



C.M.A(MD)No.877 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserved	08.10.2025
Date of Pronounced	12.11.2025

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

C.M.A.(MD)No.877 of 2023

Bhuvaneshwari : Appellant/Petitioner

Vs.

Gobinanth @ Harikrishnan : Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of the Hindu Marriage Act, 1955, against the order, dated 29.08.2022 made in HMOP No.129 of 2021 on the file of the Family Court, Sivagangai.

For Appellant : Mr.R.Srinivasan

For Respondent : Mr.RM.Arun Swaminathan



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JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

This Civil Miscellaneous Appeal is filed against the judgment and decree, dated 29.08.2022 passed in HMOP No.129 of 2021 by the Family Court, Sivagangai.

2.Brief case of the petition before the lower Court is as follows:

(i) The appellant is the wife and the respondent is the husband. The marriage between the appellant and the respondent was solemnized, on 26.02.2020 at Muthupattinam Meenakshi Amman Thirukovil, according to Hindu Customs and Rites. At the time of marriage, the appellant was provided with 37½ sovereigns of gold jewels and other household articles to the tune of Rs.1,00,000/-as Sridhana. After marriage, the couple resided in the matrimonial home of the respondent. Subsequently the family members of the respondent informed the appellant that the respondent was employed abroad and earning a sufficient income and therefore, insist that she should bring an



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additional 20 sovereigns of gold jewel and Rs.2,00,000/- cash from her parental home.

(ii) From the date of marriage, the husband and his family members started ill-treating, harassing and assaulting appellant by demanding additional dowry. In the meantime, on 17.04.2020, the respondent left the appellant at her parental home stating that she should return only after bringing the additional dowry as demanded by him. He further warned her that unless she complied with their demand, she would not be permitted to reside in the matrimonial home and also threatened her with dire consequences.

(iii) The respondent has further retained all the educational certificates belonging to the appellant. It also came to the knowledge of the appellant that the respondent was maintaining illicit relationship with several women. Hence, the appellant sent a legal notice, on 15.06.2020. The respondent in turn sent a reply notice on 19.06.2020 and 22.06.2020 containing false allegations for the legal notice sent by the appellant. The appellant, on 09.07.2020 sent a reply notice for the rejoinder notice sent by the respondent.



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3. Since, there was no possibility of reunion, the appellant/wife has filed a petition for divorce in HMOP No.129 of 2021 on the file of the Family Court, Sivagangai, on the ground of cruelty. In the said proceedings, the respondent entered appearance and filed counter denying all the allegations in the divorce petition as false and baseless.

4. On the side of the appellant/wife, one witness was examined as PW1 and 7 documents were marked as Ex.P1 to Ex.P7. On the side of the respondent/husband two witnesses were examined as RW1 and RW2 and one document was marked as Ex.R1.

5. After hearing both sides, the learned Family Court Judge, considering the pleadings, oral and documentary evidence and arguments of the learned counsel for the parties, held that the appellant/wife has not proved that the respondent/husband caused mental cruelty by demanding dowry and dismissed the petition, on 29.08.2022.

6. Challenging the order of dismissal passed by the Family



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Court, the appellant/wife has filed this present Civil Miscellaneous

Appeal with the following among other grounds :

(i) That the trial Court failed to see that the respondent voluntarily left from the matrimonial home of the appellant without there being any apparent reason and there is long period of separation between the appellant and the respondent.

(ii) That the trial Court failed to see that the appellant / petitioner pleaded that the respondent has illegal intimacy with some other person.

(iii) That the trial Court failed to consider the respondent had also retained the educational certificates of the appellant and refused to return back.

7.The learned counsel for the appellant/wife would submit that the appellant has endured several incidents,wherein the respondents repeatedly caused her severe mental agony and cruelty. Owing to such continuous mental cruelty, the appellant was constrained to leave the matrimonial home. Further considering the respondent's conduct, character and attitude it is neither safe nor advisable for the appellant to assume cohabitation with the respondent. The appellant and respondent have been living separately for a considerable period of time, and the



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marital relationship, has irretrievably broken. Hence, the marriage is liable to be dissolved on this ground as well. It is further submitted that the respondent has failed to return the original educational certificates, which were entrusted to him. The deliberate withholding of the certificate by the respondent also caused immense mental cruelty and hardship, to the appellant and pray to dissolve the marriage by setting aside the order of the trial Court.

