violence Act and for claiming maintenance, at the instance of Joshwa Daniel, she withdrew those proceedings on the hope and desire to resume her marital relationship with the petitioner. Therefore, on the basis of the documents produced by the petitioner to show that the respondent harassed the petitioner and his parents by initiating legal proceedings, we cannot come to the conclusion that the respondent caused cruelty on the petitioner and his



parents. She was just exploring the legal remedy available to her, but later withdrew those legal proceedings with the desire to resume the matrimonial relationship with the petitioner. Therefore, this Court is of the considered view that the documentary evidence produced by the petitioner would be of no help to the petitioner to establish the alleged acts of cruelty alleged to have been committed by the respondent towards the petitioner. That leaves us with only the oral evidence of PW.1, and his mother PW.2 to prove the alleged cause of cruelty alleged to have been committed by the respondent.

17. With regard to the first ground, it is seen that petitioner and respondent resided at the house of petitioner at Coimbatore from 9 p.m on 15.01.2009 and till they left to Bangalore on 19.01.2009. Hardly they were in the petitioner's house for three or four days. It is highly unbelievable to claim that the respondent ill-treated the father and mother of the petitioner as untouchables and showed disrespect on the ground that they are Hindus. PW.1 admitted that caste system is not prevalent in Christianity. PW.2 had also admitted that the respondent did not know the caste of the petitioner. Therefore, their claim that the respondent treated petitioner's parents as untouchables is very hard to believe. Though PW.2 elaborated that the respondent told them that since they are Hindus, she would not reside in their house and would not drink water, the main allegation was that the respondent treated them as untouchables. When the respondent did not know the caste of the petitioner, where is the question of treating the petitioner and his family members as untouchables. Apart from the interested evidence of petitioner and PW.1, no independent witness was examined to corroborate and substantiate this allegation against the respondent. Therefore, We are not able to accept the contentions raised on behalf of the petitioner in this regard.

18. The next ground is that the respondent started pestering the petitioner to have a separate residence and she was not willing to live with the parents of the petitioner. It is seen from the evidence of the petitioner that immediately after marriage, when he asked the respondent to live with his parents at Coimbatore, respondent told him that she cannot live with his parents and she lives only with him. The refusal on the part of the respondent to live with petitioner's parents at Coimbatore and expression of her desire to live with him cannot be considered as cruelty. Admittedly, petitioner was working at Bangalore at the time of marriage and at the relevant point of arising of dispute between the petitioner and respondent. Every bride's desire is to live only with the husband, especially immediately after the marriage. She cannot be expected to live with the parents-in-law. Respondent expressed her desire to live with her husband. This desire cannot be considered as cruelty at



19. The third ground is that the respondent insisted the petitioner to take her to Vellore immediately to her parents' house on 05.02.2009. When the petitioner expressed his inability to avail leave, the respondent left to her parental home and she came back on 13.02.2009 with her grandmother. The respondent denied this allegation, but said that the petitioner used to come home very late at night and she was apprehensive of the lonely area and language problem and she requested the petitioner's permission to fetch her grandmother to support her. On his permission only, she went to Vellore and the petitioner saw her off from Bangalore bus stand on 05.02.2009. Then she came back with her grandmother on 13.02.2009. Though the petitioner denied the suggestion made to him that he saw off respondent on 05.02.2009, he admitted that the respondent returned on 13.02.2009 with her grandmother. He also admitted that he used to work from 12 noon to 9 p.m and returned only at about 10-10.30 p.m. The area in which they were living was a new place to the respondent and on that account, the respondent requested his permission to fetch her grandmother to support her. These sequence of events and the evidence and conduct of the respondent show that only after getting permission from the petitioner, the respondent had gone to Vellore to fetch her grandmother to support her on 05.02.2009 and returned to Bangalore on 13.02.2009 with her grandmother. Therefore, the ground taken that the respondent left without bothering the mind and words of the petitioner to the parental home on 05.02.2009 is not true.

20. The next contention with regard to insisting the petitioner to quit the job and settle at Vellore was answered by the respondent by stating that due to global recession, the petitioner was apprehensive and insecure about his job. Therefore, she showed a job advertisement at CMC, Vellore. It was a genuine attempt on the part of a wife to support and dispel the insecurity on the part of the petitioner. It cannot be presumed that the respondent was compelling the petitioner to quit his job and come to Vellore.

21. The fifth contention is with regard to throwing up Thali one day on the dead of night at 12' 0 clock. There is no specific mention about the date of this incidence. One Mr.Mahind and Mrs.Shyla Mahind said to have come to the rescue of the petitioner and pacified the respondent and at their instance, respondent started wearing Thali. First of all, as already stated, there is no specific date given with regard to this particular incident. Neither Mr.Mahind nor Mrs.Shyla Mahind was examined in respect of this allegation to corroborate and prove this particular conduct of the respondent. In the absence of any corroborative acceptable evidence, this allegation has to be treated only as not proved by the petitioner.



22. Next allegation is that on 12.04.2009, when the petitioner and respondent were travelling to Coimbatore to celebrate Easter, respondent started quarrelling with petitioner and attempted to jump from bus, to commit suicide. Except the evidence of the petitioner, no other independent witness was examined to prove this allegation. If really the respondent was trying to jump from the running bus to commit suicide, all the passengers in the bus would have known about this incident. But the petitioner has not chosen to examine any of the co-passengers or crew of the bus in support of his allegation and he admitted that they were travelling in AC coach. Normally AC coach would have separate enclosure for the crew and passengers and therefore, it is not easy task to try to jump from the running bus to commit suicide. In the absence of any supportive evidence, this allegation of the petitioner has to be treated only as not proved.

