



C.M.A.(MD)No.260 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.260 of 2020

and

CONT P(MD)No.572 of 2019

C.M.A.(MD)No.260 of 2020:

S.Chitra ... Appellant / Respondent
Vs.

K.Suresh Kumar ... Respondent / Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act, 1984, to call for the records in connection with the fair and decreetal order in H.M.O.P.No.477 of 2018, dated 29.03.2019 passed by the learned Family Court Judge, Madurai, and set aside the same.

For Appellant : Mr.N.Sathish Babu

Respondent : Mr.J.Barathan

CONT P(MD)NO.572 of 2019:

K.Sureshkumar ... Petitioner
Vs.

S.Chitra ... Respondent

PRAYER: Contempt Petition filed under Section 10 of Contempt of Courts Act, 1971, to punish the respondent for the disobedience of the



C.M.A.(MD)No.260 of 2020

order dated 19.02.2019 passed in I.A.No.403 of 2018 in H.M.O.P.No. 477 of 2018 on the file of the learned Family Court, Madurai.

For Petitioner : Mr.J.Barathan

Respondent : Mr.N.Sathish Babu

JUDGMENT

(Judgment of the Court was made by **L.VICTORIA GOWRI, J.**)

This appeal by the respondent-wife calls in question the order dated 29.03.2019 in H.M.O.P. No.477 of 2018 by which the learned Family Judge, Madurai, allowed the petition filed by the petitioner-husband and dissolved the marriage on the ground of cruelty.

2. For the sake of convenience, parties herein are referred to by their rank before the learned Trial Court.

3. *Gist of the Petitioner-Husband's Case Before the learned Trial Court:*

3.1. The marriage between the petitioner-husband and the respondent-wife was held on 23.05.2012, at Melmangalam Saurashtra Marriage Hall in accordance with Hindu customary rites and practices, in the presence of the elders and relatives of both the families. At the time of marriage, the respondent's parents contributed 28 sovereigns of gold jewellery and necessary home appliances as stridhan to their daughter, the respondent-wife. Even at the time of marriage, the petitioner-husband was serving as a Jawan in the Indian Army. After



C.M.A.(MD)/No.260 of 2020

marriage, the petitioner and the respondent commenced their matrimonial life in their shared matrimonial home belonging to the petitioner-husband. On completion of his leave, the petitioner joined duty in the Army. The respondent was a graduate at the time of marriage. The petitioner's parents, with the consent of the respondent, facilitated the respondent in joining the Teachers Training Course at Thiraviyam Women Teachers Training College by spending Rs. 1,20,000/- (Rupees One Lakh and Twenty Thousand only) towards fees and other establishment charges and encouraged the respondent to continue her studies at their own expense, and the respondent travelled to her college in the college bus. On one particular day, it was seen that she had travelled to her college in a two-wheeler of an unknown young man.

3.2. During that time, whenever the petitioner contacted the respondent from Jammu, she had negated his conversation and discouraged him from contacting her, causing untold mental agony in his place of work. Though for the first two months the respondent had gone to college happily, one fine day, without sufficient reasons and without informing either the petitioner or his parents, she unreasonably left for her maternal home at Madurai at the instance of her parents. On coming to know that the respondent had gone to her maternal home, the petitioner took diligent efforts to directly visit the respondent's



C.M.A.(MD)No.260 of 2020

maternal home at Madurai, on which day the respondent categorically informed the petitioner that she would continue living with him only if a separate house was arranged by the petitioner for separate living at Periyakulam. On coming to know these facts, the petitioner's parents visited the respondent and her parents and assured them that they themselves would take proper steps to arrange a separate house for the separate living of their son and the respondent.

3.3. While so, on 17.02.2013, the respondent gave birth to a male child and named the child Sriram. In the meanwhile, during vacation in April 2013, when the petitioner fondly visited the respondent-wife and his child at her maternal home, he was not well received by the respondent, her family members, and one Vellasamy, who together humiliated the petitioner by taunting him that he was a person unable to arrange a separate residence for living with his wife and child, and demeaned him as one unfit for a matrimonial life with his wife and little son. Thus, the petitioner was subjected to untold mental agony and abuse by the respondent and her family members by not allowing him to fully visit his newborn son, as a result of which the petitioner completely lost hope, happiness, and peace of mind in his day-to-day life. However, due to mediation and conciliation made by the elders during the first week of April 2013, the respondent came back to her shared matrimonial home along with the newborn son with the support



C.M.A.(MD)No.260 of 2020

of the petitioner's parents. However, by the end of April 2013, once again, picking up quarrel for the same reason of arranging a separate residence, the respondent-wife left for her maternal home.

