



C.M.A.No.1423 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	11.07.2024
PRONOUNCED ON	:	07.08.2024

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR. JUSTICE P.DHANABAL

C.M.A.No.1423 of 2021

and

C.M.P.No.7432 of 2021

R.Geetha priya

... Appellant

Vs.

M.Vigneswaran

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act, 1994, against the order and decree dated 09.03.2020 passed in O.P.No.1488 of 2017 by the Principal Judge, Family Court, Chennai.

For Appellant : Mr.J.Abdul Hadi

For Respondent : Mr.K.Kannan



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J U D G M E N T

(Judgment of the Court was made by **J. NISHA BANU, J.**)

The petitioner/husband has filed a petition, before the Court below, seeking for dissolving of his marriage with the respondent under Section 13(1)(ia) of the Hindu Marriage Act and the same came to be allowed. Aggrieved against such order, the respondent/ wife has preferred the present Civil Miscellaneous Appeal before this Court.

2. Mr.J.Abdul Hadi, learned counsel for the appellant made the following submissions:

2.1. The marriage between the appellant and the respondent was solemnized on 11.04.2016 at Thangam Maligai, No.11. T.H.Road. Chennai 600 081 as per Hindu rites and customs. There was no issues out of the wedlock. According to the learned counsel for the appellant, the appellant behaved as a dutiful wife and daughter-in-law to the respondent and his family. The respondent and his mother often accused the appellant that the dowry amount was very meagrely given for the appellant at the time of marriage. The learned counsel for the appellant stated that the appellant's husband never consulted or referred any matter of concern with the appellant



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at the time of taking decisions and did not move well with her, with whole heart and free will.

2.2. It is further contended by the learned counsel for the appellant that the respondent/husband expressed his hatred feeling when the appellant tried to move close with him. She also alleged that the respondent/ husband is having an illicit relationship with one Anitha and when the same was questioned by the appellant, the respondent behaved rudely and roughly with her.

2.3. Having no other alternative, the appellant left the matrimonial home on 20.12.2017 and stayed with her parents. According to the appellant, though she was ready to live with the respondent, the respondent has filed a petition in O.P.No.1488 of 2017 on the file of Principal Judge, Family Court, Chennai seeking to dissolve the marriage, which came to be allowed. Aggrieved against the said order, the appellant has preferred the present Civil Miscellaneous Appeal before this Court.

2.4. According to the learned counsel for the appellant, the Court below failed to consider that on the side of the respondent/husband, there was



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no pleadings, documentary or oral evidence, let in to prove his contentions as to mental cruelty, which was taken as a major ground in allowing the petition by the Court below.

2.5. The learned counsel further contended that the Court below has wrongly placed the burden of proof upon the appellant for proving mental cruelty, which is in complete contradiction to the established rule that the person alleging a fact should prove the fact. Therefore, the learned counsel for the appellant seeks the interference of this Court to the order and decree passed by the Principal Judge, Family Court, Chennai in O.P.No.1488 of 2017 dated 09.03.2020, thereby allowing the Civil Miscellaneous Appeal.

3. Mr.K.Kannan, learned counsel for the respondent made the following submissions:

3.1. The facts stated by the appellant are not disputed by the respondent. After their marriage, the appellant/wife and the respondent/husband started their marital life at the residence of the respondent. The appellant neglected the respondent and his family members. The appellant started to suspect the character of the respondent by saying that



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his mobile phone is engaged. The appellant started to abuse the respondent with vulgar words and she did not allow him to sleep and made unnecessary quarrels with the respondent.

3.2. According to the learned counsel for the respondent, the appellant had stayed only two months in the matrimonial home and thereafter, she went away, without giving any information and stayed at her parents' house. The respondent has advised the appellant on many occasions and he was very patient, thereby waiting for favourable circumstances, where the appellant could mend her ways but all his expectations ended up in vain.

