



C.M.A.(MD)No. 650 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 08.08.2025

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. 650 of 2023

K. Rajkumar

... Appellant/Petitioner

Vs.

L.Jesse Rabekah

...Respondent / Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 55 of Divorce Act, to set aside the fair and decretal order dated 23.12.2022 made in I.D.O.P.No.31 of 2016 on the file of the Family Court, Madurai and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.C.Godwin

For Respondent : Mrs.L.Jessee Rabekah



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JUDGMENT

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(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 23.12.2022 passed in I.D.O.P No. 31 of 2016 on the file of the Family Court, Madurai.

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

(a) The petitioner and the respondent are Christians. They got married on 24.07.2013 in a Samoothapani Mandram, near Thembavani Illam, at A.A.Road, Madurai-625 010 and the same was registered. After that, Reception was held on 27.07.2013 at Coimbatore. It was an arranged marriage and the marriage expenses were shared equally by both the bride's and the bridegroom's parents.

(b) The petitioner is a degree holder. The respondent is a postgraduate and has completed MCA. The petitioner is unaware of the valuables and jewellery possessed by the respondent at the time of marriage. After the marriage, the petitioner and the respondent were



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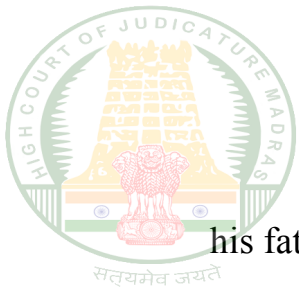
living together in the petitioner's house at Irugur, Coimbatore. The petitioner's mother passed away in the year 2011. The petitioner's sister Shakila got married and is living in Dubai with her husband. The petitioner and respondent were living at Irugur with the petitioner's father (a senior citizen).

(c) The respondent exhibited a superiority complex regarding her education. She consistently failed to greet the guests properly when they visited their house. She was in the habit of watching television continuously, thereby neglecting and delaying the completion of household chores.

(d) The petitioner was unable to contact her over phone during his office hours, as the respondent's phone was always engaged. Even during nighttimes, she continued to converse with someone. Whenever the petitioner advised her to conduct herself properly, the respondent reacted with great anger and shouted at him.

(e) The respondent scolded the petitioner by using unparliamentary words and showing disrespect to him. At times, she would throw objects away, including the mangalsutra.

(f) She frequently visited her parental home and casually returned only after several weeks. During such period the petitioner and



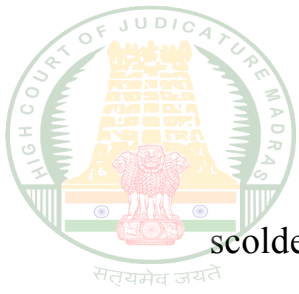
his father were compelled to depend on hotel food.

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(g) The respondent's grandparents reside at Olympus, Coimbatore. She developed the practice of visiting their house after the petitioner left for work and returning before his arrival.

(h) The respondent frequently received phone calls in the late hours and she attended them secretly. Certain SMS delivered to her phone contains phrases such as "My dear, My sweet Darling, My sweet heart, Good night, etc.," but she was in the habit of deleting such messages. Upon enquiry, she admitted that the person in her contact was one Vasanth, a man of influence who owns four cars and a cashew orchard. The respondent was attempting to secure a Government job by using his influence. The petitioner cautioned her not to continue such an association, but she disregarded his advice and maintained regular contact with him. Such conduct of the respondent is contrary to the principles of the Holy Bible.

(i) Despite such behaviour, the petitioner lived with her patiently. In the year of 2014 March 1st week, while he was away at his job, the respondent left for her parents' home taking her gold ornaments and dresses along with her. At that time, she was pregnant. When he tried to contact her over phone, she did not respond, but her parents



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scolded and abused him. She called the petitioner once and asked whether the sentence would be enough for him and also cursed him that God would punish him severely, and disconnected the phone. On 1st October 2014, the respondent delivered a male child and the petitioner heard the news from his relatives. The petitioner is unaware of the name of the child. The respondent celebrated the naming ceremony of the child at her residence.

(j) The respondent wants to lead a life according to her will and wish. For the past one year, the respondent has been living separately. The petitioner got vexed by the activities and behaviour of the respondent and decided not to live with her. Hence, the petitioner has filed this divorce petition.

