



C.M.S.A.No.42 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : **15.06.2022**

CORAM:

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**C.M.S.A.No.42 of 2022**

N.Elakkiya

...Petitioner/Appellant/Appellant

Vs.

G.Elancozhan

...Respondent/Respondent/Respondent

**Prayer:** Civil Miscellaneous Second Appeal is filed under Section 13 (i-a) of the Hindu Marriage Act, 1955 read with Section 100 of the Code of Civil Procedure against the Judgment and Decree dated 23.10.2019 in H.M.O.P.No.31 of 2018 on the file of the learned Subordinate Judge, Thiruvarur, confirmed by the learned Principal District Judge, Thiruvarur, in C.M.A.No.13 of 2019.

For Appellant : Mr.K.Subramanian



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## **JUDGMENT**

The appellant herein is the petitioner before the learned Subordinate Judge, Thiruvarur, in H.M.O.P.No.31 of 2018. This petition was filed by the appellant herein for the dissolution of the marriage solemnised between the petitioner and the respondent herein on 01.02.2017. The appellant herein would contend in her Original Petition that she had married the respondent who was none other than her paternal aunt's son. The two of them had fallen in love and thereafter, got married, on 01.02.2017 as per the Hindu rites and customs.

2.It is the case of the appellant that she was given the customary jewellery, household articles etc., The marriage expenses and the articles amounted to a sum of Rs.15 lakhs which was borne entirely by the appellant's father. After the marriage, the appellant and the



respondent started their marital life at the respondent's house. The appellant has contended that after the marriage, the attitude of the respondent changed and he started treating the petitioner with cruelty. The cruelty was not only in the form of physical abuse but also by means of obscene words in the course of the conversation. The appellant would submit that unable to bear these atrocities, she had within 26 days of her marriage taken refuge in her grandmother's house. The petitioner had lodged a complaint before the All Women Police Station at Vedaraniyam. The police held an enquiry between the parties and advised the two of them to live together in the grandmother's house. In the course of time, the appellant became pregnant and instead of being happy about the same, the respondent has started harassing and treating her further. By reason of this cruelty meted out by her, the appellant has suffered a miscarriage. On 08.07.2017, the appellant had sent a notice to the respondent called upon the respondent to hand over all her belongings and informing that he should not touch with her. The petitioner therefore sought for



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dissolution of marriage on the ground of cruelty.

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3.The respondent on entering appearance had filed his counter denying all the allegations put forward by the appellant. The respondent would contend that the petitioner has not come forward with true facts. The appellant has deliberately suppressed the fact that the respondent's family had given jeweleries to her. The respondent would submit that the appellant had gone to her grandmother's house only on account of the fact that the same was nearer to her College. He would contend that the respondent had twisted the facts out of context. The respondent would submit that he has taken several steps to reconcile with the appellant and it is only the appellant who was adamant in not rejoining the respondent. The allegation of cruelty was stoutly refuted by the respondent.



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4.The learned Subordinate Judge, Thiruvarur, after hearing the parties and going through the evidence dismissed the petition filed by the appellant on the ground that the allegation of cruelty has not been proved by the appellant. Aggrieved by the said order, the appellant had filed C.M.A.No.13 of 2019 on the file of the learned Principal District Judge, Thiruvarur. The learned Principal District Judge, Thiruvarur, confirmed the Judgment and Decree of the learned Subordinate Judge, Thiruvarur, holding that the petitioner who had come out with a specific allegation of cruelty has not proved a single one. The learned Judge had also taken into account the fact that the Police authorities before whom a complaint had been lodged by the petitioner had advised the parties to rejoin and try to work out their defences. Challenging the concurrent Judgment and Decree, the appellant is before this Court.



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5.Heard the learned counsel for the appellant and perused the papers.

The appellant has filed a petition for divorce on the ground that she had been subjected to cruelty and therefore, the marriage between the petitioner and the respondent should be dissolved. A perusal of the Judgment of the appellant Court, particularly, Para 14 would indicate the grounds of cruelty pleaded by the appellant. The learned Principal District Judge, Thiruvarur, has considered each and everyone of these allegations and come to the conclusion that none of them have been proved. Though the appellant had contended that she had filed a complaint against the respondent stating that he was abusing and harassing the petitioner, the petitioner except for marking the complaint receipt as Ex.P.5 has not chosen to file a complaint. The contents of the complaint are not known to this. If really, the complaint had been filed making allegations, the respondent police would have definitely investigated the complaint. No such thing has been taken place which



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has raised a doubt as to whether the petitioner has come forward with the false case. The Courts below have concurrently held against the appellants stating that she has not proved the allegations with cogent evidence. This Court sitting in appeal cannot reconsider the same. Consequently, no question of law is made out and therefore, this Civil Miscellaneous Second Appeal is dismissed. No costs.

**15.06.2022**

Index : Yes/No  
Internet : Yes/No  
Speaking order / Non speaking order  
mps

To

1.The Subordinate Judge,  
Thiruvarur.

2.The Principal District Judge,  
Thiruvarur.



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**P.T. ASHA, J,**

mps

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