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CMA.316 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Reserved On: 12.12.2024**

**Delivered On: 08.04.2025**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU  
AND  
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

**C.M.A.No.316 of 2023**

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Mr.C.Devachandran

... Appellant

VS.

A. Rebecca

... Respondent

Prayer :- CMA filed under Section 19 of the Family Courts Act, 1984 as against the Judgment and Decree of the Family Court, Thiruvannamalai dated 14.12.2021 made in I.D.O.P.No. 500 of 2020.

For Appellant : Mr.G.Anandaraj.

For Respondent : Mr.A.K.Kumarasamy, Senior Counsel  
For M/s. J.Prithvi.



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## **J U D G M E N T**

### **J.NISHA BANU,J.**

This appeal has been filed by the appellant/husband against the order passed in I.D.O.P.No. 500 of 2020 on the Family Court, Thiruvannamalai dated 14.12.2021, whereby the petition for divorce filed by the appellant/husband against the respondent/wife has been dismissed.

2. This court directed the parties to appear before the court on 26.06.2023, and since the steps taken for settlement were unsuccessful, the matter was taken up for arguments.

3. The facts necessary for the disposal of this appeal is as follows:-

(a) The averments made by the petitioner/husband in the IDOP.No.500 of 2020 is that the marriage between the appellant and the respondent was solemnized on 12.11.2010 in Arcot Lutheran Immanuel Church at Polur according to Christian rituals and customs. The appellant/Husband was working

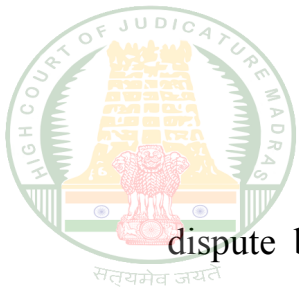


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as a teacher at the Danish Mission School in Ketavarampalayam and the respondent was working as a teacher at the Danish Mission School in Thirukovilur. After marriage, both of them started living together at the appellant's house at Polur. The respondent stayed at the appellant's house for only 10 days and then left to her mother's house and started to work from there.

(b) In February 2011, the respondent came to the appellant's house and stayed for few days, had a futile argument with the appellant and his parents and then went back to her mother's house. Since the day of the marriage, the respondent had been constantly fighting and not doing any of the duties as the wife. She forced the appellant to come to her mother's house in Thirukovilur. Therefore, the appellant would go to the respondent's mother's house and stay there. Even then, the respondent quarrelled with the appellant and caused mental distress.

(c) The respondent threatened the appellant/husband that she will register a case against him and his parents for demanding dowry. In order to settle the



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dispute between them, a discussion was held in the presence of Mr. Richard Baskaran, Secretary, A.L.C. Devalaam, Tiruvannamalai, and the appellant was ready to live with the respondent. However, the respondent did not agree to it.

(d) On the other hand, the averments of the respondent/wife before Family Court is that since there was no child begotten for nearly 6 years, the appellant and his parents harassed the respondent. The appellant used to come to the house drunk and would insult, bully and beat her. On 13.08.2012, the respondent sent a notice through the advocate asking the petitioner to leave the bad activities and start a good family with the respondent. As the respondent was undergoing medical treatment for child birth, the appellant rented a house in Thirukovilur for a period of one year and was taking care of the respondent. Since the respondent did not help her mother-in-law for her promotion in respect of her job, the appellant left the respondent at Thirukovilur and went to Pollur to stay at his parents' house. As the doctors said that the appellant had no chance of conceiving through natural intercourse, they arranged for a test tube delivery and a girl child was born at Ramachandra Hospital, Chennai, when the respondent was 7 months pregnant. The appellant visited the hospital the day after the child was born and



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all the delivery expenses were borne by the respondent and her parents.

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(e) The appellant parents insisted on bringing 70 lakhs as dowry for setting them in a separate house to live. On 16.04.2017, the appellant threw her out of the house and she was rescued by her parents that night. When the respondent's parent's spoke to the appellant the next day, the appellant's parent's told the panchayat that they could not take care of the respondent and her child as they were taking care of the appellant's younger sister. So the respondent went to her parent's house with the child.

