



C.M.A(MD).No.618 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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19.09.2024

CORAM:

**THE HON'BLE Mr. JUSTICE P.VELMURUGAN
AND
THE HON'BLE Mr. JUSTICE K.K.RAMAKRISHNAN**

C.M.A(MD) No.618 of 2019

R.Puspha Gandhi

... Appellant

Vs.

D.Manikanda Jeyaramalingam

...Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, praying to set aside the fair and decreetal order in H.M.O.P.No.315 of 2014 on the file of the Family Court, Tiruchirappalli dated 02.07.2019.

For Appellant : Mr.Thenmozhi Shiva Perumal

For Respondent : Mr.S.Vellaichamy



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JUDGMENT

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[Order of the Court was made by **P.VELMURUGAN, J.**]

The appellant is the wife of the respondent herein and the respondent in H.M.O.P.No.315 of 2014, on the file of the Family Court, Tiruchirappalli. The respondent filed the petition in H.M.O.P.No.315 of 2014, on the file of the Family Court, Tiruchirappalli to dissolve the marriage that took place between the appellant and the respondent on 24.08.2007, on the ground of cruelty under Section 13(1) (ia) of the Hindu Marriage Act.

2. The respondent in his petition stated that the marriage took place on 24.08.2007 as per the Hindu customs and rituals and during the wedlock, on 12.06.2008, a male child was born. The respondent was working as an Assistant in the Government Service and they lived in Ramanathapuram for four months. The appellant insisted the respondent to live with her parents and also she left the matrimonial home. After the birth of the child, the respondent went to the house of the appellant and the appellant's family members did not allow the respondent to see his child and also scolded him. Hence, he returned to Trichy and on 08.08.2008, he went to the appellant's



house and insisted the appellant to live with him at Trichy. But, there was no response and on 13.08.2008, the appellant and her parents met the respondent in Trichy residence and abused him and also assaulted him. Therefore, the respondent made a complaint and hence, the appellant and her family members returned to Chennai. From 2009 onwards, the appellant did not return to matrimonial home ie., Trichy, where the respondent and his parents were living. Therefore he sought divorce. He also alleged that a complaint was made against the respondent and the same also caused cruelty.

3. The appellant filed a counter denying the allegations and also stated that she suffered from fistula.

4. After the birth of the child, the respondent without any cause avoided the company of the appellant and he had illegal relationship with another woman. All the steps taken by the appellant to mend him having relationship with another woman ended in vain and hence, she sent a representation to the Tamilnadu Women Empowerment and also during her first pregnancy, she gave birth to one child and through her second



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pregnancy she gave birth to two children, and the three children are starving and hence, she seeks to dismiss the divorce petition.

5. To prove the case, the respondent examined himself as P.W.1 and marked Ex.P1 and Ex.P2 and the appellant examined herself as R.W.1.

6. The learned trial Judge has considered the criminal case registered against the respondent and his family members which ended in acquittal with the observation that a false case was registered against the family members and criminal complaint also was made subsequently and considering all other aspects the learned trial Judge has granted divorce. The learned Trial Judge has given a specific finding that giving false complaint against the respondent and the family members amounts to cruelty and also in view of the repeated complaint and the strained relationship there is no possibility to restore the matrimonial life and hence, divorce was granted by passing the impugned order dated 02.07.2019. Challenging the same, the wife has filed this appeal.



7. The learned counsel for the appellant submitted that the respondent has committed the matrimonial offence and illegally driven her out to her parental house and had relationship with one Manjula and he has not taken any steps to join the appellant even after the birth of three children. The learned trial Judge has failed to consider that the acquittal judgment passed in C.C.No.6 of 2014, is not on merits and the same was closed with the undertaking made by the respondent that he is ready to live with the appellant and there was no finding that the false allegation was made against them. He would further submit that he has contact with a girl by name Manjula and living with her without taking care of the wife and his children and he alienated them and hence, he is not entitled to seek divorce. The same was not properly considered by the learned trial Judge and divorce was granted.

8. The learned counsel for the respondent submitted that the learned trial Judge has considered all the aspects and granted divorce. The appellant made the repeated allegations against the respondent and his family members before the jurisdictional police station which amounts to harassment. But, the jurisdictional Court has found that no offence was



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made out and acquitted them. There was no relationship for more than 10 years between the parties and hence, he seeks for confirmation of the order passed by the learned trial Judge.

9. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

9.1. Whether the Court below is correct in allowing the petition filed by the respondent for divorce?

10. The husband/respondent has filed the divorce petition, on the ground of cruelty. According to the husband, the appellant made the false allegation against him stating that he had illegal relationship with one Manjula. Apart from that, she preferred a police complaint before the jurisdictional police station against him. After completion of the investigation, the same was taken on file in C.C.No.6 of 2014, by the Additional Mahila Court, Trichy. The same ended into acquittal and once again, she preferred another complaint before the jurisdictional police



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station, stating that he had entered into marriage with said Manjula and the said complaint has also been closed. Apart from that, she was continuously living in her parental house. Therefore, the case of the respondent that the appellant caused mental cruelty has been accepted by the learned trial Judge.

