



C.M.A.No.1943 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 27.03.2025

PRONOUNCED ON : 30.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

C.M.A. No. 1943 of 2024

J.Karthikeyan

... Appellant

Vs.

P.Saranya

... Respondent

PRAYER: Civil Miscellaenous Appeal filed under Section 19 of Family Courts Act, 1984 against the order passed in H.M.O.P.No.749 of 2022 on the file of III Additional Family Judge at Chennai dated 22.11.2023.

For Appellant : Mr. J. Kamaraj.

For Respondent : No appearance.



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J U D G M E N T
(Delivered by Dr. A.D. Maria clete, J)

This appeal is filed against the judgment and decree dated 22.11.2023 passed by the III Additional Principal Family Court, in H.M.O.P. No.749 of 2022. The appellant, who was the petitioner/husband before the Family Court, filed a petition seeking divorce on the ground of cruelty. The said petition was dismissed, and the present appeal challenges that dismissal.

2.The brief facts of the case are as follows: The marriage between the petitioner and the respondent was solemnized on 02.12.2019 at Arulmighu Thiruthani Subramanya Swamy Temple. After the marriage, the parties commenced their matrimonial life at Guindy. It is alleged that the marriage was not consummated. The petitioner contends that the respondent frequently quarrelled with him and his family members over trivial matters. In March 2020, he discovered that the respondent was consuming Riscon LS tablets, which are typically prescribed for conditions such as schizophrenia or mania. According to the petitioner, the respondent was suffering from Paranoid Schizophrenia. When he sought medical records, her father allegedly stated they were missing. The



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petitioner further claims that he took the respondent for psychiatric treatment, but the efforts to improve her condition were in vain. Ultimately, on 09.06.2020, the petitioner left the respondent at her parental home, stating that he could no longer bear her behaviour. It is alleged that the respondent would stare at him throughout the night and exhibited suicidal tendencies, causing the petitioner reasonable apprehension for his safety and mental peace. He contends that the respondent's family suppressed her mental condition prior to the marriage.

3. On the other hand, the respondent denied all the allegations and asserted that she was ill-treated by the petitioner and his family. She further stated that she was undergoing treatment for thyroid-related issues. The divorce petition was filed under Section 13(1) (i-a) of the Hindu Marriage Act, 1955, which provides for divorce on the ground of cruelty. However, in the pleadings, the petitioner repeatedly emphasized that the respondent was suffering from Paranoid Schizophrenia, and that her behaviour stemming from the illness caused him cruelty. In essence, although the petition was styled under the ground of cruelty, the substance of the averments aligns more closely with mental illness as



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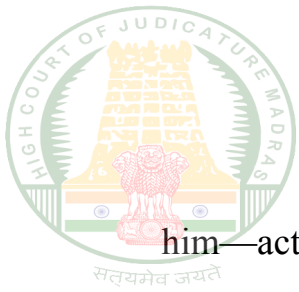
contemplated under Section 13(1)(iii) of the Act. Thus, the label on the petition

does not match its core contents.

4. When a petition is filed under Section 13(1) (i-a) alleging cruelty, but the pleadings predominantly refer to the respondent's mental illness (schizophrenia) as the basis of such cruelty, the burden lies on the petitioner to establish both the existence of the illness and that the resultant conduct amounted to cruelty warranting a decree of divorce.

5. The allegations of cruelty in this case are vague and lack specificity. The petitioner merely stated that the respondent quarrelled with him and his family over trivial issues. The Act does not define cruelty, but it generally refers to conduct that causes a reasonable apprehension in the petitioner's mind that it would be harmful or injurious to live with the other spouse. No such serious or specific incidents have been cited by the petitioner.

6. The petitioner also alleged that the respondent washed his jeans along with his belt, wallet, and car key, wasted food, laughed incessantly, and stared at

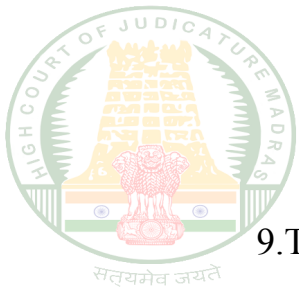


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him—acts he attributes to her mental illness. Under Section 13(1)(iii), a mental disorder must be of such a nature and degree that it is unreasonable to expect the petitioner to live with the respondent. A mere diagnosis of schizophrenia does not, by itself, justify the grant of divorce.

7.The petitioner marked Ex. P4, a medical prescription, but did not examine any medical expert to support the diagnosis or its implications. The burden of proof was on the petitioner to establish that the respondent's mental illness was of such a degree that cohabitation became impossible, which he failed to do.

8.Unsubstantiated and general allegations about mental illness or cruelty do not suffice under the Hindu Marriage Act. In this case, no substantial documentary or medical evidence was provided by the petitioner. Conversely, the respondent denied the allegations and expressed her willingness to resume marital life. As held by the Hon'ble Supreme Court in *Ram Narain Gupta v. Rameshwari Gupta*, (1988) 4 SCC 247, schizophrenia, being a treatable mental illness, cannot constitute a ground for divorce unless it renders marital cohabitation impossible.



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9. Though the petition was filed under Section 13(1) (i-a), since the specific acts of cruelty alleged are attributed to the respondent's schizophrenia, it was incumbent on the petitioner to substantiate the medical condition through cogent medical evidence, which he failed to do.

10. The appellant has extracted portions of the respondent's cross-examination in the grounds of appeal and contended that the trial court failed to consider those aspects. However, the deposition of a witness cannot be read in isolation. It must be examined in the context of the pleadings and overall evidence. As discussed earlier, the petitioner failed to prove either the alleged acts of cruelty or the mental illness of the respondent to the extent required by law.

11. In view of the above discussion, we find no merit in the appeal. There is no justifiable ground to interfere with the well-considered judgment of the Family Court. Accordingly, the appeal is dismissed. No costs.

(R.S.K., J) (A.D.M.C., J)

30.04.2025

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Index : Yes/No

Neutral Citation: Yes / No

Speaking Order / Non-speaking Order

To

1.The III Additional Family Court,
Chennai.

2.The Section Officer,
VR Section,
High Court of Madras,
Chennai.



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R.SURESH KUMAR, J
and
DR. A.D. MARIA CLETE, J

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Pre-Delivery Judgment made in
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