



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.12.2025

PRONOUNCED ON : 08 .12.2025

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

CMA No. 98 of 2017
And
C.M.P.No. 767 of 2017

Vijayalakshmi
W/o. Mariappan & D/o. Chinnaraj

... Respondent/Appellant

Vs

Mariappan
S/o. Chinnasamy

...Petitioner/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19(1) of Family Courts Act, against the Judgment and Decree dated 28.09.2016 in FCHMOP No. 60 of 2015 on the file of Family Court, Dharmapuri.



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For Appellant : Mr. S.Karthikeyan
for Mr.K.V.Sanjeev Kumar

For Respondent : Mr. C.Kulanthaivel

J U D G M E N T

(Order of the Court was made by **C.V.KARTHIKEYAN, J.**)

The respondent in FCHMOP No. 60 of 2015 on the file of Family Court at Dharmapuri is the appellant herein.

2. FCHMOP No. 60 of 2015 had been filed by the respondent herein, Mariappan under Section 13(1)(i-a) of Hindu Marriage Act, 1955 to dissolve the marriage between him and the appellant herein which had taken place on 10.02.2006. The appellant was working as a teacher at Panchayat Union Middle School and the respondent herein is working in Southern Railway. After trial, FCHMOP No. 60 of 2015 had been allowed and the decree of divorce was granted necessitating the filing of the present appeal.

3. In the Petition, in FCHMOP No. 60 of 2015, the respondent herein had stated that the appellant herein was rude and often quarrelled and left



the matrimonial home. He had also filed M.O.P.No. 17 of 2009 before the Sub Court at Harur for restitution of conjugal right, which was decreed but still the appellant herein did not respond. Thereafter, the petition was filed again before the Sub Court at Harur, seeking divorce. The appellant had filed M.O.P.No. 31 of 2012 seeking restitution of conjugal rights. It had been stated that they then reconciled and stay together but again differences arose. The appellant had also filed a complaint before the All Women Police Station at Dharmapuri claiming harassment for divorce. She also filed another case under the Domestic Violence Act. It was under those circumstances that the petition was filed seeking dissolution of the marriage on the ground of cruelty.

4. The appellant had filed counter affidavit denying and disputing the contentions stated. It had been stated that the respondent herein harassed her continuously with intention to contract a second marriage. He even attempted to kill her. It was stated that she was always ready to rejoin with the respondent.



5. During trial, the respondent examined himself as PW-1 and examined another witness as PW-2. The appellant examined herself as RW-

1. The respondent marked Exs. P-1 to P-7. Ex.P-1 was the certified copy of the decree and Judgment in H.M.O.P.No. 17 of 2009, Ex.P-2 was the certified copy of FIR registered by AWPS, Dharmapuri. Exs. P-4 and P-5 were receipts for payment of school fees to the two daughters. Ex.P-6 was the copy of the complaint in M.C.No. 17 of 2012 on the file of the Judicial Magistrate No.I, Dharmapuri.

6. The appellant herein did not mark any document.

7. The learned Judge, Family Court at Dharmapuri on consideration of the evidence adduced had noted that the respondent had filed a petition seeking restitution of conjugal rights before the Sub Court at Harur and had obtained an ex parte decree. Since the appellant did not come to live with him, the respondent had filed another petition before the Sub Court at Harur seeking divorce. Thereafter, the appellant filed an application seeking restitution of conjugal rights at Sub Court at Dharmapuri. A compromise was effected between the parties and they began to live together. Again



problems had arisen and it was contended by the appellant that when she questioned, the conduct of the respondent, he attempted to kill her. The learned Trial Judge further noted that after many years after marriage, a complaint for dowry harassment was made on 01.08.2012 on the basis of which FIR in Crime No. 20 of 2012 was registered as evidenced by Ex.P-2. Thereafter, a petition was filed under the Domestic Violence Act, a copy of which was marked as Ex.P-5. The trial Court further noted that no explanation had been given by the appellant for arraying all the family members as accused. It was held that the criminal complaint was a contrived after thought to ensure that the respondent and his family members are put in jail. It was further held that the appellant had indulged in character assassination. Expressing those views, the petition seeking divorce was allowed and the marriage was dissolved. Challenging that particular Judgment and Decree, the present Appeal had been filed.

