



C.M.A(MD)No.134 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 07.08.2025

Pronounced on : 25.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A(MD)No.134 of 2020

M.Sabapathy

... Appellant/Petitioner

Vs.

S.Suseela

...Respondent / Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 19(1) of the Family Courts Act, 1984, r/w. Order 41 Rule 1 of C.P.C., to set aside the fair and decretal order dated 21.10.2019 made in H.M.O.P.No.78 of 2010 on the file of the Family Court, Karur, and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.T.Wins

For Respondent : Mr.M.Rajaguru



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JUDGMENT

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

The appellant/petitioner/husband has filed this Civil Miscellaneous Appeal against the fair order and decretal order dated 21.10.2019 passed in H.M.O.P.No.78 of 2018 on the file of the Family Court, Karur.

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

(a) The marriage between the petitioner (husband) and the respondent (wife) was solemnized on 01.02.2004 at Kongu Vellalar Thirumana Mandapam, Karur. After the marriage, they lived in a joint family in Chennai. The respondent conceived, but due to her carelessness, the first pregnancy was terminated. Thereafter, on 03.04.2005, the respondent gave birth to a female child. She was reluctant to breast feed the new born child.

(b) The respondent was not attached to the family from the inception. She frequently visited her mother's house and actively participated in political party activities along with one Loganathan. She took away a sum of Rs 1,00,000/- from the petitioner's house and handed



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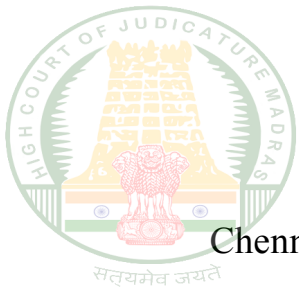
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it over to Loganathan for election expenditure, besides canvassing for him. The respondent further refused to come to Chennai until the completion of the election and she came home only thereafter.

(c) The respondent used to abuse the petitioner and frequently throw away the household articles. She even attempted to murder him. She was in the habit of stealing from her own matrimonial house. She unlawfully took the petitioner's mother's 5 sovereigns gold chain and handed it over to her aunt. When the petitioner's father questioned her in this regard, she falsely countered by alleging that he was misbehaving with her. She further made baseless allegation against the petitioner that he was maintaining illicit intimacy with his colleague.

(d) The respondent attempted to conduct a chit which resulted in a serious problem and in order to resolve the same, the petitioner was compelled to pay a sum of Rs.4,00,000/-. The respondent thereafter continued to associate with Loganathan. Whenever the petitioner questioned her conduct, she restrained him and even attacked him with a knife. She sold most of the jewels given to the petitioner and handed over the proceeds to Loganathan. At his instigation, she expressed her desire to contest election for the post of M.P. of Karur.

(e) On 20.04.2011, when Thiru.Loganathan came to



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Chennai, the respondent accompanied him to meet certain political persons. She returned home late at night and when the same was questioned, she openly proclaimed that she would continue the same and thereafter, she left the house on her own accord.

(f) The petitioner and the respondent had shifted to Karur. On 09.05.2011, the respondent issued an advocate's notice seeking divorce. Subsequently, after mediation, the parties reunited in Karur. However, she continued with the same activities. Thereafter, on 17.08.2012, the respondent lodged a false complaint against the petitioner at Karur All Women Police Station.

(g) The respondent joined the service of PUPA organization on 20.02.2013. She developed close contact with one Senthil, her colleague. Their conversation over cell phone continued till 12.00 midnight. She habitually returned home beyond 12.00 midnight. When the petitioner questioned her conduct on 20.02.2013, the respondent left the home.

(h) Subsequently, she filed D.V.P. No.22 of 2013 on the file of Judicial Magistrate No. I, Karur levelling false and frivolous allegations against the petitioner and his family members. Despite sincere efforts, the respondent refused to mend her conduct. Left with no other



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alternative, the petitioner/husband has been constrained to file this petition for dissolution of marriage on the ground of cruelty.

3. Brief averment contained in the counter-claim filed by the respondent is as follows:

(a) The respondent was neither engaged in any political activities, nor paid any amount to Loganathan as alleged. She admitted the issuance of Advocate's notice dated 09.05.2011 and filing of D.V.P.No.22 of 2013 against the petitioner and his family members.

(b) The respondent states that neither the petitioner nor his parents showed her due respect. The petitioner frequently behaved in a manner indicating of severe mental distress and at times, was violent towards the respondent and her child. The petitioner ingested 16 sleeping tablets in an attempt to commit suicide, the respondent intervened and saved his life. On multiple occasions, the petitioner allegedly attempted to harm the child, but the respondent intervened and prevented him.

(c) On 17.08.2012, the petitioner assaulted the respondent and drove her out of matrimonial home. Consequently, she lodged a complaint to the All Women Police Station, Karur. Upon enquiry, the



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police advised both the petitioner and the respondent to live peacefully.

Despite such advice the petitioner continued to harass the respondent.

