

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

and

HON'BLE SRI JUSTICE M.LAXMAN

F.C.A.Nos.34, 36 & 39 of 2020

COMMON JUDGMENT:

1. Since all the appeals arising out of Common Order and Decree dated 06.12.2019 in FCOP Nos.137 of 2013 & 341 of 2014 and parties also same, they are being heard together and disposed of by way of this Common Order.

2. The appellant/wife filed FCA Nos.36 and 39 of 2020 against orders in FCOP No.137 of 2013 dismissing petition for restitution of conjugal rights filed by her and allowing FCOP No.341 of 2014 filed by the respondent/husband for grant of decree of divorce, on the file of Judge, Family Court at Warangal and respondent/husband filed FCA No.34 of 2014 against granting of permanent alimony of Rs.30,00,000/- (Rupees thirty lakhs only).

3. The trial Court recorded common evidence in both the FCOPs and taken the pleadings of the parties in FCOP No.137 of 2013 for disposal. For the sake of convenience, the pleadings and parties hereinafter will be referred to as arrayed in FCOP No.137 of 2013.

4. Smt. Kuraganti @ Eathakota Sapna, hereinafter will be referred to as petitioner, filed F.C.O.P.No.137 of 2013 for grant of restitution of

conjugal rights against Dr. Sri Eathakota Ramesh Kumar, hereinafter will be referred to as respondent/husband under Section 9 of Hindu Marriage Act, 1955. The respondent filed FCOP No.341 of 2014 for grant of decree of divorce from petitioner under Section 13(1)(ia) of Hindu Marriage Act, 1955.

5. Brief facts, which are necessary for disposal of these appeals, are as follows:

It is the case of the petitioner that the marriage between the petitioner and the respondent was performed on 29.10.2001 and they were blessed with two daughters namely E.Rupin Kamlini and E.Sancia. Since the date of marriage, the petitioner was subjected to domestic violence by the respondent and his parents including family members. It is the specific contention of the petitioner that the respondent abused the petitioner in filthy language, subjecting her to both physical and mental torture during his posting at Madhya Pradesh till the year 2012; that after his posting to Visakhapatnam from Madhya Pradesh, the respondent, including parents along with his brother and sister, harassed the petitioner and forced her to commit suicide; that even though the petitioner is an Electrical & Electronics Engineering Graduate, she was not allowed to do job by the respondent and she was forced to depend on the income of the respondent for all her necessities; that the respondent constantly

demanded for additional dowry and they were trying to eliminate her and her children from his life; that the petitioner was waiting for a change in the attitude of the respondent with a hope that he will realize the importance and value of his wife and marriage tie; that the father-in-law of the petitioner wrote several letters to the Bishop at Dornakal complaining against the Panchayath Head, Rev.Padma Rao, the then Pastor of Khammam, C.S. I Church, Rev.Padma Rao headed the panchayat organized by the respondent and his family members at Khammam. Since the head of the panchayat did not support the respondent and his family and their harassment on the petitioner, her father-in-law wrote letter to Bishop to transfer Rev. Padma Rao and in a letter written to the bishop her father-in-law mentioned about the petitioner *"the petitioner is non-cooperative in family affairs including sexual life"*; that the petitioner was subjected to mental harassment on petty issues and one such issue was that she was forced to apologize for not using the coconut in the chutney; that the respondent has two faces, one for society and other for petitioner and her children; that the respondent beat her, threw her into bathroom, twisted chunni around her neck tightly and made her to suffocate and dragged her out of bathroom and detained in the closed room till the next day morning and stated that he would torture her till the core if she is killed, no one knows her face and it is difficult for anyone to identify her body. That on many occasions, the respondent damaged her

Laptop snatched her mobile and curtailed her communication needs and the respondent always used to keep the petitioner in an emotional pressure by saying that she was neither a good daughter, good sister, good wife nor a good mother and better she should die and he used to drive her to commit suicide. On one occasion, the petitioner was locked in bed room till next day morning and the room was opened in the morning when the cook returned to the work.

6. When the respondent was transferred to Visakhapatnam the petitioner was forced not to close the doors of bathroom and she was asked not to use the bathroom and when they went to bungalow and her children was suffering from fever the respondent came and ordered to all the attendants not to attend bungalow works and even stopped water supply. When she went to the hospital taking her kids and then to her in-laws house she was not allowed into the house and they were necked out from their house and when she informed her parents who are staying at U.S.A, they solaced her and said that they would settle after coming to India and thereafter the petitioner and her children remained in Government Quarter and the respondent stayed at his parents' house and the respondent took all his belongings from the quarter, and left the quarter. When her parents returned to India, the respondent and his parents did not allow the petitioner and her parents to sit in their house and when they went to the Official

Bungalow, they found the bungalow was locked from inside and outside.

7. After giving birth to a girl child in the year 2003, she came to Visakhapatnam, but she was not provided with basic necessities by her in-laws, as such, she was forced to stay with her relatives at Muralinagar, Visakhapatnam. The respondent was reluctant to take the petitioner into his fold in spite of several requests made by her and her parents. Mediation was held by Mr.Kantha Rao, I.A.S, District Collector, Shivapuri in Madhya Pradesh and Mr.Dharma Rao, I.A.S the then District Collector, Gwalior on 12.08.2003, who advised the respondent to take the petitioner and her daughter. The sister and brother of the respondent are root cause for polluting respondent's mind by injecting all ill-feelings without any cause. While staying at Gwalior the petitioner and her parents were made to wait outside the Bungalow on the road from 9.00 AM to 5.30 P.M and she had to feed her baby on the road. The respondent to overcome his misdeeds has filed O.P.No.295 of 2013 for judicial separation in the Hon'ble Judge, Family Court at Visakhapatnam and also filed interlocutory application No.166 of 2013 seeking ad-interim relief by restraining the petitioner herein from entering into his workplace or approaching print and electronic media. In spite of all the harassment by the respondent, the petitioner is ready to join the society of the respondent and therefore she seeks decree of restitution of conjugal rights and

prays the Court to direct the respondent to take the petitioner into his conjugal society.

