



C.M.A.No.2280 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.11.2025

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.No.2280 of 2016

R.Raman
S/o N.K.Ramasamy
No.4/25, D.F.O.Compound,
Race Course, Coimbatore.

.... Appellant

V.

S.A.Thangamani
W/o Raman
Care of S.A.Rajamani
Sugarcane Institute
Seeranaickenpalayam,
Coimbatore.

.... Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 19 of the Family Court Act 1984, against the judgment and decree dated 31.03.2016 made in H.M.O.P.No.443 of 2011 on the file of the Additional Principal Family Court, Coimbatore.



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For Appellant :Mr.C.R.Prasanan
For Respondent :Ms.G.Lavanya
for Mr.T.Sai Krishnan

J U D G M E N T

Dr.G.Jayachandran, J.

Petition for divorce filed by the appellant/husband under Section 13(1)(a) of the Hindu Marriage Act, 1955 was dismissed by the Family Court, Coimbatore. Hence, the present appeal.

2. According to the appellant, the marriage between him and the respondent was solemnized on 01.02.1998. Out of the said wedlock, a male child was born on 05.01.1999. The respondent went to her parents' house for delivery and even after three months after the birth of the child, she did not return to her matrimonial home inspite of repeated requests. The sister of the respondent Ms.Kalamani and her brother Mr.Rajamani did not allow the respondent to join her husband. This caused mental agony to the appellant leading to an attempt to commit suicide.

3. The further allegation is that he has spent money for the treatment of his mother-in-law and to secure teacher job for the respondent in a



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private school and despite that, the respondent, on the ill advice of her sister and sister's husband had left the matrimonial home. She had been under the clutches of her sister and sister's husband. Hence, a police complaint was given for illegal detention. However, the police had closed the complaint recording the statement of the respondent that she will work out her remedy through the Court.

4. Alleging further that when he caused notice to the respondent on 05.04.2010 calling upon her to join him within 10 days, she replied stating that she has already instituted Maintenance Case and Guardian Original Petition and hence she will wait for the outcome of the proceedings.

5. Having waited for a period of two years, the appellant has filed a petition for dissolution of marriage on the ground that the marriage has irretrievably broken down. The respondent has filed a counter stating that the appellant had contracted heavy debt in his native place and unable to meet out his debt he attempted to commit suicide and also was demanding money from her parents. He failed to maintain her which forced her to part the company and take shelter under her well wishers.



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6. The Court below on considering the evidence adduced by the parties, dismissed the petition for divorce on the ground that the appellant has failed to establish cruelty and since he has not filed a petition for desertion, he cannot sustain his prayer.

7. Learned counsel appearing for the appellant specifically submits that the willful withdrawal from the consortium by the respondent, despite notice calling upon her to re-join him, is a sufficient ground to infer cruelty. The respondent, even after order dated 31.03.2016 had not taken any steps for re-union and in fact her Guardian Original Petition with frivolous contentions to get custody of the child got dismissed and the son is being brought up by the appellant. The cruelty has to be inferred by the willful withdrawal of the matrimonial home and also discarding the responsibility of taking care of a minor child.

8. This Court after hearing the argument made by counsel for the respondent at length and the reason given by the Court below finds that the excuse given by the respondent for her withdrawal from the matrimonial companionship sounds very frivolous and no explanation on her side given for not joining her husband inspite of receiving legal notice requesting her



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to join him.

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9. The records also indicate that on the day when notice Ex.P.1 was issued to the respondent, the Guardian Original Petition as well as Maintenance Case was not even numbered. It is only after sending reply, she has got her Maintenance Case and Guardian Original Petition numbered.

10. Thus, it is very clear that she had no intention to rejoin her husband even when notice was issued in the year 2010. At least, she should have shown some sign of intention to join her husband and minor child after the dismissal of the divorce petition. Unfortunately, there is no evidence to show that she had made any attempt for reunion. It is also brought to the notice of this Court that the Guardian Original Petition filed by the respondent got dismissed.

11. Taking into consideration the materials placed cumulatively this Court finds that the order of the Family Court, Coimbatore is to be interfered with and accordingly, the same is set aside. The marriage that was solemnized between the appellant and the respondent on 01.02.1998 stands dissolved.



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Dr.G.JAYACHANDRAN, J.

and

MUMMINENI SUDHEER KUMAR,J.

12. This Civil Miscellaneous Appeal is allowed. However there shall be no order as to costs.

(Dr.G.J.J.) & (M.S.K.J.)

07.11.2025

Index:yes/no

Internet:yes

Speaking order/non speaking order

Neutral citation:yes/no

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To

The Additional Principal Family Court, Coimbatore

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