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CMSA Nos. 26 & 27 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMSA Nos. 26 & 27 of 2024

BHAVANI

W/o Annadurai, D/o Kanniyappan, No
18, Mettu Street, M.G.R.Nagar, Gingee,
Villupuram District.

Appellant(s)

Vs

ANNADURAI

S/o Arjunan, No 4, Pillaiyar Koil Street,
Singavaram Village, Gingee Taluk,
Villupuram District.

Respondent(s)

PRAYER in CMSA.No.26 of 2024:

This Civil Miscellaneous Second Appeal has been filed under Order 100 of the Code of Civil Procedure read with Section 28 of Hindu Marriage Act, prays to set aside the judgment and decree dated 06.08.2022 made in CMA.No.3/2021, on the file of Principal District Judge, Villupuram in revising the order and decree dated 18.12.2020 made in HMOP.NO. 14 of 2014 on the file of Subordinate Judge, Gingee.



PRAYER in CMSA.No.27 of 2024:

This Civil Miscellaneous Second Appeal has been filed under Order 100 of the Code of Civil Procedure read with Section 28 of Hindu Marriage Act, prays to set aside the judgment and decree dated 06.08.2022 made in CMA.No.2/2021, on the file of Principal District Judge, Villupuram in revising the order and decree dated 18.12.2020 made in HMOP.NO. 49 of 2015 on the file of Subordinate Judge, Gingee.

For Appellant(s) in both appeals : Mr.R.Veeramani

For Respondent(s) in both appeals : Mr.C.Sadhasivam

JUDGEMENT

Challenging the reversal findings of the First Appellate Court, the wife has preferred these two appeals. Before the Trial Court, the respondent herein is the husband of the appellant.

2. For the sake of convenience, the parties are referred to as ‘husband’ and ‘wife’.

3. The brief facts of the case are as follows: Before the Subordinate Court, Chengalpet, the respondent/husband filed HMOP No.14 of 2014 for Restitution of Conjugal Rights against his wife. Subsequently, the wife filed a



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petition for divorce on the ground of cruelty in HMOP No.49 of 2015. Both applications were tried jointly, and both parties adduced evidence. Upon consideration of the evidence on record, the Trial Court dismissed the petition filed by the husband for restitution of conjugal rights and allowed the divorce petition filed by the wife. Challenging both orders, the husband preferred CMA Nos.2 and 3 of 2021 before the Principal District Court, Villupuram. After hearing both sides, the learned Appellate Judge allowed both appeals by setting aside the findings of the Trial Court. Consequently, the wife was directed to restore conjugal rights, and the divorce petition filed by her was dismissed. Challenging these reversal findings, the wife has preferred the present appeals.

4. The facts reveal that the parties got married on 25th April 2013. At the time of marriage, the husband was an MBA graduate running a private business, and the wife was a B.A. graduate working as a teacher. Both started their matrimonial life at the husband's residence. However, within six months of marriage, misunderstandings arose, and the wife left the matrimonial home and returned to her parental house. According to the wife, she was harassed by the husband, who often came home drunk and demanded that she prepare beef



curry. When she refused, she was assaulted and thrown out from the upstairs portion of the house. She was also locked out and not permitted to re-enter.

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Further, the husband demanded dowry, due to which she was forced to leave the matrimonial home. The husband continued to harass her at her parental home as well, prompting her to lodge a police complaint. Subsequently, she moved to Kerala and stayed in a working women's hostel while continuing her job. In the meantime, the husband issued a notice seeking reunion, which remained unserved as she was not residing in her native place. He filed a petition for restitution of conjugal rights in HMOP No.14 of 2014. On learning about this, the wife immediately filed a petition for divorce in HMOP No.49 of 2015 on the ground of cruelty.

5. Before the Trial Court, both parties adduced oral and documentary evidence. Upon consideration, the learned Trial Judge held that the husband had subjected the wife to both physical and mental cruelty, which led to police complaints by both parties. It was further found that the husband had no real intention to live with the wife, particularly as he had also filed a complaint against her. The husband had not taken any steps to maintain the wife or pay



maintenance. His conduct established that he had caused cruelty, and hence, the wife was entitled to a decree of divorce. Accordingly, the divorce petition filed by the wife in HMOP No.49 of 2015 was allowed, and the restitution petition filed by the husband in HMOP No.14 of 2014 was dismissed.

