



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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| RESERVED ON  | 24.11.2021 |
| DELIVERED ON | 07.12.2021 |

**CORAM :**

**THE HONOURABLE MRS.JUSTICE S.ANANTHI**

C.M.S.A(MD)No.33 of 2017

and

C.M.P(MD)No.10445 of 2017

A.Kavitha ... Appellant/Respondent/Respondent

vs.

Gogulan ... Respondent/Appellant/Petitioner

**PRAYER** :Appeal filed under Section 28 of Hindu Marriage Act r/w 100 of C.P.C., against the fair and decreetal order made in C.M.A.No.1 of 2017, dated 11.08.2017 on the file of the learned Additional District Judge/Fast Track Mahila Court, Karur, reversing the Judgment and Decree in H.M.O.P.No.209 of 2016, dated 23.12.2016 on the file of the Principal Subordinate Court, Karur.

For Appellant : Mr.M.V.Venkataseshan  
For Respondent : Mr.S.C.Herold Singh

**JUDGMENT**

This appeal has been filed against the fair and decreetal order, dated 11.08.2017 in C.M.A.No.1 of 2017, passed by the learned Additional District Judge/Fast Track Mahila Court, Karur, reversing the Judgment and Decree, dated 23.12.2016 in H.M.O.P.No.209 of 2016, on the file of the Principal Subordinate Court, Karur.

2.The respondent herein/husband has filed a petition in H.M.O.P.No.209 of 2016 on the file of the learned Principal Subordinate Judge, Karur, seeking divorce and the same was dismissed on 23.12.2016. Against the said dismissal order, he has preferred an appeal in C.M.A.No.1 of 2017 on the file of the learned Additional District Judge/Fast Track Mahila Court, Karur, the same was allowed on 11.08.2017, against which, the present appeal has been filed.



3.Heard on either side. Perused the material documents available on record.

4.The respondent herein/husband had filed a petition in H.M.O.P. No.209 of 2015 on the file of the learned Subordinate Judge, Karur, for divorce u/s 13(1)(i-a)(i-b), on four grounds.

5.The appellant/wife belongs to Muthuraja community and the respondent/husband belongs to Scheduled Caste. So, the wife disrespected the husband in all ways. The wife did not perform any duty to the respondent/husband, as a wife.

6.The husband met with an accident on 30.03.2011 at Chennai. But, the wife did not give any response to take care of her husband.

7.The wife gave false complaint against her husband based on the allegations of cruelty.

8.The learned Subordinate Judge, Karur, has dismissed the H.M.O.P.No.209 of 2015. Aggrieved by the said dismissal order, the husband has filed an appeal in C.M.A.No.1 of 207 before the learned Additional District Judge, Karur. The learned Appellate Court has allow the appeal on the ground of cruelty and granted divorce.

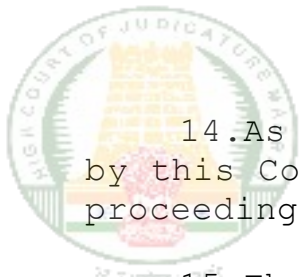
9. The issue is to be decided in the matter is Whether the cruelty as pleaded by the husband is proved ?

10.The wife gave a false complaint against her husband. Admittedly, wife gave a criminal complaint to the Kattuputhur P.S., for the offences under Section 498(A) of IPC and Section 4 of TNPWH Act. The husband has moved an anticipatory bail before this Court and the said petition was closed as pending enquiry was pending.

11.The wife gave another complaint on 27.04.2013 against her husband with some allegations. All women police Station, Musiri, has alleged that the husband is having illicit intimacy with other girls.

12.On 29.04.2013, the wife gave another one complaint alleging that the husband ill-treated her and demanded dowry.

13.Generally, the wife has alleged her husband that he was having illicit intimacy with other girls. But, she admitted in her evidence that she did not know that whether the husband has developed illicit intimacy.



14.As per Judgment reported in **2014(2)MWN (Civil) 393** passed by this Court has held that the institution of continuous criminal proceedings by the wife amounts to mental cruelty.

15.The wife has made a false paper publication about the petitioner as he is mentally affected due to accident. The paper publication was produced and marked as Ex.P.6. But, only after the accident and publication, Doctorate degree was given to the husband.

16.Eventhough the publication in news paper was not pleaded in H.M.O.P.No.209 of 2016, the wife has admitted in her evidence about the paper publication.

17.In this case, the wife has continuously lodged criminal complaints against her husband and also made false paper publication.

18.From the above, it is revealed that the appellant would have suffered from mental cruelty at the hands of wife.

19.Therefore, the husband in entitled to get divorce on the ground of cruelty. The learned Additional Sessions Judge, Karur, has rightly granted divorce. This Court has no valid reason to interfere with the findings of the learned Appellate Judge.

20.Accordingly, this Civil Miscellaneous Second Appeal is dismissed by confirming the fair and decreetal order, dated 11.08.2017 in C.M.A.No.1 of 2017, passed by the learned Additional District Judge/Fast Track Mahila Court, Karur, reversing the Judgment and Decree in H.M.O.P.No.209 of 2016, dated 23.12.2016 on the file of the Principal Subordinate Court, Karur. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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**Note:**In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

1.The Additional District Judge/  
Fast Track Mahila Court, Karur.

2.The Principal Subordinate Court,  
Karur.

3.The Record Keeper,  
V.R.Section,  
Madurai Bench of Madras High Court,  
Maduvari.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate ( SR-37706[F] dated  
08/12/2021 )

+1 CC to M/s.M.V.VENKATASESHAN, Advocate ( SR-37684[F] dated  
07/12/2021 )

**C.M.S.A(MD)No.33 of 2017**

**07.12.2021**

RK(15/12/2021) 4P 7C