8. Counter affidavit is filed by the respondent denying the averments in the affidavit filed in support of this petition stating that after his school education in Sainik School, Korukonda, Vizianagaram District, he prosecuted MBBS course during the year 1989-94 from Andhra Medical College, Visakhapatnam and thereafter, he passed Civil Services Exam and got selected for Indian Administrative Service (IAS) in the year 1999 and worked at several places in Madhya Pradesh and thereafter, he has been transferred to Visakhapatnam, on deputation, and posted as Vice Chairman and Managing Director, Girijan Cooperative Corporation on 16-10-2012 and thereafter he was shifted to the Service of Government of India and his tenure as an I.A.S. Officer both at Madhya Pradesh and Andhra Pradesh, figured him as one of "30 Pearls of India", which is a rare National recognition and honour to a Bureaucrat. According to the respondent, at the time of marriage, the petitioner was a B.Tech. Engineering student, but subsequent to the marriage, on his encouragement she completed her Diploma in Business Administration, prosecuted M.Tech, P.G Degree, M.B.A and also prosecuted her B.A.,L.L.B Degree and enrolled herself as an Advocate in the A.P.High Court Bar Association. He further asserted that the petitioner was a very proud lady and she is virtually an incarnation of perversion of highest degree with sadistic

temperaments. After the marriage, the true colours of the petitioner emerged out and number of times she commented that her marriage with the respondent was an unwilling affair to her and desired to get herself married to a handsome person hailing from upper strata and that on account of the pressure exerted upon her by her parents, she married the respondent. The petitioner is having an intimate friend by name Mr. Vinay Bhaskar, and she used to have telephone conversation with him and a Greeting Card was sent to her by said Vinay Bhaskar on the eve of the Birthday (1999). The petitioner was disloyal to the respondent and she used to exhibit her hegemony and aggrandizement by stating that she was born as a woman with silver spoon, and she is highly conscious of her beauty and she was skilled cards player and professional stock broker and prefers talking on phone with her intimate friends and watching TV and her favorite shows are "Sansanikhoj", Suspense crime thrillers, CID, etc., and the acts of perversion and sadistic temperament of the petitioner have been intensified resulting in subjecting the respondent to untold physical and psychological tyranny. Even though the elder brother of the petitioner by name Mr.Sarin Babu advised her to mend her behavior, she has not heeded and contrary she avoided her own brother. The respondent asserted that he struggled to reach that position and he is having all good qualities to become a man.

9. The respondent was subjected to humiliation and insult on several occasions by the petitioner and that even the petitioner refused to attend the celebrations "Seemantham" as desired by the parents of the respondent when she was carrying 5 month pregnancy. Even after delivery of a female child, there is no change in the attitude of the petitioner or her parents and whenever the respondent called the petitioner and her parents several times to know about the well being of the petitioner and the child but there was no proper response either from the petitioner or her parents. Thus again he was subjected to mental and physical cruelty by the petitioner. The "Annaprasana" function to the infant daughter of the respondent was performed even without informing the same to the respondent and on one occasion when the respondent was posted at Gwalior, he requested the petitioner to come to Visakhapatnam, but though she came even without staying there for 24 hours, she suddenly left the house in the early hours without intimation and subsequently, they came to know that she was staying in a house of her distant relative of Muralinagar, Visakhapatnam and when the brother-in-law of the respondent went there and requested her to come to his house she bluntly refused. When the petitioner stayed away from him till August, 2003 the respondent placed the matter before T.Dharma Rao, IAS, Collector, Gwalior and M.Kantha IAS, Collector, Shivpuri and the elders gave counseling to her and advised her not to maintain distance with the

respondent. Though the petitioner joined the respondent at Gwalior much reluctantly and continued to exhibit hostile stance towards the respondent. The respondent further stated that the petitioner insulted the respondent among the officials and subjected him to psychological cruelty. When the parents of the respondent visited Gwalior, the petitioner not only insulted the respondent but also insulted his parents. The behavior of the petitioner in the presence of the attendants/helpers and drivers has become a hot topic of discussion amongst his staff and others, as such, being an I.A.S Officer, his prestige and morale were at stake and that even though the respondent requested for not to repeat such behavior, but she did not care for the same and continued to abuse, insult and humiliate him and also his parents openly in a loud and angry tone. The petitioner scolded the respondent by calling him as "bastard" and that kind of unwarranted reaction and behavior on the part of the petitioner caused an un-assessable mental agony and suffering to the respondent. Criticizing, humiliating and harassing the respondent has become a habit and a regular feature of the petitioner. In fact, the petitioner went to the extent of even criticizing the signature of the respondent by saying **"nee signature choodu, nee batukukooda nee signature laganevundi"** I.e. (SEE HOW BAD YOUR SIGNATURE IS AND YOUR LIFE IS ALSO LIKE YOUR SIGNATURE). The petitioner refused to accept the gold ornaments and clothes offered by the

parents of the respondent on the occasion of 2nd female child by name Sancia @ Khushi on 3-9-2007, she refused to entertain them and thereby insulted the parents of the respondent and thereby insulted him too, as such, the parents of the respondent had to leave two days prior to the first birthday of their beloved grand-daughter Khushi.

10. He further submitted that the petitioner was not allowed to attend his official work and she insulted and humiliated him several times. Even though he requested the petitioner to support and cooperate with him in discharging his duties as Collector, as any IAS officers dream is to be a Collector of a District, but because of the harassment and shame and terrible attitude again and again in front of large number of office staff, the respondent was left with no other option except to quit his Collectorship and there was no change in her behavior. This has put the respondent to humiliation of the highest order subjecting him to physical and mental cruelty. Petitioner used to comment that she was not at all willing to lead marital life with the respondent and she always wanted to snap marital ties with the respondent and that this is nothing new to her family, as her paternal aunt too got divorced within few days of her marriage and that her elder brother also was rejected by a girl few days before their marriage, after engagement at Warangal.

11. The petitioner was not willing to celebrate the wedding anniversary at Khammam where she was staying along with the children, she expressed her reluctance towards the respondent and failed to exhibit any enthusiasm to celebrate the function and thereby insulted him. Even after repeated pleadings and a lot of persuasion, she refused to join him, but sent the children along with him. The petitioner used to leave his company without informing him and that on 30-11-2012 at about 5.24 PM, the petitioner sent an SMS from her mobile phone bearing No. 9441362406 which reads as " Srivaru going to HYD for kids check up. Miss you bye".

