



C.M.A.No.1560 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1560 of 2024
and C.M.P.No.13259 of 2024

D.Reetha Mary

...Appellant

Vs.

M.Christhuraj

...Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 55 of Indian Divorce Act, against the Judgment and decree passed by the Learned Principal District Court, Vellore, Vellore District in I.D.O.P.No.30/2018 by order dated 15.04.2024.

For Appellant : Mr.E.Kannadasan

For Respondents : Mr.D.Edwin Yovan



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JUDGMENT

This appeal is filed by the appellant challenging the Judgment and decree made in I.D.O.P.No.30 of 2018 dated 15.04.2024 passed by the learned Principal District Court, Vellore, Vellore District.

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The appellant herein is the respondent in I.D.O.P.No.30 of 2018 and the petitioner in I.D.O.P.No.01 of 2020. The respondent herein is the petitioner in I.D.O.P.No.30 of 2018 and the respondent in I.D.O.P.No.01 of 2020 before the Principal District Court, Vellore District.

4.The brief facts of the case are as follows:

(i)The husband filed a petition in I.D.O.P.No.30 of 2018 under Section 10(x) of the Divorce Act, 1869 to grant divorce from the wife, dissolving their marriage that was solemnized on 03.05.2006 at



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St.Lourdu Church, at Kanakkankuppam as per Christian rites and customs.

(ii).Pending the divorce petition, the wife filed I.A.No.01 of 2020 on 03.12.2020 under Section 36 of the Divorce Act, 1869 for claiming interim maintenance including minor son viz., C.John Fredrick, litigation expenses and alimony of Rs.75,000/- from the date of filing of the maintenance petition till the date of disposal of the case from the income of the husband.

(iii).Originally, the petition was filed before the Principal District Court, Villupuram in D.O.P.No.132 of 2017. As per the orders of this Court in Tr.C.M.P.No.186 of 2018 dated 03.07.2018, the above case was ordered to be withdrawn from the Principal District Court, Villupuram and taken on file as I.D.O.P.No.30 of 2018 on 27.08.2018 and thereafter proceeded further.



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5. Brief facts from the petition averments of the petitioner/husband are as follows:

The petitioner is the husband and the respondent is the wife. Their marriage took place on 03.05.2006 at St.Lourdu Church, Kanakkankuppam as per Christian rites and customs. After the marriage, they started their marital life in a happy mood for one year. The petitioner/husband served in the Army and retired as a Havildar. When he was serving in the Army, he often visited the marital home on leave and behaved as a dutiful husband. But the respondent/wife, without any valid reason, even in the short period where the parties resided at the marital home as husband and wife, picked up quarrel with the petitioner's parents, left the matrimonial home and went to her parental house. Whenever the petitioner/husband expected conjugal rights, the same were refused and neglected by the respondent/wife which amounts to mental cruelty. For which, the petitioner/husband filed a divorce petition in O.P.No.65 of 2014 before the Principal District Court, Villupuram and the same was withdrawn by the advise of elders and friends. After that withdrawal, the petitioner and respondent started their marital life again



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at the respondent's parents' house at Alamelumangapuram, Sathuvachery, Vellore. Thereafter, they shifted their residence to a rental house at Baghayam. The respondent abused the petitioner with bad words and failed to do her duties as a housewife. The petitioner's father died on 11.07.2015 due to illness. Further, the respondent directed the petitioner not to go to his parental house and thus he could not take care of his parents and it amounts to mental cruelty to the petitioner. The petitioner sent a notice dated 18.10.2016 to the respondent calling upon her to come and live with him in the marital home. But the respondent sent a reply notice dated 02.11.2016 with a false story that the petitioner was addicted to alcohol and threatened the respondent with dire consequences with a knife. Further, the respondent has alleged in the reply notice that the petitioner threatened her while she was alone in the house at knifepoint and took a video of her nude pose and further threatened her by saying that he would upload the video to the website and it would be disclosed to others.