8. In support of his contention, he has placed reliance on the judgment of this Court reported in the case of *Salome Vs. Dr.Prince D.Immanuel (AIR 2017 MADRAS 256)*.

9.The learned counsel for the respondent submitted that the appellant and the respondent had lived together as husband and wife only for brief period. The trial Court upon due consideration of the evidence on record concluded that the appellant has failed to establish any act of cruelty as alleged. Therefore, the trial Court correctly dismissed the petition filed by the appellant for divorce. Hence, prays for dismissal of the Civil Miscellaneous Appeal.



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10. Heard both sides and perused the materials available on record.

11. The ground urged by the appellant for seeking dissolution of marriage, is that the family members had demanded dowry from the appellant. It is further alleged that the respondent was maintaining an illicit relationship with one Visalatchi. The respondent had also retained the educational certificates of the appellant and refuse to return back the same despite repeated request.

12. It is admitted fact that appellant is employed in Sivagangai and soon after the marriage, the petitioner and the respondent started living separately. It has not been established by examining independent witnesses that the petitioner and his family members demanded dowry and only one week only they resided as husband and wife. Therefore, the allegation of demand of dowry from the appellant has not been substantiated. Further more, the appellant did not lodge any criminal complaint against the respondent and his family members in this regard. However, the appellant has admitted that she had only lodged a complaint before the police for the purpose of retrieving her personal



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belongings from the respondent. During cross-examination, she admitted that she was living with the respondent in Sivagangai. She further admitted that the jewels given by her parents were retained by her. The appellant has not examined either her parents or relatives to substantiate the allegation of demand of dowry, mere allegation without any supporting evidence cannot be accepted.

13. When a petitioner, pleaded cruelty under Section 13(1) (i-a) of the Hindu Marriage Act, 1955, the burden is on the petitioner to establish by preponderance of probabilities. The petitioner makes allegation of dowry but failed to produce specific incidence, document, corroborative evidence, the petition for divorce cannot be succeed solely on that basis.

14. Though the appellant alleged that the respondent was maintaining illicit relationships with other women, she failed to examine any independent witness to substantiate the allegation of adultery. In divorce proceedings when a party makes an allegation of adultery, the alleged paramour should be made as a co-respondent so as to afford an opportunity to defend such allegation. However, in the present case, the



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appellant has neither furnished any particulars nor produced any evidence to support her allegation. The appellant failure to implead the alleged paramour or produce cogent proof, as the law requires proper pleading of facts and opportunity for defence.

15. She further alleged that the husband retained her education certificates. However it is to be noted that she is a government employee. She also admits that already a complaint had filed for the purpose of to retrieve of her personal belongings and the respondent on the other hand stated that she had taken all her belongings subsequent to her complaint. Though the appellant admitted that her brother had gone and collect her belongings but she stated only her clothes were alone collected could not be believed as in such a case she would have lodged a further complaint regarding the retaining of her remaining belongings by the respondent.

16. In fact, during cross examination the appellant admitted that the respondent husband filed a petition for restitution of conjugal rights in HMOP.No.92 of 2020 before Devakottai Subordinate Court and the same was allowed. The appellant had however, deliberately



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suppressed this fact in her pleading. It is further admitted by her that she was aware of the said proceedings, but not chosen to contest the same. It is settled proportion of law that a party who approaches the Court must come with clean hands, disclosing all material facts relevant to the case.

17. In the present case, the appellant though aware of the proceedings filed by the respondent for restitution of conjugal rights has deliberately suppressed the same in her pleadings. Suppression of material facts, disentitled the appellant from seeking any equitable relief before this Court. Though the appellant raised the ground of cruelty by demanding dowry, leading adulterous life, retaining the certificate, etc., she failed to substantiate the same with any credible or substantial material evidence. Mere allegation without proof cannot form the basis for granting decree of divorce. The allegation levelled against the respondent was not proved. The trial Court on proper appreciation of oral and documentary evidence rightly dismissed the petition. This Court finds no infirmity or perversity in the finding of the trial Court warranting any interference and hence, the Civil Miscellaneous Appeal is liable to be dismissed.



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18. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

(P.V., J.) & (R.P., J.)

12.11.2025

Index : Yes / No
NCC : Yes / No

er/rm

To

- 1.The Family Court,
Sivagangai.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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