(d) On 13.03.2013, the petitioner attempted to kill the respondent by strangulating her with a towel. She managed to escape to save herself. However, she was prevented from visiting her child. Subsequently, she filed a Guardian and Wards Original Petition in G.W.O.P.No.5 of 2013 which is pending. In view of the acts of Domestic Violence committed by the petitioner, she has also filed D.V.P. No.22 of 2013 before the Judicial Magistrate Court No.1, Karur against the petitioner. She prayed for dismissal of the petition.

4. On the side of the petitioner, P.W.1 and P.W.2 were examined and Exs.P1 and Exs.P10 were marked. On the side of the respondent, R.W.1 to R.W.3 were examined and Exs.R1 to Exs.R3 were marked. Ex.X1 also was marked.

5. The trial Court, after considering the evidence and records, dismissed the petition. Aggrieved by the said order, the present Civil Miscellaneous Appeal has been filed by the appellant/petitioner/husband against the dismissal order on the following



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among other grounds :

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1. That the trial Court has failed to consider that the respondent has caused cruelty to the appellant right from the date of marriage continuously.

2. That the trial Court has failed to consider that though the respondent has filed a Guardian Wards Original Petition for the custody of the child, she is not interested in concluding the said proceedings.

3. That the trial Court has failed to consider that there is no possibility for reunion between the appellant and the respondent and the marriage is irretrievably broken down.

4. That the trial Court has failed to consider the admissions made by the respondent that she was actively involved in the political demonstrations.

5. That the trial Court failed to consider that the two instances before the filing of the petition by the appellant clearly proved that the respondent has expressed her intention in getting separated from the appellant and the same has been clearly proved by way of Ex.P4 and Ex.P5.

6. That the trial Court has erroneously concluded that the child who is with the father has not been examined before the Court



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regarding the activity of the respondent. On the other hand, while trying

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7. That the trial Court has not even appreciated the evidence of P.W.1 coupled with the admissions made by R.W.1 and R.W.3.

8. That the judgment and decree of the Trial Court are liable to be set aside and hence, he prayed to allow the Civil Miscellaneous Appeal.

6. The learned counsel appearing for the respondent argued that the appellant has made a false and baseless allegation against the respondent that she was closely associated with one Loganathan and that he was intervening in the personal life of the appellant and the respondent. He further argued that the appellant made several false and baseless allegations against the respondent alleging that she was having an illegal relationship with one Senthil and that she was actively indulging in political activities and further alleging that the respondent was conducting a chit and in order to settle the amount, the appellant who paid a sum of Rs 4,00,000/- and the respondent sold the jewels and gave money to one Loganathan. The trial Court has properly concluded that there was no cruelty on the side of the respondent and rightly



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dismissed the petition. He further argued that the respondent is willing for reunion with the appellant and she would like to lead the matrimonial life with the appellant and her daughter by excusing the mistakes of the appellant and adjusting everything and therefore, he prays to dismiss the Civil Miscellaneous Appeal.

7. Heard the learned counsel on either side and perused the materials available on the records.

8. In this case, the point for consideration is

Whether the order passed by the trial Court is proper or liable to be set aside?

9. Point :

The marriage between both the parties and the birth of the female child are admitted by both the parties. According to the appellant/petitioner, the respondent without caring for the welfare of the family, actively engaged herself in politics and attended political meetings along with one Loganathan in Chennai and Erode. When the appellant questioned her conduct, she quarrelled with him. Further, it is



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alleged that she withdrew money from the matrimonial home and diverted the same towards the election expenditure.

10. As regards her involvement in politics, the respondent, during cross-examination did not dispute her participation in political affairs. She further admitted that she had been permitted to contest the election held in AIADMK for the post of Panchayat Member during the year 2016. In addition, Ex.A8 and Ex.A9, photographs established her active involvement in politics. If the respondent had not been continuously involved in political activities, she would not have been in a position to secure the opportunity of contesting the election for the post of Panchayat Member in the year 2016.

11. The allegation that the respondent had taken a sum of Rs.1,00,000/- from the matrimonial home and handed it over to Loganathan for his election expenditure has not been proved. Similarly, the allegation that she removed a gold chain belonging to the appellant's mother and gave it to her aunt, as well as the further allegation regarding her alleged friendship with her office colleague Senthil are not proved.



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12. Section 13(1)(i-a) of the Hindu Marriage Act, provides

that the marriage may be dissolved by a decree of divorce if the other party has, after solemnization of the marriage, treated the petitioner with cruelty. However, that itself does not define what amounts to cruelty. Since there is no statutory definition, Courts have evolved the meaning of cruelty through case laws. It is a matter of inference from facts and circumstances, it has to be analyzed based on the conduct of parties on a case-to-case basis and the conclusion should be arrived at that the petitioner is not in a position to continue the marital tie with the respondent apprehending, that it is harmful and injurious to live with the other.