3. The allegations levelled against the petitioner in the counter filed by the respondent are as follows :

(a) Before the marriage, the petitioner stated that he was employed in an Engineering College and assured that immediately after the marriage, he would set up a separate house near the college. He also assured that the respondent would be provided with employment in the same college. Based on the above assurance, the marriage was held.



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Contrary to such assurance, the respondent was compelled to attend to the needs of the petitioner's father round the clock, akin to that of a servant, which subjected her to severe mental torture.

(b) The petitioner's father who was above 60 years, did not treat the respondent as his daughter-in-law but instead treated her like a servant maid. The petitioner's father was doing money-lending business, and the respondent was compelled to perform all household chores, as well as to attend to borrowers. On certain occasions, he even directed her to prepare tiffin at midnight. Despite being treated in such a humiliating manner, as a servant of the petitioners' family, the respondent continued to show utmost respect towards them and discharged her duties with love and affection. If the respondent had been egoistic about her higher degree than that of the petitioner, she would have insisted that her degree should be prominently mentioned in the marriage invitation, but she did not make any such demand.

(c) Vasanth is her collegemate and her close friend. The petitioner is of suspicious character. Whenever she received phone calls, the father of the petitioner instructed the petitioner to seize the phone and discard it. The petitioner also attempted to assault her, when she informed him that she would go to her parents' home and he asked her to



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remove her Mangalsutra before leaving.

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(d) The respondent entered the matrimonial life on huge belief and trust. She reposed confidence in her husband. However, the marriage became a gateway to pain and sorrow. She was subjected to continuous mental torture. In order to escape from the physical as well as psychological cruelty, she left the matrimonial home. She endured great hardship in her matrimonial house. The matrimonial relationship subsisted only for a period of nine months and she returned to her parents' home on 17.4.2014.

(e) Thereafter, the petitioner did not make any effort to contact her. Whenever the respondent attempted to communicate with him, he responded with harsh words.

(f) Subsequently, the respondent gave birth to a male child. The respondent's parents immediately informed the petitioner and the petitioner's father about the birth of the child. But only after about a week, they visited the child, that too casually and left shortly thereafter. Moreover, no attempt was made to visit the respondent and to take care of the child.

(g) Based on the advice rendered by the learned District Judge, it was decided that the petitioner and the respondent would



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resume their matrimonial life together. Accordingly, the petitioner withdrew his case, and the respondent withdrew M.C.No.90 of 2015, which was filed by her for maintenance. On the following day, the petitioner and his father came and the respondent, and her son accompanied them to Arapalayam bus stand in an auto rickshaw. From the beginning, the petitioner was using abusive words and when the auto rickshaw came near Madura Coats, the petitioner asked the auto rickshaw to stop, threw the respondent's bags down, and left her in the street. After that, his father's friend came and took her to her house. She had filed a petition in this regard before the court, narrating about the incident. Thereafter, the present I.D.O.P.No.31 of 2016 filed by the petitioner/husband was reopened. Hence, she prayed for dismissal of the present Civil Miscellaneous Appeal.

4. On the side of the petitioner, P.W.1 was examined and Ex.P1 and Ex.P12 were marked. On the side of the respondent, R.W.1 and R.W.2 were examined and no document was marked.

5. The trial Court, after considering the evidence and records, dismissed the petition. Aggrieved by the said order, the present



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Civil Miscellaneous Appeal has been filed by the

Appellant/Petitioner/husband against the dismissal order on the

following among other grounds :

(i) That the Court below ought to have allowed the divorce petition and granted a decree for divorce.

(ii) That the Court below failed to see that the respondent has treated the appellant with such cruelty as to cause a reasonable apprehension in the mind of the appellant which would be harmful to the appellant to live with the respondent.

(iii) That the Court below failed to see that the respondent has been talking with a stranger Vasanth through cell phone very often which has caused severe mental strain to the appellant and made his life miserable.

(iv) That the Court below failed to see that the respondent frequently removes the Thali and throws it away in his presence and hence, it is impossible to live with her and the respondent had frequently used unparliamentary words against him.

(v) That the Court below failed to see that the respondent did not cook food in the house and the appellant has to get the same from the Hotel including for the respondent.

(vi) That the Court below failed to see that the respondent, in



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March 2014, left the house with the articles while the appellant had gone for work, without informing him.

