



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM  
and  
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.282 of 2022

Shankar

... Appellant/Respondent

Vs.

Gomathi

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act, 1984 against the Judgment and Decree dated 29.09.2021 made in F.C.O.P.No.19 of 2018 on the file of the Family Court, Namakkal.

For Appellant : Mr.S. Kalyanaraman

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

This is an appeal filed under Section 19 of the Family Courts Act, 1984, by the appellant/husband, aggrieved by the Judgment and decree dated 29.09.2021 in F.C.O.P.No.19 of 2018 on the file of the Family Court, Namakkal, whereby the District Judge, Family Court, Namakkal, allowed the petition for divorce filed by the respondent/wife under Section 13(1) (i-a) of the Hindu Marriage Act, 1955 on the ground of cruelty and desertion.

2.It is her case that the marriage between the appellant and the respondent was solemnized on 02.09.2011; at the time of marriage, the respondent's parents provided 25 sovereigns of gold jewels to the respondent and given Rs.4 Lakhs cash; apart from that household articles worth about Rs.50,000/- were also given as sridhana; immediately on the 19<sup>th</sup> day of marriage, the appellant came in an inebriated condition and attempted to have sexual intercourse with the respondent; in continuation of which, he also tortured the respondent, physically; thereby she sustained injuries on her back, left side of her hip; during the



treatment in Ganga Hospital a sum of Rs.50,000/- was spent by the respondent; in the meantime, on 11.03.2012, the appellant/husband came to the house of the respondent and demanded Rs.2 lakhs through her parents; notwithstanding the torture adduced by the appellant, the respondent/wife lodged a complaint before the All Women Police Station on 13.03.2012; on the compromise made between the parties in the Police Station, they started living separately at Namakkal from 19.10.2012 onwards; however, the appellant continued his harassment and finally the respondent/wife filed the petition under Section 13(1)(i-a) of the Hindu Marriage Act, before the Trial Court.

3.The appellant, in his counter denied the entire allegations made in the divorce petition and stated that they are false and imaginary.

4.Since the attempts of counselling having been failed, the Trial Court had no other option than to proceed with the trial. Before the Trial Court, on the side of the respondent/wife, P.W's.1 and 2 were examined and Exs.P.1 to 11 were marked. On the side of the appellant/husband R.W's.1 and 2 were examined and Exs.R.1 and 2 were marked, besides witness evicence, W.C.1 was marked.

5.The Trial Court after considering the evidence on record, allowed the petition for divorce.

6.Aggrieved by the Judgment and decree of the Trial Court, the present Civil Miscellaneous Appeal has been preferred.

7.Heard, Mr.S.Kalyanaraman, learned counsel appearing for the appellant and perused the materials available on record.

8.The learned counsel appearing for the appellant would submit that there was absolutely no serious act worth the name of cruelty and even before the marriage could start working the parties unfortunately got separated. He would further submit that the Trial Court rendered the findings solely by relying upon the testimony of the respondent/wife, and not believed the testimony of the appellant/husband. It is the further case of the appellant/husband that the respondent/wife and her family members converted to Christianity 12 years back. However, it has not been intimated to the appellant's family, while fixing the marriage between the appellant and the respondent. The respondent/wife suppressed the fact that she belongs to Christianity and married the appellant/husband.



9.It is pertinent to note that admittedly, marriage between the appellant and respondent was done as per the Hindu customs and rites. The main allegation against the respondent/wife is that she suppressed the fact that she belongs to Christianity, at the time of marriage. In this regard, though the Exs.P.3 and 4 would go to show that the respondent/wife belongs to Hindu religion and before the date of marriage the respondent/wife took the appellant to the CSI Church at Ganesapuram, in order to celebrate her birthday, the appellant/husband, now cannot raise the question of suppressing the fact of change of religion by the respondent/wife. However, both the appellant and respondent had not adduced any evidence with regard to change of religion, therefore, we are unable to accept the contention of the appellant. Furthermore, the respondent narrated the cruelty meted out to her by the appellant in her evidence. We also found that there is no possibility of reunion and the marriage is irretrievably broken down.

10.On appreciation of evidences, the Trial Court had rightly found that the contention of the respondent/wife is right and without any justifiable reason, without issuing any communication or taking steps to join together, the appellant/husband simply deserted the wife and continued to live separately, which shows that there was no attraction/subsistence of marital bond between the parties and the conduct of abandonment of marital life is large in this case and therefore, we hold that the respondent/wife is entitled for the relief of divorce.

11.In the result, this Civil Miscellaneous Appeal stands dismissed as devoid of merits and the Judgment and decree dated 29.09.2021 made in F.C.O.P.No.19 of 2018 is hereby confirmed. No costs.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

Jer

To

1. The District Judge,  
Family Court,  
Namakkal.



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

WEB COPY

+1cc to Mr.S.Kalyanaraman, Advocate SR.No.9925

C.M.A.No.282 of 2022

GPL (CO)  
CB (05/04/2022)