12. He further submits that on 5-12-2012 at 9.00AM, the petitioner along with her parents suddenly barged into the house of the parents of the respondent at Visakhapatnam and created a big scene by shouting and screaming loudly inviting the attention of the neighborhood with a malafide intention to malign the reputation of the respondent and his aged parents. The parents of the respondent were shocked to encounter such an ugly situation and in the result the mother of the respondent collapsed. The father of the respondent called Mr. Bhagawantha Rao and Mr. Christopher over phone to come for the rescue and both of them rushed to their house and on seeing the above two persons the petitioner and her men subsided and rushed her to CARE Hospital, Visakhapatnam and she was hospitalized for four days in ICU. Even though, the mother of the

respondent collapsed before the petitioner, the petitioner and her parents pooh-poohed the same and heckled at the mother of the respondent, who was virtually struggling for her life. Unmindful of the delicate health condition of the respondent's mother they left the place heckling at her, even though they are well aware of the fact that the mother of the respondent is a 68 year old lady who underwent Open Heart Surgery and is a known Diabetic for more than 15 yrs and is under life supporting medicine, which shows the cruel and inhuman tendency of the petitioner and her parents towards a senior citizen putting respondent under psychological cruelty. That on 28-2-2013 at around 4-00PM, the petitioner along with two children and parents and uncles and some other hired persons suddenly descended on the house of the parents of the respondent uninformed and physically charged on to the father of the respondent, who is aged 78 years, who is a cardiac operated patient, afflicted with multiple old age related ailments and virtually confined to bed. The petitioner and her parents dictated the father of the respondent to summon the respondent. They physically assaulted the father of the respondent. The father of the respondent tried to save his life by running away, but, the father of the petitioner along with hooligans stood across the main door with both hands open and physically obstructed him from coming out of the house by shouting loudly and saying 'Do whatever you want, if you can do book a case for trespassing but I don't care'. On being in-

formed of the same, the petitioner, who was busy with his official duties, sent Mr. Prasanna Kumar and few elders came to the rescue of his father. By the time they reached the house of the parents of the respondent, the petitioner and her parents were shouting. The petitioner and her parents threatened that they would go to media and spread false tales against the respondent. He submits that as the petitioner with her perverted acts and deeds endangered the life of the respondent and made the life of the respondent miserable without any security, as such, he was constrained to file [F.C.O.P.No. 295/2013](#) on the file of the Judge, Additional Family Court, Visakhapatnam on 12-3-2013 seeking the relief of judicial separation, on the ground of cruelty and also sought for permanent injunction to restrain the petitioner from forcibly entering into the residential house of the respondent or his work place or dragging him to the media.

13. That the petitioner has sent complaint against the respondent to the Chief Secretary to Government of Andhra Pradesh, to the Chief Secretary to Government of Madhya Pradesh and the Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi, which was received by the Chief Secretary of Government of A.P. on 1-5-2013, making absolutely false allegations against him. He submits that on account of the said false complaint lodged against the respondent by the petitioner, he was asked to explain about the

allegations. On account of the said complaint, the reputation of the respondent has been badly damaged in the esteem of his officials. Petitioner sent a copy of the said complaint to print and electronic media and telecast the contents of the said complaint widely damaging the reputation of the respondent. Petitioner with a view to stall the proceedings in OP.No.295/2013 filed by him, got filed Transfer CMP.No.261/2013 on the file of erstwhile High Court of A.P., making false allegations and sought for transfer of the said O.P. to the file of Family Court at Warangal. The petitioner intentionally and willfully sought for the transfer of the said O.P. to Warangal with a malafide intention to cause harassment to the respondent. The respondent sent maintenance amount of Rs. 20,000/- per month to the petitioner and her children on 12-6-2013, 1-7-2013, 1-8-2013, 2-9-2013 and, 1-10-2013 to the residential address of the Respondent at Khammam. The petitioner mischievously shown the residence of the petitioner's parents at Visakhapatnam as her residential address in the long cause title of Writ Petition No. 27584/2013 (date 21-9-2013) and Quash Petition in Crl. Petition No. 11698/2013 (1-10-2013) on the file of erstwhile High Court of Andhra Pradesh, even though, he never resided in the said address by the time of filing of the said petitions. At the same time, the petitioner shown her residential address in the long cause title of the Anticipatory Bail application in Crl. Petition No.12291/2013 filed before the High Court of A.P. on 15-10-2013 as

"R/o H.No.2-7-626, Excise Colony, Hanumakonda, Warangal". She has shown the same address in other Petitions, viz., [O.P.No. 137/2013](#) on the-file of Family Court, Warangal, Private Complaint under Sec.498-A1.P.C before I-Additional Judicial Magistrate of First Class, Warangal, in Chime No.81/2013 of Women Urban P.S., Warangal, M.C. No.83/2013 on the file of Family Court, Warangal D.V.C.No.10/2013 on the file of IV Additional Judicial Magistrate of First Class, Warangal, which reflects the mischievous tendency of the petitioner and lack of respect towards the Courts of law. He further submits that the petitioner has filed [O.P.No.137/2013](#) on the file of Hon'ble Family Court, Warangal on 13-5-2013 for restitution of conjugal rights against the respondent, obviously, as a counter blast to the [F.C.O.P.295/2013](#) filed by the respondent at Visakhapatnam, even though, the petitioner had absolutely no inclination to join the respondent and to lead marital life with the respondent. As a matter of fact, by the date of filing of the said O.P. for restitution of conjugal rights by the petitioner, the [O.P. 295/2013](#) has not been transferred. This shows the tendency of the petitioner to cook up false stories to get sympathy from others. While soliciting the company of the respondent on one hand by filing petition for restitution of conjugal rights on 13.5.2013 at Warangal within a gap of not more than 48 hours, she filed private complaint u/S.498-A of I.P.C and Secs.3 & 4 of D.P.Act on 15.5.2013 before I- Addl.Judicial Magistrate of First

Class, Warangal against the respondent and his relatives and sought for the arrest of the respondent and his relatives. Under these circumstances the respondent and his family members have obtained anticipatory bail from this Court, and now they are on bail. She filed the same only to terrorize the respondent and to get the respondent arrested with a malafide intention to mar the career of the respondent.