23. The seventh ground is that the respondent had shown disrespect to the parents of the petitioner when they visited Bangalore. Here again the details with regard to the date of the incident and other necessary particulars are not mentioned. PW.2, the mother of the petitioner, has not specifically mentioned about the alleged ill-treatment when they visited Bangalore. Therefore, it has to be necessarily concluded that this allegation has not been proved by the petitioner.

24. The next allegation is that the respondent left the petitioner on her own on 03.05.2009 after quarrelling with him. However, this allegation of the petitioner was proved as false from the evidence of his mother PW.2. PW.2 would say that the petitioner had alone taken the respondent to Vellore on 03.05.2009 for giving her treatment in CMC hospital. Therefore, this allegation is also not proved by the respondent. On the other hand, it was proved from the evidence of PW.2 that it was a false allegation.

25. With regard to sending of sms message on 09.05.2009, the respondent admitted sending this message at the height of her mental tension because of separate living. But it is her specific case that right from the beginning, she was willing and even now, she is always willing to live with the petitioner. Petitioner has produced Ex.P12 - message sent by the respondent. Messages have been sent on 27.02.2010, 09.03.2010, 25.03.2010, 27.03.2010 and 01.04.2010. These messages show that how desperate the respondent was to resume marital life with the petitioner. She highlighted the importance of marriage and marital life and her willingness and eagerness to resume marital life with the petitioner. She also highlighted how the petitioner was influenced by his mother in filing the divorce petition and efforts to get him married again to another woman. She stated that she was desperate to live with him and would not be willing to give



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26. It is seen from the evidence of RW.2, Rev.Br. who performed the marriage between petitioner and respondent, and RW.2, brother of respondent that they had made efforts to settle the marital dispute between the petitioner and respondent and tried to unite them. Petitioner has also admitted during the course of evidence that Mrs.Joshwa Daniel conducted mediation between two families on 23.06.2009. Respondent's father, Daniel met his parents at Bangalore and requested him not to desert the respondent. He admitted responding to their request and informed them that the respondent may stay with his parents and not with him. He also admitted that respondent came to his house on 14.05.2010 and he was not there in the house at the time of her visit. PW.2, the mother of the petitioner, had admitted that respondent had not initiated any criminal proceedings under Dowry Harassment Act; petitioner was not shown as respondent in the Domestic Violence Petition and she withdrew the petitions filed under Domestic Violence Act and also the Maintenance Petition. It is the case of the respondent that only to facilitate a congenial atmosphere for resuming co-habitation and marital life with the petitioner, she had withdrawn the proceedings initiated under Domestic Violence Act and Maintenance Case. Thus it is clear from the oral and documentary evidence produced in this case that the respondent was all along willing to resume the marital life with the petitioner. It was specifically stated in her proof affidavit that she required some time to understand the petitioner and his family members. But before getting to know their likes and dislikes, small issues had been magnified as big issues at the instance of petitioner's mother and this case came to be filed.

27. True it is that when a woman enters into a matrimonial home with her husband, her in-laws, who were not known to her previous to the marriage, she requires some time to understand the persons in the matrimonial home and get adjusted to the marital life. Sadly in this case, within five or six days from the date of marriage, small and trivial issues came up and instead of sorting out those issues, petitioner's parents, especially mother had made a mountain out of molehill and made the petitioner to initiate this divorce proceedings.

28. True it is that marriages are made in heaven. When two unknown people, whether from the same or from different cultural background decide to hold each other's hand and share their future as husband and wife, they come together because of God. But it is our responsibility to make them work. Here, the word "our" includes the couple, their parents, siblings, in-laws and other family members. It is the collective responsibility of everyone to make a marriage work and successful. In arranged marriage, when a bride enters a matrimonial home, she enters in a house where she knows no one



before the marriage. There may be lot of issues, like, cultural differences, adjustment to present lifestyle from previous lifestyle, understanding the character and attitude of her husband, his parents, in-laws and other family members etc. It takes sometime to get to know, understand and win over these issues or atleast adjust with these issues. Primarily, it is the duty and responsibility of the husband and the parents of the husband to provide necessary comfort to the bride and give her confidence and support to face the realities in marital life. The bride has also the equal duty and responsibility to give due regard and respect to her husband, his parents, in-laws, other family members and understand their sensibilities. Without which, she can not expect to live a peaceful and happy marital life. Here, in this case, the respondent - a pious Christian girl found some cultural differences in the residence of the appellant's house. As claimed by her, she required sometime to get adjusted to her parents-in-law, other family members and the surroundings. Meanwhile, small issues cropped up. Those are all teething issues and should have been addressed with care and compassion. Instead of tackling these teething issues sensibly, the parents of the petitioner, especially his mother magnified and aggravated the issues, resulting in filing of this divorce petition. Love and compassion are the foundation of peaceful existence. Where there is love, there is no fight.

29. Therefore, for all the reasons mentioned supra, We are of the considered view that the petitioner has failed to prove any of the grounds alleged in respect of the cruelty alleged to have been committed by the respondent. Though the trial Judge dismissed the petition without properly appreciating the oral and documentary evidence in this case, which We have done in the exercise of appellate power, this Court is of the considered view that the dismissal of the Divorce petition filed by the petitioner under Section 10(i)(x) on the ground of cruelty is correct. This Court confirms the order of the learned Family Court Judge for the reasons stated above and inclines to dismiss this Appeal, accordingly, this Appeal stands dismissed. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

mra



To

1.The Judge, Family Court,
Vellore, Vellore District.

2.The Principal District Judge,
Vellore.

Copy To

The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.D.Saravanakumar, Advocate SR.No.7200

CMA No.1851 of 2017

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