3.4. Thereafter, around 03.08.2013, she failed in a paper in the Teachers Training Examination. Not being able to face the situation, she ate a banana along with a repellent powder, as a result of which she was admitted by the petitioner's parents at Government Hospital, Periakulam, immediately for proper treatment. The respondent's parents continuously threatened the petitioner and his parents by declaring that they would lodge a complaint against them for demanding additional dowry and that they would ensure the petitioner was put in a crossroad to such an extent of losing his government job. Since the respondent had categorically made it clear that it was not possible for her to live in a joint family setup with his parents at any point of time, left with no other option, on 10.09.2013, the petitioner took the respondent with him to his army residential quarters at Jammu. However, considering the cold climate at Jammu, they voluntarily left their minor son with the parents of the petitioner.



C.M.A.(MD)No.260 of 2020

3.5. Within three months, by December 2013, the respondent hysterically behaved with the petitioner, declaring that she was not intending to continue her life with the petitioner at Jammu and that she was suffering certain unfavourable time as per her horoscope, and hence it was necessary for her to live at Kumbakonam near a temple for a year for neutralising her negative period in life, as per her mother's advice. On that premise, despite the petitioner's advice, effort, and request, the respondent left Jammu. The respondent compelled him to allow her to leave Jammu, or else she would commit suicide.

3.6. Thereafter, on 27.01.2014, without informing the petitioner, the respondent left with her father and brother after getting due permission from the higher authorities of the petitioner, on the pretext that she was leaving to visit her little son, without the knowledge of the petitioner. Following which, on 07.02.2014 and 24.02.2014, foisting false allegations against the petitioner and his parents, she lodged false complaints before the Police Department. The petitioner was required to attend a police enquiry before the Inspector of Police at Madurai South All Women Police Station of Madurai City. Out of compulsion, the petitioner was constrained to avail leave from his army duties and appeared before the police on 13.02.2014 for enquiry, on which date the



C.M.A.(MD)No.260 of 2020

respondent received all the 28 sovereigns of jewellery, which were with the petitioner's parents, and also the minor son, Shriram, who had been with the paternal grandparents since 10.09.2013.

3.7. All the requests made by the petitioner for reconciliation and rejoining proved futile because of the ill-advice of the respondent's parents and family friend, one Vellasamy. After deep introspection, the petitioner filed a petition for divorce in H.M.O.P. No.161 of 2014 on the file of the Family Judge's Court at Madurai during March 2014, the respondent having informed that she was not willing to live with the petitioner anymore before the All Women Police Station and having received all her 28 sovereigns of gold jewellery from his parents and the custody of the child, shockingly, contested the petition for divorce without accepting for divorce. On the other hand, she sought interim maintenance and interim alimony, in which the learned Family Judge passed an order directing the petitioner to pay a monthly interim alimony of Rs.6,000/- (Rupees Six Thousand only) to the respondent, which was duly complied with by the petitioner from time to time.

3.8. In the meanwhile, certain conciliation efforts were taken by the petitioner's parents with common well-wishers, in which the



C.M.A.(MD)No.260 of 2020

respondent's parents categorically informed that they had already mortgaged all the 28 sovereigns of gold jewellery of the respondent for their personal commitments and that they would return the same only after one year and that they would send the respondent without even a set of dress, and that it was only the petitioner who should take care of the complete maintenance of the child and the mother. On that basis, on 27.08.2015, a compromise agreement was drafted and reduced into writing, in which both the petitioner as well as the respondent signed, and thereafter the respondent and the child were sent with the petitioner.

3.9. However, since the petitioner had lost hope, the respondent categorically informed that only if she had shown her bona fide intention of living with him peacefully at Assam in his army quarters, thereafter he would withdraw the petition for divorce in H.M.O.P. No. 161 of 2014. On agreeing to the said terms and conditions, the respondent returned to her matrimonial home and later she was taken with the child by the petitioner to Tezpur, Assam, in his army quarters. In the meanwhile, the petition for divorce in H.M.O.P. No.161 of 2014 filed by the petitioner was dismissed on 28.01.2016.



C.M.A.(MD)No.260 of 2020

3.10. But to the bitterness of the petitioner, even at Tezpur, Assam, the respondent had not shown any change in her intention and attitude, and had never taken any diligent steps to continue her matrimony with contentment and happiness. She refused to live happily with her husband and refused to take care of her house or even maintain her child. She refused to cook, maintain cleanliness, or even wash her own clothes. Any query raised by the petitioner for her attitude culminated in the respondent threatening the petitioner that she would commit suicide, causing unexplainable fear in the mind of the petitioner to such an extent that it would not be safe or conducive for him to take forward his matrimonial life peacefully. While so, she conceived for the second time; however, even without informing the petitioner, and with the aid of the local medical shop, without proper medical advice, she consumed certain tablets, as a result of which the pregnancy got aborted automatically. On coming to know that the petition for divorce in H.M.O.P. No.161 of 2014 filed by the petitioner had been dismissed, the respondent, without informing the petitioner and with the aid of her parents and relatives, left the army quarters at Tezpur, Assam, with her child on 19.12.2016.