6. Aggrieved by these findings, the husband preferred CMA Nos.2 and 3 of 2021. The learned First Appellate Judge held that the wife had failed to prove the alleged cruelty with proper evidence or documentary support. It was observed that she had neither responded properly to the notice issued by the husband nor denied the allegations made against her. Therefore, the wife was not entitled to divorce. On the other hand, since the husband had taken earlier steps to reunite, he was entitled to a decree of restitution of conjugal rights. Thus, the findings of the Trial Court were set aside. The wife has preferred these two appeals challenging the reversal findings of the First Appellate Court.

7. This Court admits these appeals on the following substantial questions of law.



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(A) Whether the lower appellate court correct and justified in failure to dissolve the marriage of the appellant and respondent on the ground of mental cruelty?

(B) Whether the judgment of the lower appellate Court in allowing the appeal for restitution of conjugal rights, that the so called marriage was consummated?"

8. The learned counsel for the appellant/wife argues that it has been more than 12 years since the parties got separated, and from the very beginning of the marriage, the wife had been subjected to cruelty and dowry demands. She was assaulted and mentally harassed. The petition for restitution filed by the husband was not made in good faith, which was rightly observed by the Trial Court. However, the First Appellate Judge failed to appreciate the evidence on record and erred in reversing the judgment.

9. On the other hand, the learned counsel for the respondent/husband contends that the wife voluntarily left the matrimonial home without



discharging her duties as a wife. The allegations made by her are not serious and are part of normal marital disagreements. No concrete evidence of cruelty was produced. Hence, the First Appellate Judge rightly dismissed the divorce petition and granted restitution of conjugal rights in favoUr of the husband, which is legal and sustainable.

10. This Court, on consideration of the submissions and the material on record, finds that both parties are graduates and got married on 25.04.2013. It is admitted that the wife left the matrimonial home within six months. According to the husband, she left voluntarily under the influence of her parents, whereas he had fulfilled his responsibilities. However, the wife alleged that the husband used to consume alcohol, forced her to cook beef curry, and physically assaulted her. On one occasion, she was pushed out from the upstairs portion and locked out. These facts amount to both physical and mental cruelty. It is further noted that both parties filed complaints against each other, indicating that there was no cordial relationship from the beginning. The wife narrated the entire sequence of events constituting cruelty in her divorce petition under Section 13(1)(i-a) of



the Hindu Marriage Act, 1955.

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11. The husband, in his counter, failed to specifically deny the serious allegations made by the wife. As per settled legal principles, non-specific denial amounts to admission. The learned First Appellate Judge failed to appreciate this settled law and erred in demanding proof for every incident of cruelty, which is unrealistic in matrimonial disputes.

12. The Trial Court rightly concluded that the husband's intention was not genuine, especially since he had himself alleged that the wife compelled him to transfer property to her name, leading to disputes. Therefore, the Trial Court rightly found that the relationship had irretrievably broken down, justifying a decree of divorce.

13. Additionally, the wife's allegations of physical and mental harassment, including the husband's habit of drinking and causing annoyance even after the proceedings began, were not specifically denied. Even during arguments, it was



submitted that the husband continued to cause disturbances by standing outside her parents' home and harassing them.

14. This Court finds that the marriage between the parties has irretrievably broken down, and there is no possibility of reunion. The Trial Court rightly granted divorce based on cruelty and breakdown of the marital relationship. The First Appellate Court erred both on facts and law in reversing these findings. Accordingly, the findings of the First Appellate Judge are set aside as being contrary to law and facts. The questions of law A and B are answered, accordingly.

15. The petition for restitution of conjugal rights in HMOP No.14 of 2014 is dismissed. The divorce petition in HMOP No.49 of 2015 is allowed.

16. Thus, the marriage solemnized between the appellant and respondent on 25.04.2013 is dissolved on the ground of cruelty. The conduct of the husband shows continued harassment and annoyance even during the pendency of legal



proceedings. He is further restrained from causing any harassment or standing before the wife's residence. If any such incident recurs, liberty is granted to the wife and her family to approach the jurisdictional police for appropriate legal action.

17. Accordingly, both the Civil Miscellaneous Second Appeals are allowed. There shall be no order as to costs.

07-07-2025

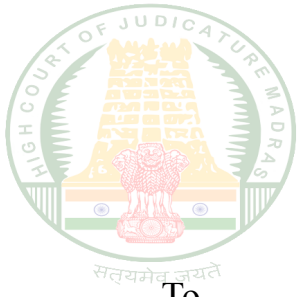
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To
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1. The Principal District Judge,
Villuppuram.
2. The Subordinate Judge, Gingee.
3. The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMILSELVI J.
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