



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2025

CORAM

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

C.M.A.(MD)No. 223 of 2024

and

C.M.P(MD)No. 2730 of 2024

Karthik

.. Appellant

Vs.

Vinodhini Karthika

.. Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, 1984, to set aside the Judgment and Decree passed in H.M.O.P. No. 304 of 2022, on the file of the Family Court, Theni, dated 01.11.2023 and thereby allow this appeal of the appellant.

For Appellant : Mr.K.Karthik [Party-in-person]

For Respondents : Mr.M.A.M. Raja



JUDGMENT

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

The Appellant herein/husband filed HMOP No.66 of 2019 before the Sub Court, Theni, which was later transferred to the Family Court, Theni, and renumbered as H.M.O.P. No.304 of 2022, under Section 12 of the Hindu Marriage Act, seeking a declaration that his marriage with the respondent, Vinothini Karthiga, solemnized on 08.03.2018 is null and void on the ground that the respondent is suffering from schizophrenia and is highly sensitive, making it impossible for him to lead a normal marital life with her. Alleging various behavioral issues and mental illness on the part of the respondent, the appellant filed the above petition.

2. A counter been filed by the respondent denying all the allegations and making counter allegations against the husband, stating that she is a MCA Graduate and well qualified. She alleges that the appellant has been treating her with cruelty, both mentally and physically, by making false accusations and frequently demanding money, despite having received sreedhana consisting of 20 sovereigns of gold jewellery.

Page 2 of 7



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3. Before the Trial Court, both parties examined witnesses and marked documents. After considering the oral and documentary evidence, the Trial Court found that the petitioner's contention to declare the marriage null and void was bereft of evidence, and therefore dismissed H.M.O.P. No. 304 of 2022. Aggrieved by this, the petitioner has filed C.M.A. (MD) No. 223 of 2024. Certain fair admission of the respondent regarding treatment for her mental illness been taken advantage by the appellant herein to substantiate his plea of dissolution of marriage on the ground of nullity. However, this Court, on appreciating the evidence, found that the averments of the appellant have caused disturbance in the matrimonial life, and that he has exaggerated the respondent's illness.

4. In any event, it is not a ground to declare the marriage as null and void as rightly held by the Family Court, and this Court totally agreement with the view of the Family Court regarding the maintainability of the petition on the ground of nullity. However, we are also conscious of the fact that the marriage, which was solemnized on 08.03.2018 had not survived even for few months. HMOP No.66 of 2019 was filed before the Subordinate Judge, Theni, on 27.02.2019, later transferred to the Family Court, Theni, on 11.07.2022 and came to be dismissed on 01.11.2023.



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5. Meanwhile, it is also brought to the notice of this Court that the respondent/wife has initiated proceedings for maintenance under Section 24 of the Hindu Marriage Act, and interim maintenance of Rs.3,000/- was ordered by the Family Court which was paid till the dismissal of the HMOP. However, thereafter, during the pendency of the appeal, the appellant has not paid the maintenance. The respondent has not filed any application for restitution of conjugal rights after a separation of more than five years.

6. Taking into consideration the facts and circumstances, this Court directed the respondent to be present and also directed the appellant to pay the arrears of maintenance. Accordingly, the appellant, who appeared in person and conducted the case himself, transferred a sum of Rs.49,000/- through GPay to the respondent's account and Rs.8,000/- through NEFT to the respondent's account. Additionally, today, he handed over the chain, studs and ring belonging to the respondent, which were in his possession until now. He has also handed over the original certificates of the respondent. The jewelry and the certificates been received and acknowledged by the respondent/wife. The respondent has nothing further to state, except that she suffered mental cruelty at the hands of the appellant.



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7. Though, these allegations were made during the interrogation, we find that no enough material available to substantiate them. We are able to understand that the parties are no more interested in retaining their marital relationship mistrust between them has gone to the extent of no return. Therefore, the marriage solemnized between them is bound to be dissolved on the ground of separation for more than five years without any justifiable cause.

8. Hence, this Civil Miscellaneous Appeal is allowed. The marriage solemnized between the appellant and the respondent on 08.03.2018 stands dissolved on the ground of desertion. The interim alimony of Rs.3,000/- fixed by the Family Court shall be paid regularly, until there is any change in circumstances warranting modification or enhancement. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.J., J.] & [R.P., J.]
29.04.2025

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



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- To
1. The Family Court,
Theni.
 2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN, J.

and

R.POORNIMA, J.

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C.M.A.(MD)No. 223 of 2024

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