



C.M.S.A(MD)No.15 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 27.10.2025

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.S.A.(MD)No.15 of 2024

Muneeswaran

... Appellant/Appellant/Petitioner

Vs.

Marilakshmi

...Respondent/ Respondent/ Respondent

PRAYER: Civil Miscellaneous Second Appeal filed under Section 28 of the Hindu Marriage Act r/w. Section 100 of CPC, to set aside the fair and decreetal order dated 25.03.2024 passed in the Civil Miscellaneous Appeal in H.M.C.M.A.No.16 of 2023 on the file of Additional District Court, Virudhunagar confirming the dismissal of petition of divorce by the fair and Decreetal order dated 21.09.2022 passed in the petition for the divorce in H.M.O.P.No.13 of 2019 on the file of the Subordinate Court, Virudhunagar.

For Appellant : Mr.V.Alex Benny Hook

For Respondent : M/s.G.Kavitha
Legal Aid Counsel



C.M.S.A(MD)No.15 of 2024

JUDGMENT

WEB COPY

This Civil Miscellaneous Second Appeal is filed by the husband who would aggrieved by the order passed in HMOP.No.13 of 2019 as well as the H.M.C.M.A.No.16 of 2023 both concurrently filed a petition under section 13(1)(i-a) of Hindu Marriage Act, 1955 for dissolution of marriage.

2. According to the appellant, the brief facts of the case is that the appellant and the respondent were in a love affair prior to their marriage and they had physical relation on multiple occasions, which allegedly resulted in the respondent's pregnancy. The appellant initially agreed to marry her, but later refused on the allegation that the respondent had illegal connection with several other persons and that her pregnancy was not happened in his relationship. The respondent thereafter lodged a complaint before the All Women Police Station, Virudhunagar on 25.09.2017. Pursuant to the said complaint, the police officials compelled him to marry her and on such compulsion, he contracted the marriage with the respondent. After their marriage, they started living together as husband and wife in a separate house. However, the respondent thereafter begun threatening the petitioner stating that he should remain



C.M.S.A(MD)No.15 of 2024

as her husband only for name sake, while she would lead her life according to her own whims and fancies. She further instructed that if he interfered with her conduct, she would lodge a false complaint against him and send him to jail. On one occasion, she mixed rat poison in his food. When the appellant questioned her about the same, she replied that if he were to die, she would be entitled to receive a widow pension or secure a job under the widow's quota. After the said incident, the Appellant stopped consuming food prepared in home. The respondent was in the habit of leaving the house during the day time without taking care of the child and returning only late night. When the appellant questioned her conduct, she resorted that since he had not paid money for maintenance she would obtain money in any manner she desired. The above act of the respondent caused the petitioner severe mental agony and amounted to cruelty.

3. According to the respondent, both the Appellant and the respondent belong to the same village and were in a love affair. Subsequently, they developed physical relationship on multiple occasions, as a result of which she became pregnant. Upon knowing the same, the appellant refused to marry her.



C.M.S.A(MD)No.15 of 2024

4. Therefore, she lodged a complaint before the All Women Police Station, Virudhunagar and only upon his consent the marriage was solemnized. Thereafter, both of them led a happy matrimonial life. On 26.12.2017, a child was born and in the birth certificate, the petitioner's name was shown as the father of the child. Thereafter, the Appellant stopped visiting the matrimonial home and failed to discharge his responsibilities towards child allegedly, due to the ill advice of his family members and surprisingly filed a divorce petition. Therefore, the respondent lodged a complaint before the Virudhunagar All Women Police Station. It is pertinent to note that the marriage between the parties is an inter-caste marriage, wherein, the respondent belonged to lower caste. The appellant filed petition only at the instance and ill-advice of the appellant's parents.

5. On the side of Appellant, he was examined as P.W.1 and Ex.P.1 to Ex.P.6 were marked. On the side of the respondent no witnesses was examined but Ex.R.1 was marked. The trial Court dismissed the petition against which the appellant filed an appeal before the Additional District Court, Virudhunagar. The First Appellate court had also dismissed the appeal against which the present Civil Miscellaneous Second Appeal has been filed on the following substantial question of law:



C.M.S.A(MD)No.15 of 2024

i) Whether the lower Appellate Court is correct in law in not drawing adverse inference against the respondent since the respondent did not entered into witness box to put forth her case?

ii) Whether the lower Appellate Court is correct in dismissing the divorce petition without properly appreciating the pleading and documents filed by the appellant?

