



C.M.A.No.1275 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2025

CORAM:

THE HONOURABLE DR. JUSTICE **G.JAYACHANDRAN**
and
THE HONOURABLE MR. JUSTICE **MUMMINENI SUDHEER KUMAR**

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Amudha

.. Appellant

Vs.

1.M.Sekar

2.Sankar

.. Respondents

PRAYER: Civil Miscellaneous Appeal preferred under Section 19 of the Family Courts Act, 1984, against the fair and decreetal order dated 09.02.2016 made in F.C.O.P.No.53 of 2015 on the file of the Family Court, Chengalpet.

For Appellant : Mr.D.Ravichander

For R1 : Mr.A.Leeban

JUDGMENT

F.C.O.P.No.53 of 2015 on the file of the Family Court, Chengalpet, was instituted by the husband seeking dissolution of marriage under Section 13(1)(i) & 13(1)(i-a) of Hindu Marriage Act, 1955. The Family



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Court, Chengalpet, allowed the petition and granted decree of divorce, thereby dissolving the marriage solemnized between the petitioner and the 1st respondent.

2. Being aggrieved by the decree of divorce, the 1st respondent/wife preferred an appeal in C.M.A.No.1275 of 2017, challenging the judgment and decree passed by the Family Court. However, the appeal was dismissed for default on 30.10.2017.

3. Thereafter, the appellant/wife filed C.M.P.No.21121 of 2017 seeking restoration of the dismissed appeal. During pendency of the said restoration petition, it appears that a compromise was arrived at between the husband and wife on 08.05.2022, wherein, the appellant/wife agreed to withdraw the appeal and also acknowledged receipt of the Sridhana articles in the presence of witnesses.

4. It was further agreed by both parties that not to pursue the pending proceedings. It is also brought to the notice of this Court that



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prior to the said compromise, the maintenance case initiated by the appellant/wife before the Chief Judicial Magistrate, in M.C.No.10 of 2016, was dismissed on 17.09.2021. The dismissal of the said maintenance case has also been referred in the compromise memo and the appellant agreed not to revive or pursue the maintenance case.

5. However, the appellant/wife filed a petition to set aside the dismissal in M.C.No.10 of 2016, which was restored and disposed of finally on 21.04.2023, wherein the Court has directed the respondent/husband to pay a sum of Rs.2,500/- per month towards medical expenses for the wife and Rs.7,500/- per month as maintenance for the minor son.

6. When the matter was taken up for final hearing, the learned counsel for the appellant/wife submitted that he had no instructions from his client. Hence, this Court directed both parties to appear in person before this Court in order to ascertain the present status of the matter and their respective intentions.



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7. Today, when the matter was taken up, the learned counsel appearing for the appellant submitted that the appellant has not contacted him and he has no further instructions in the matter.

8. The learned counsel appearing for the respondent/husband submitted that the respondent is present before this Court and on instructions, stated that the appellant/wife has shown no intention to pursue the present appeal. It was further submitted that with respect to the maintenance order passed by the Chief Judicial Magistrate in M.C.No.10 of 2016, the appellant/wife has not taken any steps for its enforcement. Whereas, the respondent/husband has preferred an appeal challenging the said maintenance order and the said appeal is still pending.

9. The appeal before this Court is regarding decree of divorce granted by the trial Court after a full-fledged trial. Though the divorce petition was filed on the grounds of adultery and cruelty under Section 13(1)(i) & 13(1)(i-a) of Hindu Marriage Act, 1955, the Court below



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declined to accept the plea of adultery, holding that there was insufficient evidence to prove adulterous life of the appellant with one Sankar (arrayed as 2nd respondent). Regarding physical and mental cruelty, the Court has held in favour of the respondent/husband. In the course of the trial, the appellant had admitted in the cross-examination that she has no objection to grant divorce, provided that custody of the minor son was granted to her. This statement was recorded by the Court below while considering the divorce petition.

10. It is an admitted fact that the minor son is residing with the appellant and the award of maintenance has been passed in M.C.No.10 of 2016, which is under challenge in a pending appeal.

11. On a cumulative assessment of the facts and the memorandum of understanding dated 08.05.2022 entered into between the husband and wife subsequent to the filing of the present appeal, this Court is of the view that the marriage between the appellant and the respondent has broken irretrievably. Further, the allegations of cruelty



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raised by the appellant have not been substantiated with sufficient evidence before the Court.

12. In such circumstances, this Court finds no reason to interfere with the decree of divorce granted by the Court below. However, it shall be open to the appellant to pursue the pending proceedings in respect of maintenance.

13. In the result, this Civil Miscellaneous Appeal stands dismissed. No order as to costs.

[Dr.G.J., J.] & [M.S.K., J.]

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Index : Yes/No

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To

The Family Court, Chengalpet.



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and



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