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C.M.A.No.1934 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

C.M.A.No.1934 of 2024

G.Kathiresan

... Appellant/Respondent

-VS-

P.Devi

... Respondent/Petitioner

Prayer: Appeal is filed under Section 19 of the Family Courts Act, 1984 to set aside the judgment and decree dated 29.04.2024 in O.P.No.418 of 2021 on the file of the Family Court, Tiruppur by allowing this Civil Miscellaneous Appeal.

For Petitioner : Mr.K.Sudhakar

For Respondent : Mr.A.Rajesh Kanna

J U D G M E N T

(By J.Nisha Banu,J.)

This Civil Miscellaneous Appeal has been filed, seeking to set aside the judgment and decree dated 29.04.2024 in O.P.No.418 of 2021 on the file of the Family Court, Tiruppur, in and by which, the Family Court



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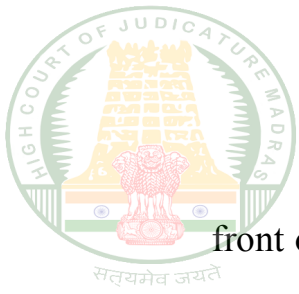
has dissolved the marriage held between the appellant and the respondent

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Background of the case is as follows:

2. The marriage between the appellant and the respondent was solemnized on 01.06.2015 as per Hindu rites and customs in a Temple at Sivagangai in the presence of friends and relatives. Out of their wedlock, a female child by name Ilakkiya was born. Initially, the appellant was employed in a Private Company and the respondent worked as a Junior Assistant in the Registration Department, Tiruppur. Since the appellant had the aspiration to get Government employment, he was preparing for the post of Village Administrative Officer (VAO), for which, the respondent rendered financial support to him. Subsequently, the appellant was selected for the post of VAO.

3. The respondent / wife averred in the petition for divorce that the appellant tortured her to bring household articles and jewels from her parents' house and he had the habit of scolding the respondent / wife in



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front of others. He frequently suspected the fidelity of the respondent / wife and he also developed illegal intimacy with a lady (Durga), when he had gone for preparation of TNPSC exam. On account of the unbearable torture meted out at the hands of the appellant / husband, the respondent once removed her Thali and threw the same on the face of the appellant. Later, due to the intervention by elders, there was a compromise entered into between the appellant and the respondent. Even thereafter, there was no change in the attitude of the appellant / husband and hence, the respondent filed a petition for divorce. The Family Court granted the decree of divorce on the ground of cruelty as per Section 13(1)(i-a). Challenging the said order, the appellant / husband is before this Court.

4. Learned counsel for the appellant / husband submitted that there was no illicit affair by the appellant as averred by the respondent / wife. The mother of one Durga, with whom the appellant is alleged to have affair, was admitted in Jipmer Hospital at Pondicherry for treatment and he had gone to the hospital along with his friends to enquire about her health and the same was suspected by the respondent / wife. He further submitted



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that the appellant prepared for his exams out of his own savings and not from the amount given by the wife. Though the respondent / wife had agreed before Panchayat to withdraw the divorce petition, she has not withdrawn the same. The appellant wants to live with his wife in the interest of his child and prays to restore the marriage.

5. Per contra, learned counsel for the respondent / wife contended that the respondent / wife is not inclined to lead matrimonial life with the appellant. With an intention to harass the respondent, the appellant has filed this appeal and he had not taken any steps to bring the respondent / wife back to the matrimonial home. Learned counsel for the respondent further contended that the respondent / wife has not claimed any maintenance for herself and the child. Thus, he prays for dismissal of the appeal.

6. Heard the learned counsel on either side and perused the evidence and material available on record.



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7. The marriage of the appellant with the respondent was solemnized on 01.06.2015 and a female child was born to them. Subsequently, due to difference of opinion arisen between them in the year 2021, the appellant and the respondent started living separately for more than three years. As per Section 13(1A) of The Hindu Marriage Act, 1955, prolonged separation can be one of the grounds to file a petition for divorce. The Hon'ble Supreme Court in the case of **Rakesh Raman vs. Kavita**, reported in **AIR 2023 SC 2144**, categorically held that inspite of refusal by the wife to live with her husband, compelling her to join her husband will amount to cruelty. The relevant passage of the judgment is extracted hereunder:

“18. We have a married couple before us who have barely stayed together as a couple for four years and who have now been living separately for the last 25 years. There is no child out of the wedlock. The matrimonial bond is completely broken and is beyond repair. We have no doubt that this relationship must end as its continuation is causing cruelty on both the sides. The long separation and absence of cohabitation and the complete breakdown of all meaningful



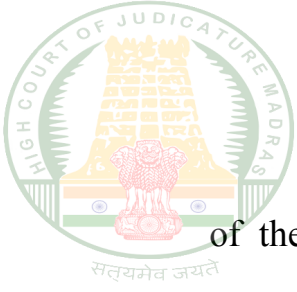
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bonds and the existing bitterness between the two, has to be read as cruelty under Section 13(1)(ia) of the 1955 Act. We therefore hold that in a given case, such as the one at hand, where the marital relationship has broken down irretrievably, where there is a long separation and absence of cohabitation (as in the present case for the last 25 years), with multiple Court cases between the parties; then continuation of such a 'marriage' would only mean giving sanction to cruelty which each is inflicting on the other. We are also conscious of the fact that a dissolution of this marriage would affect only the two parties as there is no child out of the wedlock.”

8. The Family Court, after considering the evidence and documents, came to the conclusion that there was a cruelty attributed to the respondent / wife by the appellant and therefore, invoking the provisions of Section 13(1)(i-a) of the Act, the petition filed by the respondent / wife for divorce was granted. Even before this Court, learned counsel for the respondent / wife strenuously argued that that there is a remote chance of reunion and if the parties live together, it would be injurious and harmful for both of them. The respondent / wife has not claimed any maintenance from the appellant for herself and for the welfare of the child. Hence, we are



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of the view that the judgment and decree passed by the Family Court,
dissolving the marriage does not warrant any interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed.

No costs.

(J.N.B.J.,) (R.S.V,J.,)
21.01.2025

Speaking order/Non-speaking order

Index: Yes / No

Internet: Yes / No

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To:

The Family Court Judge,
Tiruppur



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and
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