



C.M.A.(MD)No.1734 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **09.09.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No. 1734 of 2010

James

... Appellant/Petitioner

Vs.

Anushya

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal is filed under 55 of the Indian Divorce Act against the fair and decretal order dated 08.07.2010 passed in I.D.O.P.No.8 of 2003 on the file of the Principal District Judge, Virudhunagar at Srivilliputtur.

For Appellant : Mr.M.Ashok Kumar

For Respondent : Mr.R.R.Kannan

JUDGMENT

This appeal arises from the order of the Principal District Judge, Virudhunagar at Srivilliputtur, in I.D.O.P.No.8 of 2003 disallowing the prayer of the appellant to dissolve his marriage with the respondent.



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2. The appellant sought for divorce mainly on the ground that the respondent had treated him cruelly; that the respondent was a spendthrift; that she had neglected the appellant and refused to take care of him; that she used to pick up frequent quarrels and went to her parents house often; that she used to make fun of his looks; that in spite of best steps taken by the elders, she did not change her attitude; that the respondent had made a false complaint against the appellant and his parents alleging that they have demanded dowry; that the respondent on 20.12.2002 attempted to throw the grinding stone on the appellant while he was asleep and that hence it was unsafe for him to live with the respondent.

3. The respondent filed a counter denying the averments in the divorce petition that she is taking care of the two children; that she never left the matrimonial home; that the appellant had only ill-treated the respondent; that the complaint filed against the appellant was not false as the appellant demanded money for constructing a house; that the appellant used to beat her; that in spite of all these, the respondent always respected the appellant; and that she is always ready to live with the appellant.



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4. The trial court, after considering the evidence on record, held that the appellant has not established cruelty and hence dismissed the petition for divorce.

5. The learned counsel for the appellant submitted that the nature of allegations and counter allegations would show that the marriage is dead and no useful purpose would be served in keeping the marriage alive, and in any case, the appellant had established that the respondent subjected him to cruelty.

6. The learned counsel for the respondent, per contra, submitted that the allegations in the divorce petition have been invented only for the purpose of obtaining a decree of divorce and the appellant had exaggerated the petty quarrels between the husband and wife for succeeding in the case, which have been rightly rejected by the trial court.

7. This Court gave its anxious consideration to the submissions made on either side and carefully perused the materials available on record.



8. The point for consideration in the instant appeal is whether the appellant is entitled to a decree of divorce.

9. The records reveal that the appellant examined P.W.1 to P.W.3 and marked Ex.P.1 and Ex.P.2. The respondent examined herself as R.W.1. The instances, cited by the appellant, which are found in his petition as well as in the deposition, related to petty quarrels between the husband and the wife. The main allegation is that the respondent had made a false allegation against the appellant by lodging a complaint before the police. It is well settled that merely because a complaint has been lodged by the wife to redress her grievances, it could not be treated as causing cruelty to the husband unless the complaint is found to be false. There is no evidence in the instant case to show that the said complaint is false. In fact, in one of the communications sent to the police during inquiry, the appellant stated that the respondent is a good woman and that the appellant always wanted to live with the respondent and the children. The above averments and the fact that the instances alleged by the appellant are petty in nature that would not constitute cruelty, this Court is of the view that the appellant would not be entitled to a decree of divorce on the ground of cruelty.



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WEB COPY 10. In the result, this appeal is dismissed. No costs.

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Index : Yes / No
Neutral Citation : Yes / No
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To

1. Principal District Judge, Virudhunagar at Srivilliputtur.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

CM

Judgment made in
C.M.A(MD)No. 1734 of 2010

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