8. Heard the learned counsel for the appellant and the learned counsel for the respondent.



9. The appellant and the respondent had entered into matrimonial relationship on 10.02.2006. Two children were born to them. However, they appear to have an affinity to quarrell with each other. It is contended that the appellant left the matrimonial house. The respondent herein then filed a petition seeking restitution of conjugal rights. Ex.P-1 was the decree and Judgment in H.M.O.P.No. 17 of 2009 by which a decree of restitution of conjugal rights was granted in favour of the respondent.

10. It is the contention of the learned counsel for the respondent that inspite of such decree, the appellant did not come to reside in the matrimonial house. This had forced the respondent to file H.M.O.P.No. 60 of 2012 before the Sub Court at Harur seeking divorce. The appellant then filed M.O.P.No. 31 of 2012 before the Sub Court at Dharmapuri seeking restitution of conjugal rights. A compromise had been effected between the parties, and they started to live together. The second child was then born. However, the appellant then lodged a complaint for dowry harassment against the respondent and his family members. It is to be noted that this allegation was raised nearly 6 years after the date of marriage and after two children had been born. The learned trial Judge had stated that the said



complaint was a contrived after thought. The respondent was acquitted of all charges including the charge under Section 494 IPC.

11. We hold that the learned trial Judge had correctly assessed the evidence in coming to a conclusion that the appellant should have realised the implication of making character assassination without any truth and the harm that had been caused to the respondent and his family members.

12. We are also take judicial notice of Exs.P-4 and P-5 school fees receipts, which documents were neither denied or disputed by the appellant. It is the respondent, who had been continuously paying the school fees and bearing other educational expenses of the two children. Even before this Court, the respondent had filed an affidavit wherein he had stated as follows:-

“2. I submit that I have been taking care all along the entire educational expenses for both of my daughters from L.K.G onwards and i have produced and marked all the original school fee receipts as a documents on my behalf in maintenance case in M.C.No. 8 of 2022 on the



file of the Hon'ble District Munsif cum Judicial Magistrate, Pennegaram, Dharmapuri and also I have submitted the copy of those bills by way of additional typeset in the above appeal.

3. I submit that I am also continuously depositing/saving the amount in the post office under the scheme of "SUGANYA SAMRITI YOJANA" as well as paying premium for the "LIFE INSURANCE CORPORATION" policy for both my daughters for their future educational and marriage expenses. The copies of those savings and LIC premium receipts have also been produced in the additional typeset of papers in the above appeal.

4. I submit that I hereby undertake to continue and to bear the reasonable future education expenses and reasonable marriage expenses of both my daughters subject to my maximum capacity. The above said undertaking for both reasonable future education and reasonable marriage expenses will also meet from the above savings of postal "SUGANYA SAMRITI YOJANA" scheme and as well as the maturity of the LIC policy for which I will continue to pay till its maturity and marriage. I further submit that the above such



undertaking will also include and subject to the future maintenance amount if any ordered in the maintenance case in M.C.No. 8 of 2022 on the file of the Hon'ble District Munsif cum Judicial Magistrate Pennegaram, Dharmapuri. I am also hereby reserve m y right to challenge the exorbitant maintenance if any ordered in M.C.No. 8 of 2022 on the file of the Hon'ble District Munsif cum Judicial Magistrate, Pennegaram, Dharmapuri."

13. The very fact that the appellant had alleged that the respondent herein and his family members had demanded dowry and also alleged that the respondent had contracted a second marriage would show that the appellant had unfortunately indulged herself in raising allegations which were not warranted and which had no basis of any truth in them. The respondent and all the other accused had been acquitted of all charges including the allegation under Section 494 IPC. The parties have also been living separately for more than a decade as on date. It is to be further noted that even in the earlier round of litigation when compromise had been effected between the parties, the appellant had again left the matrimonial house and had thereafter indulged herself in lodging complaints of dowry harassment and of contracting second marriage against the respondent.



14. The stand of the respondent that he is prepared to pay the fees and bear all other expenses of the two children, will necessarily have to be given due credence to this Court. The allegations of cruelty had been established by the very fact that the appellant had indulged in lodging a false complaint against the respondent of dowry harassment and contractive a second marriage.

15. We find no reason to differ with the findings of the Trial Court. The Civil Miscellaneous Appeal stands dismissed. Consequently, connected Miscellaneous Petition stands closed. No order as to costs.

16. We would however direct the respondent to strictly abide by the undertaking given by him before this Court which had been extracted above.

[C.V.K., J.]

[K.B., J.]

08.12.2025

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

To:

Family Court, Dharmapuri.



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11

C.V.KARTHIKEYAN, J.
AND
K.KUMARESH BABU, J.

vsg

Pre-Delivery Judgment made in

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