



C.M.A(MD)No.26 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2025

CORAM:

**THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R. POORNIMA**

C.M.A(MD)No.26 of 2025

M.Meenakshi

... Appellant/Petitioner

-VS-

C.Gunaseelan

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of Family Court Act, to call for the records pertaining to the judgment and decree dated 13.12.2024 made in H.M.O.P.No.649 of 2024 on the file of the Family Court, Karur and set aside the same and consequently allow the present Civil Miscellaneous Appeal.

For Appellant : Mr.J.Anandkumar

For Respondent : No appearance



C.M.A(MD)No.26 of 2025

WEB COPY

JUDGMENT

(Judgment of the Court was delivered by G.K.ILANTHIRAIYAN, J.)

This Civil Miscellaneous Appeal has been preferred as against the Judgment and Decree passed in H.M.O.P.No.649 of 2024, dated 13.11.2024 on the file of the Family Court, Karur, whereby dismissing the petition for divorce.

2.The appellant is the wife and the respondent is the husband. They were married on 02.07.2009. Thereafter, they had no issues and developed misunderstandings. Consequently, they separated and the appellant filed a petition for divorce on the ground of cruelty under Section 13(1)(1-A) of the Hindu Marriage Act, 1955.

3.On the side of the appellant, she examined herself as P.W.1 and marked Ex.P.1 to Ex.P.5.



C.M.A(MD)No.26 of 2025

WEB COPY

4.Though the respondent was duly served with notice, he failed to appear before the trial Court and as such, he was set ex-parte. However, the Family Court dismissed the divorce petition on the ground that the appellant herself left the matrimonial home and deserted the respondent and that she had gone away with her erstwhile lover. On that basis, the Family Court concluded that the respondent had not committed any cruelty against the appellant. Aggrieved by the same, the present appeal has been preferred by the appellant.

5.Even before this Court, though notice was served on the respondent, he did not choose to appear himself or engaged any counsel on his behalf before this Court.

6.Today, when the matter is called, there was no representation on behalf of the respondent, either in person or through a Pleader.

3/14



C.M.A(MD)No.26 of 2025

WEB COPY

7. On a perusal of the records, it is revealed that admittedly the appellant had fallen in love with another person prior to her marriage. The same was duly informed to the respondent. Thereafter, the respondent agreed to marry the appellant without objecting to her earlier relationship. However, immediately after marriage, the respondent completely changed his attitude and started quarrelling with the appellant on a daily basis by repeatedly referring to her love affair before her marriage. When the appellant became pregnant, the respondent suspected her fidelity and questioned the paternity of the child. Whenever the appellant spoke to anyone over the phone, the respondent suspected her conduct and scolded her as though she was speaking to her erstwhile lover. In fact, when the appellant was admitted to the hospital for delivery, the respondent refused to sign the required documents. She delivered a female child and even thereafter, the respondent failed to provide basic amenities to the appellant and the child. He also used to scold the child with



C.M.A(MD)No.26 of 2025

filthy language. Therefore the respondent used to pick quarrels daily and followed the appellant whenever she went out. Thus, the respondent had committed cruelty to the appellant and as such she filed a petition for divorce in the ground of cruelty. However, the Family Court, without properly appreciating the evidence of the appellant, concluded that the appellant herself left the matrimonial home by deserting the respondent.

8. That apart, the trial Court wrongly concluded that the appellant had gone away with her ex-lover. There is absolutely no evidence to support such a finding. In fact even after giving birth to a female child, the respondent neither showed any concern nor maintained the appellant and the child. Everyday the respondent subjected the appellant to mental cruelty by repeatedly suspecting her fidelity. From the year 2009 onwards, the parties have been living separately, and the marriage has become a mere legal fiction, with the matrimonial bond beyond repair. The deposition of P.W.1



