



C.M.A.Nos.557 & 558 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.12.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.Nos.557 & 558 of 2022
& CMP.No.4024 of 2022

R.Ramakrishnan ... Appellant in both the CMAs

Vs.

T.Ambika ... Respondent in both the CMAs

Prayer: These Civil Miscellaneous Appeals are filed under Section 19 of the Family Courts Act, 1984 against the common order passed by the Family Court, Salem made in F.C.O.P.No.27 of 2016 and F.C.O.P.No.413 of 2016 dated 03.04.2021.

For Appellant
in both the CMAs : Mrs.S.Nandhini Devi

For Respondent
in both the CMAs : Mr.T.Muruganantham



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COMMON JUDGMENT

*(Judgment of the Court was delivered by **J. Nisha Banu, J**)*

These Civil Miscellaneous Appeals have been filed by the appellant/husband against the common order passed by the Family Court, Salem, in F.C.O.P.No.27 of 2016 and F.C.O.P.No.413 of 2016 dated 03.04.2021, in which, the petition filed by the respondent/wife seeking divorce was granted by the Family Court and the petition filed by the appellant/husband seeking restitution of conjugal rights was dismissed.

2. The averment in the petition before the Family Court is that the marriage between the petitioner/wife and the respondent/husband was solemnised on 10.11.2004 at Arulmigu Thanthontrieswarar Kovil, Belur, Valapady, Salem as per Hindu rites and customs. Out of wedlock, a female child named Priyadharshini was born on 23.02.2006. The petitioner is a Diploma Holder in General Nursing and Midwifery and was working as a Staff Nurse in Vinayaga Mission Hitech Medical Hospital, Salem and presently working under the Ministry of Health,



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Sohar, Muscat in Sultanate of Oman. The respondent is a Pharmacist but did not do any work and used to demand money from the petitioner. When the petitioner did not comply with the demands, he took intoxication tablets and beat the petitioner. The petitioner got appointment as Staff Nurse in Muscat in January, 2011. The respondent opposed the petitioner in going for job. However, the petitioner went to job in Muscat. She sent Rs.1,50,000/- to the respondent for building a new house but he spent the whole amount lavishly and caused huge loss to the petitioner. Thereafter, the petitioner arranged for a job for the respondent at Sohar and he accompanied the petitioner to Sohar in July 2015. But the respondent refused to join the job and quarrelled with the petitioner and beat her and left the house in the absence of the petitioner and returned back to India on 09.10.2015. The respondent raised false allegations of unchastity against the petitioner. When the petitioner was unable to do house hold works due to her illness, the respondent cruelly beat her and kicked off the bowl containing hot rasam and the boiling rasam fell on the petitioner's head causing burns. The respondent subjected the petitioner to humiliation before others. The respondent used to give threats to commit suicide. The respondent used to state that



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he would be happy to get Insurance and Provident Fund amounts of the petitioner, if she dies early. The conduct of the respondent created apprehension in the mind of the petitioner that her life is in danger at the hands of the respondent. So, the petitioner sought for dissolution of marriage on the ground of cruelty. The petitioner also denied the allegation made in the petition filed by the respondent/husband seeking restitution of conjugal rights. The petitioner never advised the respondent to resign his job. The petitioner secured job by her hard work and the respondent did not help the petitioner in securing the job. The respondent filed O.S.No.27/2016 before the Principal District Munsif Court, Salem with a malafide intention to stop the petitioner from going for a job abroad and subsequently, the suit was dismissed for default.

3. The respondent has stated in the petition filed for restitution of conjugal rights that the respondent was working as Office Assistant in Judicial Magistrate Court No.5, Salem. The petitioner belongs to a poor family and the respondent was earning out of his government job. The respondent educated the petitioner out of his own earnings and funds. Due to bonafide attempt of the respondent, the petitioner got Staff Nurse



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job in Sohar and is drawing a handful salary of Rs.2,50,000/-per month.

Due to the ill advise of the petitioner, he resigned his government job.

The respondent had got a property at Suramangalam purchased by him along with two co-owners. Due to the compulsion of the petitioner, the respondent executed a registered Settlement Deed along with two co-owners in favour of his child Priyadharshini, making her maternal uncle Murugan as her guardian. Due to the act of the petitioner, the respondent lost his job and property and became a pauper and she had made him to run in the street as a beggar without any means for livelihood. The respondent filed a maintenance case in M.C.No.5/2016 against the petitioner and also filed injunction suit before the Principal District Munsif Court, Salem.