(vii) That the appellant withdrew the earlier OP on the advice of the Family Court but the respondent who accompanied the appellant left the appellant on the way and hence, the OP was restored.

(viii) That the fair order and decretal order of the Trial Court are liable to be set aside and hence, the learned counsel for the appellant prayed to allow the Civil Miscellaneous Appeal.

6. In this case, the point for consideration is :

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

7. The appellant/petitioner/husband filed the divorce petition under Section 10(1) (x) of the Indian Divorce Act, 1955, seeking divorce on the ground of cruelty.

8. The learned counsel for the respondent seriously objected to the grounds raised in the Civil Miscellaneous Appeal, by stating that no reasonable basis exists for allowing the Civil Miscellaneous Appeal.



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The appellant had driven the respondent out of the matrimonial house and had shown no interest in rejoining her. Till date, the appellant has failed to maintain either the respondent or her child. Further, at the instigation of his father, the appellant had filed the divorce petition without any sustainable grounds levelling scandalous allegations against the respondent. The trial Judge, after a proper analysis of the records and the documents, rightly dismissed the divorce petition and therefore, the present Civil Miscellaneous Appeal is also liable to be dismissed.

9. Heard the learned counsel on either side and perused the materials available on record.

10. At the cost of repetition, it is worth pointing out that the appellant filed the divorce petition under section 10(1)(x) of the Divorce Act under the ground of cruelty.

11. Section 10(1) (x) of the Divorce Act, 1869, reads as follows :

“10. Grounds for dissolution of marriage (1) Any marriage solemnized, whether before or after the commencement of the Indian Divorce (Amendment) Act,



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2001, may, on a petition presented to the District Court either by the husband or the wife, be dissolved on the ground that since the solemnization of the marriage, the respondent

(i)

(x) has treated the petitioner with such cruelty as to cause a reasonable apprehension in the mind of the petitioner that it would be harmful or injurious to live with the respondent.”

12. The act of cruelty is not defined in the Act, but generally means conduct of such a nature to cause danger to life, limb, health injury or mental harassment by the other person or to give rise to a reasonable apprehension of such danger.

13. The following allegations are raised in the divorce petition by the husband :

1. The petitioner is a degree holder whereas the respondent has completed her M.C.A. and developed an egoistic attitude on account of her higher education and did not show respect to the petitioner and was quarrelsome.



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2. The respondent failed to discharge her matrimonial duties and spent excessive time watching TV and did not extend courtesy to the petitioner's relatives and frequently used unparliamentary language to scold the petitioner.

3. She used to engage in late-night phone conversations with one Vasanth, who in turn, also sent intimate messages to the respondent.

4. From the inception of the marriage, the respondent frequently left the matrimonial home and returned only after several weeks.

14. On the petitioner's side, apart from his own admission, no other evidence has been adduced to establish that he was treated with cruelty, by the respondent. It is the bounden duty of the petitioner to establish that he was subjected to cruelty by adducing evidence, such as producing documents like SMS/call detail records (CDRs) or any other supporting material. However, he has not produced any material to substantiate the allegation of cruelty meted out to him.



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15. With regard to point No.1, the petitioner stated that the respondent developed an egoistic attitude on account of her higher education and did not show respect to the petitioner and was quarrelsome. On the other hand, the respondent denies the allegations and states that her educational qualification was not even mentioned in the invitation. The marriage invitation was marked as Ex.P1. If at all the respondent were egoistic, such a trait would have been reflected in the marriage invitation. Therefore, the said allegation lacks *bona fides*.

16. On the contrary, the petitioner himself admitted that at the time of marriage, he represented himself as an Engineering student and also that he had not completed the course till date. He further admitted that he does not have a permanent job and undertakes photocopying whenever such an opportunity is offered. According to the respondent, the petitioner's father subjected her to ill treatment, treated her like a servant, constantly found fault with her and even spoke ill of her to her husband. The petitioner admitted that he resides in the house that belongs to his father and his admission in the cross-examination reveals that he has no independent source of income. He further

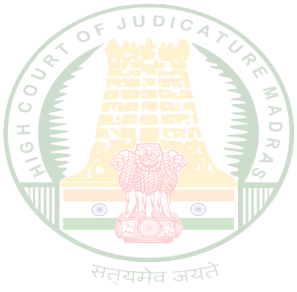


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admitted during cross-examination that his father alone brought him to the Court on the date of hearing. The surrounding circumstances indicate that the petitioner not having a permanent job, is financially dependent on his father for his livelihood, which might have been a reason for their separation.