6. The learned Counsel for the Appellant raised the following grounds :

i) Whether the first Appellate Court properly appreciated the provisions of Section 13(1)(i-a) of the Hindu Marriage Act, 1955.

ii) The First Appellate Court ought to have seen that the respondent has not give evidence and ought to have drawn an adverse inference and held against the respondent.

iii) He further stated that the Act of compulsory marriage itself proves the stubborn attitude of the respondent to achieve her own wishes by harassing the appellant.

7. This Court considered the submissions made on either side and perused the materials available on record.



C.M.S.A(MD)No.15 of 2024

8. The learned Counsel for the Appellant contended that the marriage between the petitioner and the respondent was not a consensual one. It was further argued that the appellant was compelled to marry the respondent under the pressure of the Virudhunagar All Women Police Station police officials, the appellant married the respondent. To substantiate the said averment, he relied upon the complaint lodged by the wife on 25.09.2017 against the petitioner.

9. According to the learned Counsel for the Appellant, the respondent had maintained illicit relationship with several other persons and as a result, the appellant refused to marry her under the coercion of the police he married her. To prove the same, the Appellant has not produced any document. It is also noted that the appellant has not come forward to subject himself to a DNA Test, which could have conclusively prove the act of respondent, the appellant further alleged that his wife had mixed rat poison in his food with intention to kill him. However, he did not lodge any criminal complaint against her in respect of the said act nor did he examine any witness to substantiate his allegation. The Appellant has failed to establish that after solemnizing the marriage, this respondent treated him with mental and physical cruelty. No witness



C.M.S.A(MD)No.15 of 2024

examined nor any document produced to substantiate the same. The appellant challenged the marriage by alleging that the marriage was not solemnized with the free consent. In such circumstances, appropriate course would have been to file a petition seeking a declaration that the marriage is null and void and not seeking relief of dissolution of marriage on the ground of cruelty.

10. On the other hand, the respondent stated that despite several attempts for mediation, the appellant did not consent to live with her and he failed to maintain the child. The child is now aged about 7 years and the appellant has not filed any proof to show that he has provided maintenance for the child. The appellant counsel contended that the respondent did not come forward to contest the case and also failed to take steps for the restitution of conjugal rights. However, the same was not properly considered by the trial Court.

11. It is well settled principle of law that when a petitioner file an application under Section 13(1) (i-a) of the Act seeking for divorce on the ground of cruelty, the burden lies upon him to prove that he was subjected to physical or mental cruelty by the respondent. Such act of



C.M.S.A(MD)No.15 of 2024

cruelty shall be grave and serious in nature, so as to cause a reasonable apprehension in the minds of the petitioner that it would be harmful or injurious to live with the petitioner. Admittedly, prior to marriage, the petitioner and the respondent were known to each other and were in a love relationship. It is alleged that on a complaint lodged by the respondent before the All Women Police Station, Virudhunagar, an inquiry was conducted in which the police officials compelled him to marry the respondent. As per Section 12 of the Hindu Marriage Act, 1955, if the petitioner contends that the marriage was not solemnized with his free consent, he ought to have filed a petition for annulment of marriage within a period of one year from the date of marriage. However, in the present case, the original petition was filed on 28.01.2019 after the period of 1 ½ of years of marriage and it was not filed under Section 12 of the Act for a declaration that the marriage is void. But the petitioner has filed petition under Section 13(1)(i-a) of Hindu Marriage Act, 1955 on the ground of cruelty. However, the allegations contained in the petition have not been properly proved by the petitioner.



C.M.S.A(MD)No.15 of 2024

12. Therefore, the trial court, on considering the materials and the documents placed on record, rightly dismissed the petition. The said finding was also considered by the first appellate court. This Court also does not find any reason or evidence to take a different view. The appeal deserves no merits and liable to be dismissed.

13. In view of the above observations, this court is not inclined to interfere with the judgement and decree of the Additional District Court, Virudhunagar dated 25.03.2024 and this Court confirms the judgement and decree of the Appellate Court. Accordingly, this Civil Miscellaneous Second Appeal is dismissed. No costs.

27.10.2025

Index : Yes / No
NCC : Yes / No
gvn



WEB COPY



C.M.S.A(MD)No.15 of 2024

R.POORNIMA, J.

gvn

To

1.The Additional District Court,
Virudhunagar.

2. The Subordinate Court,
Virudhunagar

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

Judgment in
C.M.S.A.(MD)No.15 of 2024

27.10.2025