14. The respondent is sending maintenance amount of Rs.20,000/- per month from June, 2013 by way of demand draft without any Court order. Petitioner filed DVC Case No.10 of 2013 on the file of IV Addl. Magistrate of First Class, Warangal against the respondent and relatives on 28.7.2013 seeking residential order and damages Rs.20 lakhs. Petitioner having entered into criminal conspiracy with her parents, hired hooligans, suddenly descended on the house of the parents of the respondent MIG-1/46, Sector-II, MVP colony, Visakhapatnam on 19.9.2013 at about 8.45 A.M. The petitioner and her parents and about 20 male and 20 female persons came in AC coach bus of Sri Shyam Tours and Travels, Khammam to Visakhapatnam along with flexi banners containing derogatory remarks against the respondent and trespassed into the house of his parents. Therefore, a complaint was lodged against the petitioner and her parents for the offences u/s.452, 506 and 323 r/w.34 of I.P.C and the same is pending before IV Addl.Chief Metropolitan Magistrate Court at Visakapatnam. With an intention to damage the reputation

of the entire family of the respondent and to expose the same to public gauge through the media, which was widely published in English Daily, Telugu Daily and Legal Daly. The petitioner even went to the extent of threatening the police of committing suicide to herself and to the children. Petitioner and her parents accompanied by hooligans virtually seized the house of the parents of the respondent for a period of 17 long days depriving the right of the respondent's parents to reside in their own house peacefully.

15. Petitioner in spite of being the resident of Khammam got transferred the O.P.No.295 of 2013 from Visakhapatnam to Warangal and started making threatening calls to consent for divorce else he has to face dire consequences. F.C.O.P.No.137/2013 filed by the petitioner for restitution of conjugal rights is a fabricated one with false story.

16. Petitioner also excelled in the art of obliterating the evidences, to make false claims against him, subjected the respondent to perpetual cruelty. Despite the fact that the respondent has been regularly paying maintenance amount to the petitioner and the children, without there being any order of court of law, the petitioner purposefully filed maintenance in M.C.No.83/2013 on the file of Judge, Family Court, Warangal, with a malicious intention to harass the respondent, claiming Rs.60,000/- per month towards maintenance without even whispering anything about the maintenance amount paid by the

respondent regularly preceding to the institution of the said maintenance case, which shows the mischievous tendency of the petitioner.

17. On 24-8-2013 the Hon'ble Family Judge cum IIIAddl, District Judge, Warangal was pleased to conduct counseling to the petitioner and, the respondent for more than four hours. The respondent placed before the said Judge, his tale of woes and submitted that it was extremely dangerous to the life of the respondent to allow the petitioner into the matrimonial home. Thereafter, the Court observed as "conciliation talks not fruitful. Having heard both the parties extensively, this court comes to the conclusion that the gulf between the parties is very wide",

18. When the petitioner and her parents and hooligans played havoc with the parents of the respondent, unmindful of the fact that they are aged and sickly, the mother of the respondent lodged complaint against the petitioner and her parents and her hooligans. The same was registered s case in Cr. No.691/2013 of Visakhapatnam II Town Police Station under Sec. 448, 354, 379, 506 r/w 34 IPC. Some of the accused are arrested, the petitioner along with other accused have been absconding. Marital bond between the respondent and the petitioner has broken down irretrievably and there are absolutely no chances of re-union. Hence, he prays the Court to grant divorce.

19. Basing on the above pleadings, the trial Court framed the following issues:

1. *Whether the respondent/husband has withdrawn from the society of the petitioner/wife without reasonable cause in FCOP No.137 of 2013?*
2. *Whether the petitioner/wife is entitled for decree of restitution of conjugal rights?"*
3. *Whether the petitioner/wife exerted cruelty and deserted the respondent/husband without reasonable cause in FCOP No.341 of 2014 ?*
4. *Whether the respondent is entitled for decree of divorce?*
5. *To What relief?*

20. To substantiate her case, the petitioner got examined P.Ws.1 to 5 and got marked Exs.A1 & A2. On behalf of the respondent, R.Ws.1 to 5 were examined and got marked Exs.B1 to B69.

21. The trial basing on the oral and documentary evidence adduced on either side, dismissed FCOP No.137 of 2013 filed by the petitioner/wife for restitution of conjugal rights and allowed the FCOP No.341 of 2014 filed by the respondent/husband for decree of divorce and also directed to pay Rs.30,00,000/- towards permanent alimony to the petitioner/wife. Hence, these appeals.

22. Heard Sri Kowturu Pavan Kumar, learned counsel for the appellant in FCA Nos.36 & 39 of 2020 (and respondent in FCA No.34 of 2020) and Sri L.Ravichander, learned Senior Counsel appearing for

Sri Deepak Misra, learned counsel for the respondent in FCA Nos.36 and 39 (appellant in FCA No.34 of 2020).

23. Learned counsel for the petitioner/wife while reiterating the averments in the affidavit filed in support of the petition for restitution of conjugal rights submits that the petitioner/wife along with two children were necked out from the house of the respondent/husband's house by her in-laws on 12.11.2012 at Visakhapatnam. Even though they tried to reconcile and reunion with the respondent/husband on 05.12.2012 at her matrimonial house, the respondent/husband and his parents did not allow the petitioner/wife to enter into the house. He further submits that the trial Court, without appreciating the evidence on record erroneously dismissed the FCOP No.137 of 2013 filed by the petitioner/wife and allowed the divorce OP No.341 of 2014 filed by the respondent. There is no material evidence on record to show that the respondent was subjected to cruelty by the petitioner/wife. The allegations on which the trial court came to the conclusion that they constitute 'cruelty' does not amount to 'cruelty'. In support of his contention, he relied on the judgment of Hon'ble Supreme Court in **Suman Singh v. Sanjay Singh [AIR 2017 SC 1316] & Gurbux Singh v. Harminder Kaur [(2010) 14 SCC 301]**. Petitioner/wife is not responsible for publishing news in print and electronic media about the respondent/husband and petitioner/wife has nothing to do with the same and it is the respondent who approached the media and

answered their queries which was broadcasted. Since the respondent/husband was about to get another marital relationship on 19.9.2013, the petitioner/wife along with children and her parents went to the matrimonial house at Visakhapatnam, as such, she cannot be attributed any role for the said incident and that the same happened after filing of petition for judicial separation by the respondent/husband. Ex.B65 e-mail alleged to have been sent by the respondent/husband to the father of the petitioner is beyond pleadings, as such, no reliance can be placed on it. Mere filing of cases against the respondent and his family members cannot be a ground to draw adverse inference against petitioner/wife and that the petitioner/wife proved her claim for restitution of conjugal rights.