17. With regard to the allegation against the respondent that she used to receive midnight calls from a person and converse with him, it is alleged that she continues to maintain contact with him. However, no call detail records (CDRs) or other supporting documents, have been produced to substantiate this claim. Hence, the said allegation also appears to be vague and remains unproven.

18. On perusal of the records, it is revealed that the petitioner and respondent cohabited only for a short period. The marriage between them was solemnized on 24.7.2013 and the respondent left the matrimonial home during March 2014, thereby indicating that the couple lived together for only about eight months. She delivered a male baby, in October 2014.

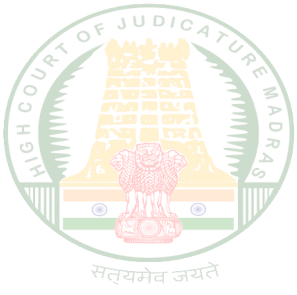


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19. According to the respondent, at the time of marriage, the

petitioner represented himself as an Engineer and claimed to be employed as a lecturer in a reputed college at Coimbatore, whereas in reality, the petitioner was working on a contract basis job for six months. It is further stated by the respondent that the petitioner entered into the marriage merely to convince his father and also filed the divorce petition at his instigation.

20. It is pertinent to note that the petitioner did not make any attempt for reunion after the respondent separated from him within such a short period of marriage. He has not produced a single piece of evidence to show that he took steps for reunion. Instead, he filed a divorce petition within four months of the date of delivery of the child. In his petition, he levelled certain allegations but failed to prove them with proper evidence. During cross-examination, he admitted that he has not completed his degree and is only engaged in daily work for which he has also failed to produce proof of regular employment. Further, he has not established his allegation that the respondent is maintaining an illicit relationship with one Vasanth.



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21. The petitioner stated that when the divorce case was posted for trial, as per the advice of the District Judge, he took the respondent and the child in an auto rickshaw. However, according to him, the father of the respondent and her brother intercepted the auto rickshaw, assaulted him and forcibly took the respondent to her parental house. The respondent, on the other hand, strongly disputed his version and asserted that it was the petitioner who had abandoned her midway. To substantiate her claim, she examined Russell as R.W.2. R.W.2 clearly stated that the respondent was abandoned by her husband and at the request of the respondent, he went, took her along with the child and handed them over at her parental home. He further deposed about the harassment meted out to the respondent, thereby supporting her version of the case.

22. According to the respondent, to persuade her to withdraw the maintenance case, the petitioner pretended to be a Good Samaritan and assured her that he would take her to his house and live with her. This Court also found these circumstances to be closely connected with the present appeal. Because as soon as the petitioner agreed to take the respondent back, the maintenance case filed by her



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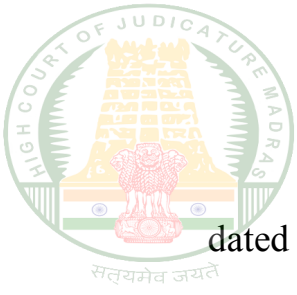
was withdrawn, but till date, the said petition has not been restored.

Further, it is proved that the petitioner has not maintained either his wife or the child, till date.

23. As stated supra, the petitioner failed to substantiate the allegation raised against the respondent either by oral or documentary evidence. On the contrary, the respondent established that the allegations levelled by the petitioner are false and baseless. Hence, the petitioner has not proved the commission of any such act of cruelty so as to entitle him to a decree of dissolution of marriage.

24. In light of the aforesaid, the present Civil Miscellaneous Appeal is not sustainable. Though the petitioner and the respondent have been living separately for a considerable period, separation does not constitute a valid ground for granting divorce. The allegation levelled against the respondent was not proved and therefore, the trial Court has correctly dismissed the petition. We do not find any merit in the Civil Miscellaneous Appeal and hence, the same is liable to be dismissed.

25. In the result, the Civil Miscellaneous Appeal is dismissed. The fair and decretal order passed in IDOP No.31 of 2016,



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dated 23.12.2022, by the Family Court, Madurai is hereby confirmed.

WEB COPY No costs. Consequently, connected miscellaneous petition is closed.

(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,
Madurai.

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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