(f) As the respondent has been separated from the appellant and living alone for more than 2 years. All efforts made by the appellant to live together with the respondent failed. The appellant filed the petition seeking divorce due to the cruelty committed by the respondent and due to the emotional distress caused to the appellant.



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4. The Trial court after analysing the pleadings, counter, evidence on both sides held that since the reasons given by the appellant for seeking divorce cannot be considered and since the appellant and the respondent had a daughter in 2016, and since both of them have been living together, the court has decided that it is not possible to grant a divorce based on the argument that the respondent has neglected the appellant for the past 2 years. On such findings, husband's divorce petition was dismissed.

5. The learned counsel for the appellant/husband would submit that the learned Trial Judge erred in dismissing the OP for dissolution of marriage. The trial judge failed to see that the acts of cruelty caused by the respondent were clearly established. It is submitted that though the respondent expressed her willingness to live with her husband, she has not taken any steps for reunion which is amounting to cruelty. As per the evidence of Pw1's cross examination, there is no disclosure about the respondent obtained consent of the appellant regarding his staying in her parent's house. The learned counsel for the appellant



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relied on dictums of our Honourable Apex Court and our High Court and prayed

for setting aside the judgment and decree of the trial court.

6. Per contra, the learned counsel for the respondent would contend that the respondent/wife is ready to come to the matrimonial home along with her child and contended that it the appellant who left the respondent to suffer.

7. On several occasions, the court was informed about the settlement talks which arose between them. On 26.06.2023, this court had occasion to interact with the parties, wherein the parties were willing for separation and the respondent/wife had claimed a sum of Rs. 20,00,000/- towards all claims and maintenance towards the child. Later on 28.10.2024, when the matter was called appellant/husband accepted for the said sum and drawn the Demand draft for a sum of Rs.20,00,000/-. However the respondent did not agree for Rs.20,00,000/- and she demanded some more money.

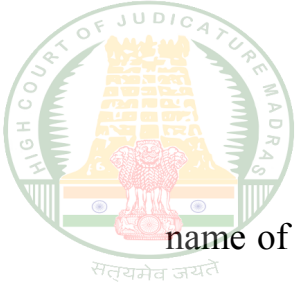


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8. Since the parties are separated for the past 8 years and since there is no settlement resolved between them, the matter was posted before the court on 12.12.2024 for arguing the matter on merits. Upon hearing the learned counsel for both sides, we are of the view that since the both parties are unable to lead a meaningful matrimonial life due to inherent differences of opinion and in the present case on hand, despite the disagreements between both the parties in arriving at a settlement, they agreed for mutual separation and intended only upon the alimony and maintenance through settlement.

9. Therefore, considering the long separation period and the status of both the parties, this court comes to the conclusion that since the marriage between the appellant and the respondent is irretrievably breakdown, this court concedes to grant divorce based on the long separation for more than 8 years, since there is no chance of them living together. This court ensuring financial support to the respondent and the child, directs the appellant/husband to deposit a sum of Rs. 20,00,000/-(Rupees Twenty Lakhs only) in the interest bearing account in the



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name of the child and Rs.10,00,000/- in the name of the respondent. The interest

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from such amount of Rs.20,00,000/- should be given to the respondent.

Therefore, the CMA filed by the husband is allowed. The impugned orders passed in Judgment and Decree of the Family Court, Thiruvannamalai dated 14.12.2021 made in I.D.O.P.No. 500 of 2020 is hereby set aside. No costs.

[J.N.B.J.]

[R.S.V.J.]

08.04.2025

Index: Yes/No

Internet: Yes/No

nvsri

**To**

1.The Judge, Family Court,**Thiruvannamalai.**



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**J.NISHA BANU, J.**

**and**

**R.SAKTHIVEL, J.**

nvsri

**Judgment in  
CMA.No.316 of 2023**

08.04.2025