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CMSA No. 32 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMSA No. 32 of 2023

and

CMP.No.12542 of 2023

1. MANGALANAYAKI

D/O.Thiruvarasan Pillai, North St,
Meyyathur and Post, Kattumannarkoil
Tk, Chidambaram Dt.

Appellant(s)

Vs

1. MANIKANDAN

S/O.K.G.Seenuvasan, No.219, North St,
Sivaji Nagar, Chettimandapam,
Kumbakkonam Tk.

Respondent(s)

PRAYER

This Civil Miscellaneous Second Appeal has been filed under Section 13(1) (1-

a) and 13(1)(i-b) of Hindu Marriage Act, 1955, r/w Section 100 of the Code of

Civil Procedure, to set aside the Judgment and Decree passed in CMA



No.15/2021 dated 20-03-2023 of the II Additional District and Sessions Court,

Chidambaram by granting divorce to the respondent and reversing the Judgment and Decree passed in HMOP No.4/2016 dated 07-12-2019 of the learned Sub Judge, Chidambaram.

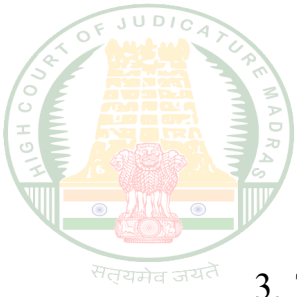
For Appellant(s): M/s. K.Balakrishnan

For Respondent(s): A.Muthukumar

JUDGEMENT

The appellant has filed this appeal to set aside the Judgment and Decree passed in CMA No.15/2021 dated 20-03-2023 of the file of the II Additional District and Sessions Court, Chidambaram by granting divorce to the respondent and reversing the Judgment and Decree passed in HMOP No.4/2016 dated 07-12-2019 by the learned Sub Judge, Chidambaram.

2. Challenging the reversal findings of the first appellate court, the wife/respondent has preferred this appeal.



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3. The learned counsel for the appellant submits that, without any valid reason, the respondent/husband deserted her and failed to maintain her by not providing accommodation, in violation of the order passed by the Magistrate in the DVAC proceedings. For more than two years, without justification, she was made to suffer, though the appellant/wife was always willing to live with the respondent/husband. However, the husband evaded reunion and failed to maintain her properly. Without considering the evidence, the learned first appellate Judge erroneously granted divorce in favour of the respondent. Such a finding is illegal and liable to be set aside.

4. In reply, the learned counsel for the respondent submits that the marriage between the parties was solemnized on 29.04.2007 as an arranged marriage. Thereafter, the appellant/wife failed to discharge her duties as a dutiful wife and, admittedly, from 2008 onwards, she left the matrimonial home and lived separately for about 11 years. Furthermore, she lodged a police complaint against the respondent without any valid reason, causing him mental



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agony. The appellant is also stated to have behaved abnormally. Hence, the

husband had earlier filed HMOP No. 100 of 2015 before the Subordinate Court,

Mayiladuthurai, under Section 12(1)(b) of the Act, alleging abnormal behaviour.

The wife, on the other hand, contested the petition stating that it was the

husband who misbehaved abnormally and tortured her under the influence of

alcohol. Both parties levelled allegations against each other. After hearing both

sides, the learned Trial Judge dismissed the petition, holding that there was no

medical proof to substantiate the allegations.

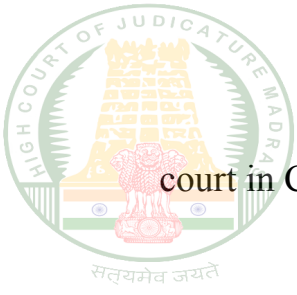
5. Thereafter, the husband/respondent filed HMOP No. 4 of 2016, seeking divorce under Section 13(1)(i-a) and Section 13(1)(i-b). From the records, it is seen that, the appellant/wife consistently prayed for reunion and expressed her unwillingness to be separated from her husband. However, despite her claim, she did not file any petition for restitution of conjugal rights. On the contrary, the respondent/husband persisted with his prayer for divorce. Since 2008, both parties have been living separately. Admittedly, there are no children born of this marriage. The records further reveal that the respondent has been paying



interim maintenance of Rs. 2,500/- per month, as directed by the Magistrate Court.

6. When the matter was taken up before this Court, the respondent appeared in person and submitted that he had met with an accident and was unable to walk properly. He is now depending on his mother's pension. Nevertheless, since the marriage is still subsisting, he acknowledged his duty to maintain the appellant and confirmed compliance with the order of interim maintenance by paying Rs. 2,500/- per month.

7. It is further admitted that the respondent had earlier married another woman and obtained a valid divorce before marrying the present appellant. According to the appellant, the respondent is addicted to alcohol and ill-treated her, causing both physical and mental cruelty. Though she claims she is willing for reunion, the fact remains that both parties have been living separately since 2008. In the absence of children and in view of the irretrievable breakdown of the marital relationship, this Court finds that the conclusion of the first appellate



court in CMA No. 15 of 2021 is sustainable and requires no interference.

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8. Considering the fact that the appellant has no independent source of income, and in order to put an end to further multiplicity of proceedings, this Court directs the respondent/husband to pay a lump sum amount of Rs. 5,00,000/- as permanent alimony. Taking note of the fact that the respondent has no employment, is dependent upon his mother's pension, and has sustained injuries in an accident, a period of six (6) weeks is granted for payment of the said sum. The amount shall be paid by way of Demand Draft in the name of the appellant, through her counsel, within six weeks from the date of receipt of a copy of this order.

9. With the above directions, this Civil Miscellaneous Appeal stands disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.



10. Though the learned counsel for the appellant argued that there was an order directing the respondent to provide accommodation, it is pointed out by the learned counsel for the respondent that the house in question belongs to the respondent's father and is under lease. Hence, there was no intentional violation of the Magistrate's order. The house property being under the occupation of a tenant was duly taken into account, and therefore, the respondent was unable to provide accommodation as directed.

18-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To
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- 1.The II Additional District and
Sessions Judge, Chidambaram.
- 2.The Subordinate Judge,
Chidambaram.
- 3.The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI J.
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