3.3. The learned counsel for the respondent further submitted that the appellant refused for conjugal relationship with the respondent and removed her 'Thali' and threw it on the face of the respondent. The appellant also attempted to commit suicide by causing injury in her left hand and threatened that she would commit suicide by leaving suicide note against the respondent and his parents. Thereafter, the appellant left the matrimonial home on 20.12.2017, without any valid reasons and stayed with her parents. All efforts by the parents of the respondent for reunion ended in vain.



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3.4. The main ground raised by the respondent is that he cannot live with the appellant, who has suicide temperament. The respondent never slept peacefully, thinking about that the appellant may commit suicide at any time. The mental trauma caused the respondent to file a petition in O.P.No.1488 of 2017 before the Court below seeking to dissolve the marriage. The learned Judge, after analysing the witnesses and documents, allowed the petition by passing a well-reasoned order, which does not warrant any interference of this Court. Hence, the learned counsel for the respondent prayed for dismissing the appeal.

4. Heard the learned counsel for the appellant and the learned counsel for the respondent and perused the materials placed before this Court.

5. Before the Trial Court, on the side of the appellant, the appellant herself was examined as P.W.1 and 5 documents were marked as Ex.P1 to Ex.P5 as exhibits. On the side of the respondent, the respondent/husband was examined as R.W.1 and exhibits Ex.R1 to Ex.R5 were marked. The Trial Court, after analysing the evidences adduced on both sides, allowed the



6. On a perusal of the records adduced before this Court, there is no dispute in respect of the relationship of the parties and the marriage that took place on 11.04.2016. It is also an admitted fact that due to wedlock no child was born to them. The husband, who is the respondent in this appeal, has filed a petition before the Trial Court for granting decree of divorce alleging that the appellant made wordy quarrel with him and she did not respect the respondent and his family members and without any valid reasons, left from the matrimonial home. Whereas, the allegations made by the respondent herein is that the appellant suspected his character and levelled allegations against him that he is having illicit relationship with one Anitha. Therefore, the above said acts caused cruelty to the respondent.

7. In order to prove the case of the respondent, the respondent/husband was examined was P.W.1 and in his deposition, he has stated about the cruelty caused to him and he further deposed that the appellant frequently made quarrel with him and left from the matrimonial home without giving any valid reasons and also suspected his character. The appellant, in her evidence before the Trial Court has deposed that her



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husband/respondent had illicit relationship with Anitha.

8. The Trial Court after analysing the evidences, allowed the petition and granted decree of divorce on the ground of cruelty by holding that the appellant/respondent herself admitted that the husband sent whatsapp message to one Anitha and there is no evidence to prove the same and there is no evidence to prove the illicit relationship between her husband and the said Anitha. The above said conduct of the appellant/wife has caused mental cruelty to the respondent herein.

9. Though, the appellant/wife stated that she is ready and willing to live with her husband, she had not taken any steps for reunion. It is the contention of the respondent/husband that after so many Panchayat through elders, the appellant/wife refused to return back to the matrimonial home. Therefore, the above said acts of the appellant/wife caused mental cruelty to the respondent/husband.

10. The Trial Court, after elaborate discussion, rightly held that the appellant/wife had caused severe mental cruelty to the respondent/husband by levelling disproved allegations of illicit relationship and also by attempting to commit suicide, thereby causing mental cruelty to the respondent and



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therefore found that the respondent/husband has proved the cruelty caused by the Appellant/wife and granted decree of divorce on the ground of cruelty which does not warrant any interference.

11. In the result, this Civil Miscellaneous Appeal has no merits and liable to be dismissed. Accordingly, this Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

(J.N.B.J) (P.D.B.J)
07.08.2024

J.NISHA BANU.,J.

and

P.DHANABAL., J.

sts

Internet : Yes/No



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Index: Yes/No
Speaking Order: Yes/No

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To:

The Principal Judge,
Family Court,
Chennai.

Judgment made in
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Dated:
07.08.2024