C.M.A(MD)No.26 of 2025

clearly reveals several instances of grave mental cruelty inflicted upon the appellant. When the fidelity of the woman suspected by the husband without any reason it would amount to grave mental cruelty. No woman can tolerate such a false allegation that too by husband. In fact the appellant duly informed about her love with other before their marriage. After the appellant fell in love with another person, immediately their relationship was broken up and it was duly accepted by the respondent. After marriage there was no instance to substantiate the said allegation that the appellant is having relationship with her ex-lover. Therefore the appellant had no other option, except to leave the matrimonial home. Only because of the mental cruelty committed by the respondent, the appellant left the matrimonial home along with her female child. In this regard, it is relevant to rely upon the Judgement of the Hon'ble Supreme Court of India in the case of *Samar Ghosh Vs. Jaya Ghosh [(2007) 4 SCC 511]*, wherein it has been held as follows:



WEB COPY

“98.On proper analysis and scrutiny of the judgments of this Court and other Courts, we have come to the definite conclusion that there cannot be any comprehensive definition of the concept of 'mental cruelty' within which all kinds of cases of mental cruelty can be covered. No court in our considered view should even attempt to give a comprehensive definition of mental cruelty.

99.Human mind is extremely complex and human behaviour is equally complicated. Similarly human ingenuity has no bound, therefore, to assimilate the entire human behaviour in one definition is almost impossible. What is cruelty in one case may not amount to cruelty in other case. The concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, traditions, religious beliefs, human values and their value system.

100.Apart from this, the concept of mental cruelty cannot remain static; it is bound to change with the passage of time, impact of modern culture through print and electronic media and value system etc. etc. What may be mental cruelty now may not remain a mental cruelty



C.M.A(MD)No.26 of 2025

after a passage of time or vice versa. There can never be any strait-jacket formula or fixed parameters for determining mental cruelty in matrimonial matters. The prudent and appropriate way to adjudicate the case would be to evaluate it on its peculiar facts and circumstances while taking aforementioned factors in consideration.

101.No uniform standard can ever be laid down for guidance, yet we deem it appropriate to enumerate some instances of human behaviour which may be relevant in dealing with the cases of 'mental cruelty'. The instances indicated in the succeeding paragraphs are only illustrative and not exhaustive:

(i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.

(ii) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party.



C.M.A(MD)No.26 of 2025

(iii) *Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable.*

(iv) *Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of other for a long time may lead to mental cruelty.*

(v) *A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse.*

(vi) *Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty.*

(vii) *Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty.*

(viii) *The conduct must be much more than jealousy, selfishness, possessiveness, which causes*



C.M.A(MD)No.26 of 2025

unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty.

(ix) Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day to day life would not be adequate for grant of divorce on the ground of mental cruelty.

(x) The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill-conduct must be persistent for a fairly lengthy period, where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty.

(xi) If a husband submits himself for an operation of sterilization without medical reasons and without the consent or knowledge of his wife and similarly if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty.

(xii) Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to



C.M.A(MD)No.26 of 2025

mental cruelty.

(xiii) Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.

(xiv) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.”

9.The ratio laid down in the above judgment squarely applies to the facts of the present case. From the year 2009 onwards, the appellant has been subjected to continuous mental cruelty at the hands of the respondent.

10.That apart, there has been a long period of continuous separation and as such the matrimonial bond is beyond repair. Both



C.M.A(MD)No.26 of 2025

the appellant and the respondent have admittedly been living separately for several years. The irresistible conclusion, therefore, is that the matrimonial bond has been irretrievably broken due to the mental cruelty caused by the respondent. It is also evident that even after receipt of notice in this appeal, the respondent did not choose to appear before this Court either in person or through counsel. Therefore the marital relationship between the appellant and the respondent has already broken down and there is absolutely no possibility of reunion.

11.In view of the above, the Judgment and Decree passed in H.M.O.P.No.649 of 2024, dated 13.11.2024 on the file of the Family Court, Karur, cannot be sustained and is liable to be set aside. Accordingly, the same is set aside. The divorce petition filed by the appellant is allowed and the marriage between the appellant and the respondent is hereby dissolved.



C.M.A(MD)No.26 of 2025

WEB COPY

12. Accordingly, this Civil Miscellaneous Appeal is

allowed. No costs.

[G.K.I., J.] [R.P., J.]
12.12.2025

NCC :Yes/No

Index: Yes/No

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To

1. The Family Court,
Karur.

2. The Section Officer (Vernacular Records),
Madurai Bench of Madras High Court, Madurai.



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C.M.A(MD)No.26 of 2025

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C.M.A(MD)No.26 of 2025

12.12.2025