



C.M.A.(MD).No.18 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 08.02.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

C.M.A.(MD).No.18 of 2024

V.Thavasankarapandian

.. Appellant/Petitioner

Vs.

Punitha

.. Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act, 1984, r/w Section 104 of Civil Procedure Code, against the order passed in H.M.O.P.No.40 of 2020 on the file of the Family Court, Ramanathapuram dated 04.01.2022.

For Appellant : Mr.K.Elanchezhiyan

For Respondent : Mr.A.Kannan



C.M.A.(MD).No.18 of 2024

JUDGMENT

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

The present Civil Miscellaneous Appeal is filed by the husband aggrieved by the dismissal of the divorce petition filed on the ground of cruelty and desertion.

2. The facts of the case is that the marriage between the appellant and the respondent was solemnized on 22.05.2015 as per Hindu rites and customs and only for 15 days, they both lived as husband and wife together and thereafter, the appellant has left the matrimonial home to Chennai to eke his livelihood. After the appellant left the matrimonial home, the respondent/wife had left the matrimonial home, joined her parents and was continuing her employment as Teacher in the nearby Village.

3. It is contended by the appellant that once in two months, he used to visit the respondent and at one point of time, the respondent forced him to have a separate family and therefore, they have got separated. To settle the matrimonial dispute amicably, when they went to the house of the



C.M.A.(MD).No.18 of 2024

respondent, there was some petty quarrel and therefore, a complaint was registered against the appellant and his family members by the respondent.

In the said complaint, the police enquired and advised the appellant to set up nuclear family, for which the appellant agreed, but, however the respondent did not respond to that and did not join the appellant. In the said circumstances, left with no other go, the appellant filed a petition for divorce on the ground of desertion and cruelty. Immediately to counter blast, the respondent/wife lodged a police complaint against the appellant and his family members. According to the appellant, by filing a criminal complaint under Section 498A IPC, the mental cruelty got aggravated. The appellant was forced to approach the Hon'ble High Court to quash the said FIR in Crime No.12 of 2020 dated 24.07.2020 and succeeded. In the said background, divorce was sought for by the appellant.

4. The divorce petition was opposed by the respondent on the ground that desertion was only by the appellant, who under the guise of employment left the respondent at his house, but did not care to maintain her and visit her. Therefore, she was forced to leave the matrimonial home and be under the care and protection of her parents. Occasionally, the



C.M.A.(MD).No.18 of 2024

appellant came to meet her, but only to extract money and demand dowry.

After waiting for five years that the appellant will change his attitude and found that he will not, the respondent gave a complaint to the All Women Police Station at Keelakarai. Based on the said complaint, the Police enquired and advised the appellant to set up nuclear house and take back the respondent. However, the appellant deliberately and willfully failed to set up nuclear house. Left with no other option, another complaint was given. However, suppressing the facts, the appellant and his family members got the complaint quashed.

5. The Trial Court on considering the evidence held that the appellant has failed to prove desertion and cruelty and dismissed the divorce petition. Being aggrieved, the present Civil Miscellaneous Appeal is filed.

6. The learned counsel appearing for the appellant/husband submitted that the marriage, which took place on 22.05.2015, was short lived and within 15 days, the appellant and the respondent got separated and nearly nine years have lapsed. All attempts for reunion had not only ended in failure, but had also aggravated the situation by lodging criminal complaint,



C.M.A.(MD).No.18 of 2024

which was ultimately found to be a false complaint and quashed by this Court. In the said circumstances, without considering the fact that the marriage has irretrievably broken down and the parties have reached a point of no return, the Trial Court had dismissed the divorce petition inspite of own admission of the respondent that she is not willing to join the appellant.

7. The learned counsel appearing for the respondent/wife submitted that the appellant is not interested in reunion or to revive the matrimonial bond, but is only after the salary of the respondent, who is gainfully employed as a Teacher. The learned counsel further contended that the appellant has extra marital affair at Chennai and he rarely visits Ramanathapuram to see the respondent.

8. Heard the learned counsels on either side and perused the materials available on record.

9. The factual matrix of the case clearly indicates that a short lived marital life had reached a point of no return and the mutual trust which is necessary for a marital bond is totally absent in this case. The long



C.M.A.(MD).No.18 of 2024

separation, allegations and counter allegations, criminal complaints, all put together clearly indicates that both the parties have the illusion of being subjected to cruelty by the other person. In the said circumstances, there is no purpose in keeping the marital bond only on paper. Considering the age of the parties and the long separation as well as the mutual allegations of cruelty against each other, this Court is of the view that the marriage held between the appellant and the respondent has to be dissolved. Accordingly, the marriage solemnized between the appellant and respondent on 22.05.2015 is hereby dissolved.

10. In the result, the impugned judgment and decree passed by the Family Court, Ramanathapuram in H.M.O.P.No.40 of 2020 dated 04.01.2022 is set aside and the Civil Miscellaneous Appeal is allowed. There shall be no order as to costs.

(G.J.,J.) (C.K.,J.)
08.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



C.M.A.(MD).No.18 of 2024

WEB COPY

To

- 1.The Family Court,
Ramanathapuram.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD).No.18 of 2024

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

Lm

C.M.A.(MD).No.18 of 2024

08.02.2024