24. On the other hand, Sri L.Ravichander, learned Senior Counsel submits that even though the petitioner/wife made allegations against the respondent, but admitted in her cross-examination that there is no grievance against the respondent/husband. Petitioner/wife filed several cases against the respondent and his family members without any basis. Petitioner/wife treated the respondent and his parents with cruelty ever since the date of marriage, by tarnishing the image of the respondent in front of public at large in the form of news both in print and electronic media, before the staff members and also before family members; that she filed petitions to the superior authorities of the respondent by making false allegations, thereby insulted the

respondent. After filing several complaints and petitions against the respondent, she intentionally filed petition for restitution of conjugal rights, in order to blackmail and extort money from the respondent. Petitioner/wife made wild allegations not only against the respondent and his parents but also against niece of the respondent, who is of the age of his daughter i.e., 20 years younger than the respondent. Because of the inhuman acts of the petitioner/wife, the respondent/husband was subjected to highest degree of cruelty both personally and professionally. Petitioner/wife used to abuse the respondent/husband in most filthy language and she once spit saliva on the face of the respondent/husband, subjected him to psychological cruelty. Petitioner/wife left the company of the respondent/husband on baseless allegations leveled against him. Petitioner/wife with the active support of her parents, illegally trespassed in to the house of the respondent's parents and illegally seized the same for 17 days, which shows the sadistic and cruel mentality of the petitioner; that she mislead the courts by suppressing material facts and giving different addresses in different petitions/complaints; that she not only spoiled the career of the respondent/husband but also of the children and that there is no cordial relationship between the petitioner and respondent immediately after the marriage.

25. We have carefully perused the material available on record along with evidence deposed on behalf of both parties. In view of rival contentions of both parties, the points that arise for consideration are as follows:

- a) Whether the respondent/husband is entitled to seek decree of divorce on the ground of cruelty, as granted by the trial Court?
- b) Whether the petitioner/wife is entitled for restitution of conjugal rights with the respondent/husband, which is rejected/dismissed by the trial Court?
- c) Whether granting of Rs.30,00,000/- to the petitioner/wife towards permanent alimony is erroneous, without there being any pleading or prayer?

26.Point (a):

In this case, it is to be seen that the marriage between the petitioner and the respondent was performed in the year 2001. At the time of the marriage, the petitioner is aged about 22 years and respondent was 30 years and is an I.A.S. Officer, worked at different stations in the State of Madhya Pradesh and also in the State of Andhra Pradesh at different intervals. Though there were differences between the petitioner and the respondent, they led their marital life at Madhya Pradesh, till the year 2012 before the respondent was transferred to Visakhapatnam, Andhra Pradesh. A perusal of the petition for the restitution of conjugal rights and counter in FCOP.No.341 of 2014 by the petitioner goes to show that she was subjected to mental harassment by the respondent and his parents apart from the brother and sister of the respondent on petty issues.

Per contra, as per the pleadings in counter FCOP No.137 of 2013 and petition in FCOP No.341 of 2014, it is the case of the respondent that he was subjected to both physical and mental cruelty by the petitioner and her parents since the date of their marriage, as such, even though initially he filed petition for judicial separation, but subsequently filed petition for decree of divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (for short 'the Act'). Therefore, it is necessary to find out whether the petitioner really treated the respondent with cruelty and he was subjected cruelty. Since the respondent filed petition for divorce on the ground of cruelty, it is relevant to extract, for the sake of convenience, Section 13 of the Act is reproduced hereunder:

“(1) Any marriage solemnised, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party—

¹⁶ [(i) has, after the solemnisation of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or]

¹⁶ [(ia) has, after the solemnisation of the marriage, treated the petitioner with cruelty; or]

[(ib) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or]

27. As per the aforesaid provision, *on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party either wife or husband, treated the other party with cruelty.* Cruelty under [Section 13\(1\)\(ia\)](#) of the Act talks about the behaviour of one spouse towards the other which results in

a reasonable apprehension in the mind of the latter that it is not safe for him or her to continue to stay in the matrimonial relationship anymore with the other.

28. Now let us examine whether the acts of the petitioner/wife amounts to 'cruelty', as defined under Section 13(1)(ia) of the Act.

It is the contention of the petitioner/wife that she was harassed by the respondent/husband, parents and his family members for not bringing additional dowry; not giving birth male child; that the respondent/husband was about to marry his sister's daughter by name Ms.Soni; that she was not allowed to talk to her parents; that she was put to cruelty, humiliation, torture instigating her to commit suicide; that the respondent used to beat severely, causing injury to her hand; that she was detained in a room; that herself and her children were denied food and medicare; that the respondent/husband used to spend time with women of his choice, neglecting the petitioner, who is legally wedded wife; that the respondent used to abuse her in filthy and unparliamentary language "Bewarsa Lanja" in a routine manner in public places; that the respondent damaged her laptop and robbed her mobile phone; that the respondent used to harass the children and that he used to operate her Savings Bank Account, without her consent; that she was not allowed to do any job of her choice and made her to depend on him like slave for her petty needs; that she was not allowed to speak

with others and that there was no security for her and her children in the hands of the respondent/husband; that the respondent and his parents thrown out the petitioner/wife and children from the matrimonial house. Though she herself examined as P.W.1, nothing was elicited from her evidence that she was subjected to harassment either by the respondent or by his parents and her evidence is not even corroborated with the evidence of P.Ws.2 to 5, particularly, P.W.5, who is her father. That apart, when the petitioner along with parents including members of AIDWA barged into the house of the respondent at Visakhapatnam, the mother of the respondent lodged complaint before the Commissioner of Police, Visakhapatnam city on 19.09.2013, a case in Cr.No.691 of 2013 was registered against her and her parents, which is pending vide CC No.315 of 2014 on the file of IV ACMM Court at Visakhapatnam. Having made several allegations against the respondent and his parents, in the chief affidavit, there is no material placed either before this Court or before the trial Court, to show that she was subjected to harassment by the respondent and his parents.