4. i) Learned counsel for the appellant would state that the respondent has alleged that the appellant has committed cruelty against the respondent but no over act of cruelty has been established by the respondent. The main allegation of the respondent is that the appellant tortured her without going to any job and without earning but the same has not been proved. The appellant was working in judicial department



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and out of love and affection, he educated the respondent out of his funds and due to his efforts, the respondent got staff nurse job. The respondent, out of superiority complex, neglected the appellant who had resigned his job at her instance and settled his property in favour of his daughter. The respondent has not examined any witness to corroborate her case.

ii) Learned counsel would further state that the appellant suffered injuries from his wife and family members but to subvert the same, the respondent gave a false complaint that the appellant inflicted self injuries. He would further state that no acceptable reason was given by the court below for granting divorce. The appellant had filed the petition for restitution of conjugal rights since he does not want to disrupt the matrimonial relationship. The Court below has not considered the independent witnesses examined on the side of the appellant who have stated that the respondent's parents have tried various methods to separate the appellant and the respondent.

5. Per contra, the learned counsel for the respondent would state that the appellant did not do any work and used to demand money from the respondent. When the respondent did not give money, the appellant



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will get angry and used to beat the respondent. During January 2011, the respondent got appointment as Staff Nurse in Muscat and the appellant opposed for the respondent going abroad for job. However, the respondent went to Muscat and joined the job and sent Rs.1,50,000/- to the appellant to construct a new house but he spent the whole amount and caused loss to the respondent. The respondent also arranged for a job to the appellant at Sohar and took him under residence visa to Sohar, Muscat in the month of July, 2015 and arranged for a job where the respondent was working but the appellant refused to join the job and quarrelled with the respondent and beat her and left the house without the knowledge of the respondent and returned back to India on 09.10.2015. The appellant often quarrelled with the respondent for trivial matters, abused her and beat her. She had to spend sleepless nights many a time. The appellant also threatened her stating that he will commit suicide. The appellant also expressed many times that he would be happy by getting Insurance and Provident Fund amount of the respondent if she dies. The conduct of the appellant not only injured the feelings of the respondent but also created fear of danger to her life. Thus, the Family Court, on considering all the above aspects, had granted



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divorce. Therefore, the learned counsel would pray to dismiss the appeals.

6. Heard the learned counsel for the appellant, the learned counsel for the respondent and perused the materials available on record.

7. It is not in dispute that the appellant and the respondent got married on 10.11.2004 at Arulmigu Thanthontrieswarar Koil, Belur, Valapady, Salem as per the Hindu rites and customs. Their marriage was a love marriage with consent of all relatives of both the appellant and the respondent. They have a daughter by name Priyadharshini born on 23.02.2006. The respondent has sought for divorce against the appellant on the ground of cruelty. She had stated that the appellant tortured her, beat her and demanded money from her. The appellant was not doing any job and ill treated her. She got appointment as Staff Nurse in January, 2011 in Oman and she also arranged for a job for the appellant and took him to Oman in July, 2015, but he refused to join the job and quarrelled with her and beat her and returned to India on 09.10.2015 without her knowledge. The appellant raised false allegation regarding chastity and



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morality of the respondent and threatened to commit suicide. The activities of the appellant caused danger to life in the mind of the respondent and since she felt that she could not live with him any longer, she filed the petition for divorce.

8. It is stated that the appellant is an Advocate. Exs.P8 to P10 would show that the appellant had filed a maintenance case seeking Rs.50,000/- per month from the respondent stating that his wife is employed abroad and earning Rs.2,50,000/- per month. He had also filed an injunction suit preventing the respondent from going abroad. Ex.P13 to P15 and Ex.R8 and R9 would reveal that the appellant had given a complaint before the police that he was injured by his wife and her family and subsequently, he had given a statement before the police that he inflicted self injury due to his separation from his wife and daughter and gave a false complaint against them. However, the appellant had stated that the police threatened him to give a false complaint. The said statement of the appellant is unbelievable. The appellant, being an advocate, was made to give a false complaint by threat of police, is not acceptable.



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9. All the above would prove that the attitude of the appellant is only to harass the respondent in one way or the other. The respondent has proved the cruelty meted out by the appellant through oral and documentary evidence and the Court below has rightly come to the conclusion that the appellant has not shown any bonafide intention in seeking restitution of conjugal right and dismissed the petition filed by the appellant and granted decree of divorce in favour of the respondent, with which, we do not find any infirmity or illegality to cause any interference.

10. In the result, the Civil Miscellaneous Appeals are dismissed. The common order dated 03.04.2021 passed by the learned Family Judge, Salem, in F.C.O.P.No.27 of 2016 and F.C.O.P.No.4123 of 2016, is confirmed. No costs. Connected CMP is closed.

(J.N.B, J.) (R.S.V., J.)
10.12.2024

vsi
Speaking/Non-speaking order
To
The Family Court,



Salem.
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