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6.Brief averments of the counter filed on behalf of the respondent/wife are as follows:

The marriage and the earlier case filed by the petitioner are not in dispute and other allegations are denied. According to the respondent, the petitioner refused to do his duty as husband towards the respondent. The respondent never misbehaved with the petitioner's parents. The respondent acted as a dutiful daughter-in-law and a family woman towards the petitioner and his parents. The allegation that the respondent refused the conjugal right of the petitioner is denied. Even after filing an earlier petition in I.D.O.P.No.65 of 2014, considering the welfare of the family, the respondent adjusted and reunited with the petitioner and started her marital life. After the petitioner and the respondent resided at the respondent's official quarters for some time. Since the petitioner's father died on 11.07.2015, the petitioner has abused the respondent, saying that she is the only cause for the death of his father. The petitioner only caused cruelty to the respondent since the petitioner was addicted to alcohol and threatened the respondent/wife with a knifepoint and took video of her nude pose and threatened the respondent that it



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will be uploaded on the internet. Even though the respondent had talked with the relatives, preferably male members, the petitioner used to suspect her fidelity and caused a lot of mental agony to the respondent. According to the respondent, the petitioner assaulted and threatened the respondent in a drunken condition. She denied the allegation that the child was born through one Moorthy and further stated that she would take a DNA test for that. Since the petition was devoid of merit, it was liable to be dismissed.

7.Before the Trial Court, the petitioner was examined as PW1 and 6 documents were examined as Exs.P1 to P6. On the side of the respondent, the respondent was examined as RW1 and Mr.Vanathu Chinnappan was examined as RW2 and 10 documents were marked as Exs.R1 to R10.

8.On perusal of records, it is seen that the Principal District Court, Vellore allowed I.D.O.P.No.30 of 2018 by dissolving the marriage between the husband wife, which took place on 03.05.2006 at St.Lourdu



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Church, Kanakkankuppam as per Christian rites and customs on the ground of cruelty under the Divorce Act, 1869 and partly allowed I.A.No.01 of 2020 in I.D.O.P.No.30 of 2018 by granting monthly maintenance to the minor child viz., C.John Fredrick at Rs.6,000/- per month from the date of petition i.e., 03.12.2020 till the date of order, rounded off to 40 months with total maintenance of Rs.2,40,000/-. Further, the respondent in I.A.No.01 of 2020 was directed to pay the arrears of maintenance amount of Rs.2,40,000/- to the wife for her minor son within 3 months from the date of order. The claim made by the wife in the above Interlocutory Application towards litigation expenses and alimony was partly dismissed.

9.Aggrieved by the judgment and decree, the respondent therein has preferred this appeal.

10.Learned counsel appearing for the appellant submitted that the learned Judge has erred in totally rejecting the evidence of R.W.2, who is the brother of the respondent/husband. During his cross examination, he



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stated that he had no knowledge about the matrimonial life of the parties.

However, he admitted that a complaint was lodged against the respondent/husband by the appellant/wife. He further submitted that the learned Judge allowed the petition filed by the respondent/husband on the ground of cruelty and the same was not established by either oral or documentary evidence. Therefore, he prayed for allowing the appeal.

11.Per contra, learned counsel appearing for the respondent submitted that the learned Judge has rightly allowed the petition filed by the respondent/husband as well as partly dismissed the claim made by the appellant/wife towards litigation expenses and alimony and no interference is required by this Court. Hence, he prayed to dismiss the appeal filed by the appellant.

12.Heard learned counsel appearing for the appellant, learned counsel for the respondent and perused the materials available on record.



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13. On perusal of records, it is seen that the parties have been living separately for more than 10 years and they are not interested in reunion. The respondent husband has handed over 2 house plots, which stands in the name of the appellant/wife. According to the respondent/husband, the appellant/wife is working as a Lab Technician, which was obtained by using his military quota and she is getting regular income from that job. As per the orders of the Trial Court, the respondent/husband has paid Rs.2,00,000/- by way of cheque and Rs.40,000/- as cash to the appellant/wife and she also agreed for the said settlement for herself and her minor son. The respondent/husband has deposited Rs.50,000/- in the Recurring Deposit in favour of his minor son and also handed over the passbook to the appellant/wife.

14. It is made clear that since issues between the parties are settled, there will not be any further claims or issues between the parties in the future.



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15.Considering the facts and circumstances of the cases, the submissions made by the learned counsel on either side and since the parties are not interested in reunion, this Court is inclined to grant divorce by dissolving the marriage between the parties, which was solemnized on 03.05.2006.

16.In view of the above, the Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

06.08.2025

Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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T.V.THAMILSELVI, J.

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To

- 1.The Principal District Court, Vellore,
Vellore District.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.

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