29. It is to be seen whether the petitioner/wife subjected the respondent/husband to both mental and physical cruelty. It is the specific contention of the learned Senior Counsel for the respondent/husband that it is impossible for the respondent to share matrimonial life with the petitioner since she made wild allegations

against the respondent, dragging him to unwarranted litigation, thereby damaging his image and reputation, thus created an apprehension in the mind of the respondent that it would be highly dangerous to share matrimonial life with the respondent in future and that the marital relationship had broken down irretrievably.

30. It is the allegation of the petitioner/wife that the respondent outraged her modesty including two minor children, by involving four male Advocates and another male person throughout the night and day for 13 long days (from 23rd September, 2013 to 05th October, 2013). However, the said allegation is not supported by any of the witnesses including her father, who deposed as P.W.5.

31. That apart, P.W.1 has categorically deposed in her chief examination that the respondent was always had an eye on his elder sister's daughter (niece) to marry her, who is aged about 26 years. It is also deposed by her that the respondent/husband was in the habit of spending time with the women of his choice as per his whims and fancies, being unmindful of the welfare and wellbeing of his wife and children. But the said assertions are not supported by any of the witnesses on her behalf, as such, they are only an allegations against the respondent, which amounts to mental cruelty.

32. It is pertinent to note that the petitioner/wife gave complaint (Ex.B59) to the III town Police Station stating that her husband, who is respondent herein is absconding from 19.09.2013 till 05.10.2013 and

requested to locate him. The said complaint lodged by the petitioner/wife is a false complaint for the reason that the respondent/husband was very much on duty during the aforesaid period, which is evidenced by Ex.B69, a statement showing the duty particulars of the respondent/husband from 19.09.2013 to 05.10.2013. Therefore, lodging of such complaint is with an intention cause mental agony and cruelty to the respondent.

33. It is categorically admitted by the petitioner/wife during her cross-examination that she has given complaint to the Chief Secretary, Government of Andhra Pradesh, on 02.05.2013 making corruption allegations against the respondent/husband in order to remove him from his post. In the said complaint, it is alleged as follows:

“3. Since our marriage, my husband has been subjecting me to domestic violence at the instance of his parents; his sister and his brother, who bore grudge against me on account of their unfulfilled constant demand for additional dowry; so they were putting their efforts to eliminate me and my children from the life of my husband. For no reason I have been exposed to their harassment, cruelty, mental agony and physical torture. I was made to suffer silently within myself, within four walls and without sharing the pain and suffering with anyone including my parents for a long time. In the process, eleven and half years have passed. I have been patiently waiting for a change in the attitude of my husband with a hope that he will realize the importance and value of his wife and the marriage tie.”

34. In the said complaint, it is also alleged against the respondent/husband that firstly, to showcase himself as a kingpin in Visakhapatnam being I.A.S.Cadre officer and popularize himself among all his relatives, friends and business-partners. He has already invested in Real Estate, Educational Institutions and Diagnostic

Centres jointly with Mr.A.Rama Krishna, Dr.Giridhar and others, whose properties are located in and around Visakhapatnam. Secondly, he wanted to desert the petitioner and her children; thirdly, he wanted to en-cash benami-properties which he had accumulated in Madhya Pradesh during the last decade; fourthly, he has a strong desire to grab the post of the Chairman, Visakhapatnam Port Trust thinking to accumulate wealth; finally to resign the I.A.S.Cadre and switch over to political field by joining the Jagan Party, I.A.S, Y.S.R Congress, by purchasing the tickets paying crores of rupees.

35. A perusal of the letter dated 19.03.2018 addressed by the Under Secretary to the Government of India to the respondent/husband under Right to Information Act, it was categorically stated in the said letter that “to the complaint dated nil received in that department on 01.05.2013 from Smt.K.Sapna making allegation against Dr.E.Ramesh Kumar, IAS (MP:99) has been examined in consultation with the concerned State Government. Based on comments received from the State Government, the above said complaint has been closed as baseless, in this Department with the approval of the Competent Authority”. Besides, giving police complaint, she also lodged complaint alleging corruption allegations against respondent/husband, in order to remove from his post. Therefore, it is clear that both these instances show that the respondent/husband was put to mental cruelty by the petitioner/wife.

36. Be that as it may, the petitioner/wife herself categorically deposed in her cross-examination dated 21.10.2017 that she never had any occasion to file police complaint against the respondent during her stay in Madhya Pradesh till 2012 and she is not having any grievance against his husband but her grievance is only against his parents. The said part of the evidence is extracted hereunder.

“After marriage we stayed together for sometime here and later move to Madhya Pradesh State in view of employment of respondent. I stayed with him from the year 2001 to 2012 in Madhya Pradesh. I never had any occasion to file police complaint against the respondent during that period of 12 years. Later we moved to Hyderabad and thereafter he got transferred to Vishakhapatnam on inter cader deputation that was in the year 2012. I have not given any police complaint while at Vishakhapatnam also.”

“I don’t have any grievance whatsoever against respondent at any material point of time and my grievance is only against his parents. I never suggested to him to put up separate residence away from his parents.”

37. Therefore, even according to the her own statement, it is clear that the petitioner/wife has no grievance and that in spite of the alleged harassment meted out to her by the respondent, she had no occasion to file any police complaint against the respondent/husband since the date of marriage, till 2012 in Madhya Pradesh. This particular evidence shows that the allegations put forth against the respondent are false.

38. It is the specific contention of the respondent/husband that petitioner/wife used to misbehave and insulted and humiliated him in the presence of his staff members/servants and employees by using

unparliamentary language by making frequent phone calls to the officers of the respondent/husband. The said assertion of the respondent/husband as R.W.1 is supported by R.W.4, who is Personal Secretary/Assistant during his entire tenure at Girijan Cooperative Corporation at Visakhapatnam. He deposed as follows:

“6. One day, in the camp office/official bungalow in D.No.1-67-27, when sir was giving urgent official dictation regarding Tamarind Procurement and other important issues for sending the correspondence to the Government, one servant staff came and said ‘sir, madam is calling you sir,” for which sir replied that he will come in few minutes but immediately, madam rushed in to the room and started shouting at sir by saying that “pilusthunte Ravetledenti, Nuvvu Lopaliki Ra”. Sir tried to convince madam but as madam did not heed, sir felt embarrassed and humiliated before all of us and sent me out without completing the official dictation.