13. It has been established that a misunderstanding arose between the spouses from the year 2011. Before the divorce case filed by the appellant, the respondent had also taken steps for the dissolution of the marriage. Ex.P4 is the legal notice issued by the respondent through her counsel to the appellant, containing allegations of cruelty. The respondent had further complained to the Inspector of Police, Karur All Women Police Station, on 16.08.2012 alleging that due to some misunderstanding, the appellant assaulted her. The respondent, in the



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complaint and in the legal notice, needs only separation from the appellant. Ex.P6 is the petition filed by the respondent on 17.06.2013 under the Protection of Women from Domestic Violence Act, 2005 against the appellant, his parents and brother containing different sets of allegations. But during cross-examination, she admitted that no FIR was registered based on her complaint. Further, it is seen that the respondent has made different and inconsistent allegations at various stages against the appellant and his family members.

14. In Ex.P4 and Ex.P5, the respondent did not make any allegation against her parents-in-law. However, in the complaint filed under the Protection of Women from Domestic Violence Act, 2005 dated 17.06.2013, she alleged that on 13.03.2013, she was beaten by her husband and mother-in-law and that an attempt was made to kill her by strangulation. It was further alleged that her father-in-law misbehaved with her during the year 2008 itself, but she has not stated any allegation against her parents-in-law under Ex.P4 and Ex.P5. Further, during cross-examination, she admitted that her parents-in-law had left India even before the issuance of notice for divorce. The divorce notice was issued on 09.05.2011. Thus, it is evident that in Ex.P4 and Ex.P5, the



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respondent did not attribute any allegations against her parents-in-law, but subsequently she made grave allegations against her parents-in-law thereby creating inconsistent versions.

15. Further, the respondent did not issue any notice expressing her intention for reunion and instead, under Ex.P4 and Ex.P5, she sought divorce. Soon after the respondent filed a petition under the Protection of Women from Domestic Violence Act, the appellant filed divorce petition in the year 2014. However, in the year 2017, she suddenly filed a petition seeking restitution of conjugal rights stating that she wished to live with the appellant. This content clearly indicates that such a petition was filed only with an intention to harass the appellant.

16. Further, the respondent admitted that ever since 2013, she has been living separately from the appellant. Though she made serious allegations in the petition filed under Protection of Women from Domestic Violence Act, but during cross-examination, she stated that both were living together happily and she had much love and affection towards her husband. Such statements are self-contradictory and render her version unacceptable. The past events clearly show that both the



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parties have been living separately from the year 2013.

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17. It is further pertinent to note that during the pendency of Civil Miscellaneous Appeal, both the parties filed a joint compromise memo wherein the respondent made an endorsement that she had received a sum of Rs.25,00,000/- (Rupees Twenty Five lakhs only) as full and final settlement towards her permanent alimony and also waived her rights on claiming the custody of the child. The said compromise memo was duly signed by both the parties as well as their respective counsel. When the matter was posted for appearance of parties to verify the same, the respondent denied having received the sum of Rs.25,00,000/-. She appeared through a new counsel who submitted that he was not present at the time of alleged payment. It is, however, an admitted fact that the compromise memo had been duly signed by both the parties as well as their respective Advocates. Despite this, while the respondent suddenly resiled from her earlier stand and asserted that she had not received the money, the appellant consistently maintained that the payment was, in fact, made. After receipt of the money, the respondent had signed the compromise memo. However, in view of her subsequent stand, the Court could not act upon the compromise memo



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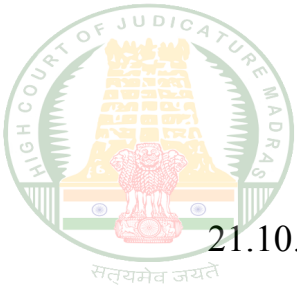
and pass an order based on the terms of compromise memo.

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18. However, taking into consideration the long period of separation and continued misunderstanding between the parties, coupled with the fact that the respondent herself had shown her intention to get separated from the appellant, as early as in the year 2011 itself and further, she had made repeated complaints against the appellant and the family members of the appellant and caused cruelty, this Court is of the view that there is no possibility of reunion between the parties.

19. It is also relevant to note that the appellant has, all these years, been maintaining and educating his child. Since the appellant has proved the cruelty meted out to him and further established that the parties have been living separately for several years with no intention for reunion, this Court holds that the appellant is entitled to a decree of divorce and deems fit to allow the Civil Miscellaneous Appeal. The point for consideration is answered accordingly.

20. In the result, the Civil Miscellaneous Appeal is allowed. The fair and decretal order passed in HMOP No.78 of 2018, dated



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21.10.2019, by the Family Court, Karur is set aside and the marriage

between the petitioner and the respondent solemnized on 01.02.2004 is

dissolved. No costs.

(A.D.J.C., J.) & (R.P., J.)
25.09.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM

To

1.The Judge,
Family Court,
Karur.

Copy to

1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court, Madurai.



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A.D.JAGADISH CHANDIRA, J.
AND
R.POORNIMA, J.

RM

Judgment in
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