11. This Court perused the records and also appreciated the evidence of P.W.1 and R.W.1. Even though no document was produced relating to the criminal case, the appellant admitted that she lodged a complaint against the respondent/husband, for which, the police officer registered the case and investigated the matter and the appellant also gave the evidence in the said criminal case against the husband. She further admitted that she made allegation extramarital relationship with one Manjula. After the investigation it was found out that the allegation against the said lady is false and thereby, deleted the name of the said person in the criminal case. In the said circumstances, making allegation against the husband assassinating the character amounts to mental cruelty.



Mental Cruelty

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Mental cruelty refers to the infliction of emotional or psychological distress on one spouse by the other spouse. It includes behavior or conduct that is of such a nature that it makes it impossible for the victim spouse to live with the other spouse. Mental cruelty can take various forms, such as constant humiliation, verbal abuse, harassment, negligent, threats, or persistent indifference towards the well-being of the other spouse. The concept of mental cruelty is subjective and depends on the facts and circumstances of each case. There is no exhaustive list of acts or behaviors that constitute mental cruelty, as it can vary based on individual experiences and cultural contexts. However, some common examples of mental cruelty recognized in Hindu Matrimonial law include:

- 1.Verbal abuse and humiliation: Persistent use of derogatory language, insults, or constant berating of the spouse.
- 2.Threats and intimidation: Regularly subjecting the spouse to threats of physical harm, emotional blackmail, or other forms of intimidation.
- 3.Emotional abandonment: Neglecting the emotional needs of the spouse, showing complete indifference, or engaging in emotional detachment.



4.Harassment and stalking: Stalking, monitoring, or excessive surveillance of the spouse, causing fear and distress.

5.Constant criticism and ridicule: Regularly belittling or mocking the spouse's abilities, appearance, or character.

6.Social isolation: Deliberately isolating the spouse from family, friends, or social support networks, leading to feelings of loneliness and exclusion.

7.Unreasonable demands and control: Exerting excessive control over the spouse's actions, decisions, or freedom, leading to a loss of individuality and autonomy.

8.Denial of basic rights and amenities: withholding financial support, denying access to basic amenities, or intentionally causing living conditions that are detrimental to the spouse's well-being.

12. It is important to note that the Courts consider the cumulative effect of various acts behaviors when determining mental cruelty. The severity, frequency, and duration of the conduct are also taken into account. The spouse seeking divorce on grounds of mental cruelty must provide evidence and demonstrate that the cruelty has reached a level where it has



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made the continuation of the marriage intolerable. In this regard, the Hon'ble Supreme Court has held in the following cases:

i. In the case of ***V.Bhagat vs. D Bhagat*** reported in ***1994 (1) SCC 337***, the Hon'ble Supreme Court held that the mental cruelty may be caused by a number of factors, including false accusations of adultery or unchastity, unjustified denial of sexual intercourse, unjustified refusal to have children, and excessive demands for dowry.

ii. In the case of ***Naveen Kohli Vs. Neelu Kohli*** reported in ***AIR (2006) SC 1675***, in this case, the Hon'ble Supreme Court held that false allegations of adultery, mental illness, and impotence can amount to mental cruelty. It also noted that in cases of mental cruelty, it's not necessary to prove physical injury or danger to life.

iii. In the case of ***Vijay Kumar Ramchandra Bhate Vs. Neela Vijay Kumar Bhate*** reported in ***(2003) 6 SCC 334***, The Hon'ble Supreme Court held that, the question that requires to be answered first is as to whether the averments, accusations and character assassination of the wife by the appellant husband in the written constitutes mental cruelty for sustaining the claim for divorce under Sections 13(1)(i-a) of the Act. The position of law in this regard has come to be well settled and declared that levelling



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disgusting accusations of unchastity and indecent familiarity with a person outside wedlock and allegations of extra marital relationship is a grave assault on the character, honor, reputation, status as well as the health of the wife. Such aspersions of perfidiousness attributed to the wife, viewed in the context of an educational Indian wife and judged by Indian conditions and standards would amount to worst form of insult and cruelty, sufficient by itself to substantiate cruelty in law, warranting that such allegations made in the written statement or suggested in the course of examination and by way of cross-examination satisfy the requirement of law has also come to be firmly laid by this Court. On going through the relevant portions of such allegations, we find that no exception could be taken to the findings recorded by the Family Court as well as the High Court. We find that they are of such quality, magnitude and consequence as to cause mental pain, agony and suffering amounting to the reformulated concept of cruelty in matrimonial law causing profound and lasting disruption and driving the wife to feel deeply hurt and reasonably apprehend that it would be dangerous for her to live with a husband who was taunting her like that and rendered the maintenance of matrimonial home impossible.



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13. In this case, it is seen that wife had made a complaint with false allegation against her husband and the same also ended into acquittal. In view of the above circumstances, the learned trial Judge correctly granted divorce, holding that the respondent established the ground of cruelty. Apart from that, the appellant has not taken any steps for the past many years for reunion with her husband.

14. Further, this Court finds no *bonafide* reasons on the part of the appellant since she had not taken any steps to live with him. In view of the same, the divorce granted by the learned trial Judge is liable to be confirmed

15. Accordingly, this Civil Miscellaneous Appeal stands dismissed and the order in H.M.O.P.No.315 of 2014, by the learned Judge, Family Court, Tiruchirappalli, dated 02.07.2019 is hereby confirmed.

[P.V.J] [K.K.R.K.J.]
19.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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1. The Family Court,
Tiruchirappalli.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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P.VELMURUGAN, J.
AND
K.K.RAMAKRISHNAN, J.

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