7. Madam frequently used to make phone calls to the office and on one day, when sir was in a meeting with officials, madam phoned and enquired about sir in disrespectful manner in singular form, I replied that once the meeting is over, I will convey the message to sir for which madam screamed at me with high pitch voice and warned me by saying that ‘my father is more influential than your sir and would see that you are transferred to a remote area by talking to your higher officials”. One or two times madam called me and enquired whereabouts of sir for which I replied sir is on camp for which madam grew wild and shouted at me by saying that ‘as you are not giving correct information, I will take action against you.” I was very much frightened on listening to the open outbursts of madam.”

39. This part of the evidence by R.W.4 shows that the petitioner/wife insulted and humiliated the respondent/husband during discharging of his official duties as I.A.S.Officer.

40. It is the specific averment of the respondent/husband that the petitioner/wife along with two minor children, her parents along with AIDWA members accompanied by hooligans came all the way from Khammam to Visakhapatnam, forcefully entered into the house of the respondent’s parents at Visakhapatnam, for a period of 17 days from 19.09.2013 to 05.10.2013 depriving the right of his parents. Even

though the mother of the respondent was suffering with heart diseases, she was not allowed to use kitchen and medicines. This assertion is supported by R.Ws.2 to 5. During their stay in the said premises at Visakhapatnam, false complaints have been lodged with the Chief Secretary, Government of Andhra Pradesh by marking copies to various authorities under Ex.B16. The same were covered in both print and electronic media as news items published in different news papers under Exs.B17 to B26, which caused irreparable damage to the stature, image and reputation of the respondent/husband. On account of the said acts of the petitioner, the respondent/husband along with family members were put to humiliation. Basing on the complaint lodged by the mother of the respondent/husband, the Police III town, MVP Zone, Visakhapatnam registered a case in Cr.No.691/2013 against the petitioner/wife along with others including her parents, and file charge sheet in CC No.315 of 2014, which is pending for trial before the IV Additional Chief Metropolitan Magistrate, Visakhapatnam. Admittedly, this aspect of the matter was consciously suppressed by the petitioner in her pleadings in all the petitions filed by her.

41. It is pertinent to note that when the petitioner soliciting the company of the respondent by filing petition for restitution of conjugal rights on 13.5.2013 at Warangal, she ought not to have filed private

complaint u/S.498-A of I.P.C and Secs.3 & 4 of D.P.Act on 15.5.2013 before I- Addl.Judicial Magistrate of First Class, Warangal against the respondent and his relatives and sought for the arrest of the respondent and his relatives, that too within 48 hours of the filing of the petition for restitution of conjugal rights. This act of the petitioner shows that she intends to harass the respondent and his family members.

42. As rightly contended by the learned Senior Counsel for the respondent/husband that the petitioner/wife is in the habit of misleading the court, had furnished different residential addresses for different petitions/affidavits at Visakhapatnam, Khamma, Warangal City, which shows malicious intention to harass the respondent/husband. Even though the respondent/husband is paying maintenance of Rs.20,000/- since June, 2013, the same was denied by the petitioner/wife. However, she accepts in her cross-examination that she has been receiving the same from September, 2013 even though there is no order for payment of such maintenance.

43. Admittedly, the petitioner/wife completed her B.Tech Engineering at the time of the marriage. But with the active support of the respondent/husband, she could complete her diploma in Business from ICFAI University, M.Tech as well as Degree in Law. Even though the respondent/husband supported since the date of marriage, she

humiliated and treated the respondent/husband with cruelty. That apart, the evidence of petitioner/wife itself in her chief affidavit itself manifest that she was not willing to join the respondent/husband.

44. As per Ex.B65 an e-mail dated 25.08.2012 addressed to the father of the petitioner/wife. Even though the respondent/husband repeatedly requested the father of the petitioner/wife several times for resolution of the disputes between himself and petitioner/wife, he has not taken any steps.

45. Even though Crime No.81/2013 filed by the petitioner/wife under Section 498-A was closed as lack of evidence, she filed protest petition in the same vide SR No.2970/2017 on the file of I Addl.Judicial First Class Magistrate, which shows cruel nature of the petitioner/wife towards respondent/husband.

46. It is to be seen that admittedly, both the petitioner and respondent are living separately since 2012 i.e., for the last 10 years. The petitioner/wife is indulging in filing false cases before different forums, both civil and criminal courts, including the higher ups of the respondent/husband before the Chief Secretary, Government of Andhra Pradesh. On account of the said complaints, it is not possible for the reunion of the petitioner/wife with the respondent/husband.

Moreover, the attitude of the petitioner/wife towards respondent/husband amounts to cruelty.

47. Cruelty which is a ground for dissolution of marriage may be defined as willful and unjustifiable conduct of such character as to cause danger to life, limb or health, bodily or mental, or as to give rise to a reasonable apprehension of such a danger. The question of mental cruelty has to be considered in the light of the norms of marital ties of the particular society, to which the parties belong, their social values, status, environment in which they live. Cruelty need not be physical. If from the conduct of the spouse it is established or an inference can be legitimately drawn that the treatment of the spouse is such that it causes apprehension in the mind of the other spouse, about his or her mental welfare then this conduct amounts to cruelty. (see **Maya Devi v. Jagdish Prasad, AIR 2007 SC 1426**).

48. Making false allegations against husband of having illicit relationship and extramarital affairs by wife in her written statement constitute mental cruelty of such nature that husband cannot be reasonably asked to live with wife. Husband is entitled to decree of divorce. (**See Sadhana Srivastava v. Arvind Kumar Srivastava, AIR 2006 All 7**).

49. The expression “Cruelty” as envisaged under section 13 of the Act clearly admits in its ambit and scope such acts which may even

cause mental agony to aggrieved party. Intention to be cruel is not an essential element of cruelty as envisaged under section 13 (1) (ia) of the Act. It is sufficient that if the cruelty is of such type that it becomes impossible for spouses to live together. **(See Neelu Kohli v. Naveen Kohli, AIR 2004 All 1).**

50. The levelling of false allegation by one spouse about the other having alleged illicit relations with different persons outside wedlock amounted to mental cruelty. **(Jai Dayal v. Shakuntala Devi, AIR 2004 Del 39).**

51. Even though the case of cruelty may not have been proved but as the facts emerging from the record clearly indicate that the living of the two as husband and wife would not only be difficult but impossible, the court has no alternative but to grant a decree of divorce (See **Poonam Gupta v. Ghanshyam Gupta, AIR 2003 All 51**).

52. It is categorically deposed by the respondent/husband that on several occasions, since the date of marriage, the petitioner/wife used to say that he was not the person for her to marry and she married him at the pressure exerted by her parents and that she was to marry one person by name Vijay Bhasker. This part of the assertion is not rebutted by the petitioner/wife, in fact, she supported this version. Therefore, this also amounts to cruelty (see **Yudhishter Singh v. Sarita, AIR 2002 Raj 382**) in which case, husband did not like the company of his wife, and she has to stay with other members of the family in

matrimonial home, such an attitude amounts cruelty in itself on the part of the husband) and in this case it is the petitioner/wife exhibited similar attitude on the respondent/husband.

53. Solitary instance of cruelty would not constitute cruelty so as to grant a decree for divorce rather the behaviour of the other party has to be persistently and repeatedly treating the other spouse with such cruelty so as to cause a reasonable apprehension in the mind of the husband/wife that it will be harmful or injurious for him or her to live with the other party. The expression “persistently” means continue firmly or obstinately and the expression “repeatedly” means to say or do over again. (See **Vimlesh v. Prakash Chand Sharma, AIR 1992 All 261**)

54. The Hon’ble Supreme Court, while considering the aspect of ‘cruelty’ in the case of *Raj Talreja v. Kavita Talreja* (2017) 14 Supreme Court Cases 194, held as follows:

“9. This Court in Para 16 of *K. Srinivas Rao v. D.A. Deepa*[(2013) 5 SCC 226] has held as follows:

“16. Thus, to the instances illustrative of mental cruelty noted in *Samar Ghosh v. Jaya Ghosh*, 2007 (4) SCC 511, we could add a few more. Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing notices or news items which may have adverse impact on the business prospect or the job of the spouse and filing repeated false complaints and cases in the court against the spouse would, in the facts of a case, amount to causing mental cruelty to the other spouse.”

10. In *Ravi Kumar v. Julmidevi*[2], this Court while dealing with the definition of cruelty held as follows:

“19. It may be true that there is no definition of cruelty under the said Act. Actually such a definition is not possible. In matrimonial relationship, cruelty would obviously mean absence of mutual respect and understanding between the spouses which embitters the relationship and often leads to various outbursts of behaviour which can be termed as cruelty. Sometime cruelty in a matrimonial relationship may take the form of violence, sometime it may take a different form. At times, it may be just an attitude or an approach. Silence in some situations may amount to cruelty.”

55. Most of the above narrated instances of cruelty alleged by the respondent have been proved and are evident from the record. The facts and circumstances of this case very much have resemblance to the facts and circumstances of case reported in **Raj Talreja vs Kavita Talreja (supra)**. The events narrated in the said case include news item reported and published in the newspapers based on the intimation given by his spouse. Apart from it, the wife had filed a report before State Human Commission and addressed a letter to Chief Justice of High Court as well as Superintendent of Police. The complaints were found to be false and even the police filed the final report. The evidence adduced in present case is akin to the facts of the about said citation.

56. The contention of the learned counsel for the petitioner that even though there are no instances of cruelty that took place during their stay at Madhya Pradesh and at Visakhapatnam, Andhra Pradesh, the trial Court wrongly concluded against the petitioner and dismissed the petition filed for restitution of conjugal rights filed by the petitioner

and allowed the petition filed for divorce by the respondent, in view of aforesaid circumstances and principle of law laid down in the aforesaid judgments, cannot be accepted, as such, the respondent/husband entitled for decree of divorce from the petitioner/wife under Section 13(1)(ia) of the Act on the ground of cruelty.

57.Point (b):

In view of our foregoing discussion in earlier part of the order, we are also satisfied that the marriage of the petitioner/wife with the respondent/wife has irretrievably broken down. Even though irretrievable breakdown of marriage is not a ground for divorce under the Act of 1955, but where marriage is beyond repair on account of bitterness created by the acts of the husband or the wife or of both, the courts have always taken irretrievable breakdown of marriage as a very weighty circumstance amongst others necessitating severance of marital tie. A marriage which is dead for all purposes cannot be revived by the court's verdict, if the parties are not willing. This is because marriage involves human sentiments and emotions and if they are dried up there is hardly any chance of their springing back to life on account of artificial reunion created by the court's decree (See **K.Srinivas Rao v. D.A.Deepa [(2013) 5 SCC 226]**).

58. In view of findings in Point(a) shows that the petitioner/wife subjected the respondent/husband with highest degree of cruelty, obviously, she is not entitled for restitution of conjugal rights. The point is decided against the petitioner/wife and in favour of the respondent/husband.

59. The judgments relied on by the learned counsel for the petitioner/wife are not applicable to the facts and circumstances of the case on hand and they are distinguishable on facts.

60.Point (c):

Admittedly, the petitioner/wife and respondent/husband are living separately since 2012 years and it is also not in dispute that the respondent is paying Rs.20,000/- towards maintenance since June, 2013 onwards and the maintenance case filed by her had been stayed by the Hon'ble High Court. Since there is no evidence on either side to show that the petitioner/wife is earning on her own, as rightly found out by the trial Court, taking into account the avocation of the respondent/husband as an I.A.S.Officer, it would be just and appropriate to grant permanent alimony of Rs.30,00,000f- (Rs. Thirty Lakhs only) to the petitioner.

61. In view of above facts and circumstances, there is no illegality or infirmity in the order passed by the trial Court and accordingly, all the FCAs are liable to be dismissed and accordingly dismissed confirming

the Common Order passed by the trial Court in FCOP Nos.137 of 2013 and 341 of 2014 dated 06.12.2019.

There shall be no order as to costs. As a sequel thereto, miscellaneous applications, if any pending, shall stands dismissed.

A.RAJASHEKER REDDY, J

M.LAXMAN, J

Date:24.03.2022.

kvs

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
and
HON'BLE SRI JUSTICE M.LAXMAN

F.C.A.Nos.34, 36 & 39 of 2020

Date:24.03.2022

kvs