C.M.A.(MD)No.260 of 2020

3.11. Following which, on 29.12.2016, she filed a maintenance case in M.C. No.54 of 2016 on the file of the Family Judge's Court at Madurai against the petitioner on the basis of false allegations. Precisely taking a decision that it was not possible for him to continue his matrimonial life anymore with the respondent, finally and decisively, the petitioner filed the second petition for divorce on the file of the Family Judge's Court at Periakulam. In the meanwhile, the petitioner's mother also filed a petition for custody of the minor son of the petitioner in G.W.O.P. No.28 of 2016 on the file of the Family Judge's Court, Madurai, and the same is pending.

3.12. While so, during January 2017, the petitioner got transferred to Bangalore. Under such circumstances, when the respondent sought her jewellery from her parents, they went to the extreme level of threatening her with death. Hence, to recover her jewellery from her parents, she lodged a complaint against her parents before the Commissioner of Police, Madurai City. It was also found out by the respondent that her parents had transferred those jewels belonging to her, which were mortgaged in the Grand Central Branch, in favour of her mother, by producing some other person in the name of the respondent. On coming to know this information, the respondent,



C.M.A.(MD)No.260 of 2020

on 19.07.2017, appeared before the Madurai Central, Grand Central Branch, and gave an objection letter to the bank authorities for having transferred her jewellery in the name of her mother. On coming to know that the petitioner had filed the second petition for divorce, immediately the respondent approached the petitioner and his parents through mediators and pressed him for withdrawal of the petition for divorce. On the advice of elders, for giving a final chance to the respondent, the petitioner stopped numbering the petition which was filed for the second time, following which the respondent withdrew M.C.No.54 of 2016 on 17.10.2017, and she came back to her matrimonial home with the little child, and the petitioner accepted the respondent and they lived in their shared matrimonial home with her in-laws at Melmangalam with the child.

3.13. In the meanwhile, due to the compulsion of her parents and particularly on the ill-advice of her mother, on 20.11.2017, without informing the petitioner and his parents, she ran away from her shared matrimonial home, leaving the child with the petitioner's parents, to her maternal home. Immediately, the petitioner's parents lodged a complaint before Jayamangalam Police Station. However, in response to the said complaint, the respondent's parents informed that she had



C.M.A.(MD)No.260 of 2020

reached her maternal home. From then onwards, the child has been living with the petitioner, and initially he was joined in a school at Bangalore, and thereafter he was admitted to KG at Seventh Day Matriculation School at Periyakulam and is at present under the care and custody of the petitioner's parents. Finally, the petitioner continued to pursue the petition for divorce in H.M.O.P. No.90 of 2017 on the file of the Family Court, Periyakulam, which was later transferred to the Family Judge's Court at Madurai and was renumbered as H.M.O.P. No. 477 of 2018.

4. *The gist of the respondent wife's case before the learned trial court is as follows:*

4.1. The factum of marriage between the petitioner and the respondent is not denied. After marriage, it was only for a period of one month that the petitioner and the respondent led a cordial and happy married life. Within one month, on completion of his leave, the petitioner had left for his army job at Kashmir. Thereafter, the respondent lived with the parents of the petitioner in a joint family setup. Though the petitioner's sisters were married, one of his sisters, namely Sugandhi, was residing nearby their shared matrimonial home, and the other sister, namely Sudha, used to visit the petitioner's house



C.M.A.(MD)No.260 of 2020

very frequently.

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4.2. After the petitioner left for his job, his parents interfered with the respondent and prevented her from talking to the petitioner over the phone. In fact, the petitioner's mother went to the extent of disconnecting the calls amidst conversations between the petitioner and the respondent. The petitioner's parents went to the extent of demanding additional dowry of ten sovereigns of gold and humiliating the respondent that they had married a girl from a poor family. Though the respondent tried to vent her pent-up feelings with her husband, he had always advised her to deal with his parents with patience and adjust in the joint family setup. It was only on the compulsion of the petitioner's parents, by receiving an amount of Rs.45,000/- (Rupees Forty Five Thousand only) from her parents, that she had joined B.Ed. course in the Teachers Training Institute. Despite being pregnant, she continued to study.

4.3. It was during November 2012 that she left her maternal home for delivery and she gave birth to a male child, namely Sri Ram. Within 10 days of delivery by a C-section, the petitioner's parents and sisters pressured her to return to their matrimonial home, for which the



C.M.A.(MD)No.260 of 2020

respondent had requested them that she would return after completion of her board examination. However, they continuously compelled her and took her back to her matrimonial home along with the child. After the birth of the child, from March 2013, the respondent lived with the petitioner's parents along with the child. Despite being a young mother who had undergone surgery for delivery, the petitioner's parents treated her unkindly, forcing her to do all the difficult household work. All the efforts taken by the respondent to inform her pathetic condition of life in the joint family to the petitioner proved futile. In fact, the petitioner compelled the respondent to adjust by all means in the joint family setup and, if not interested in adjusting with his family, he even went to the extent of dictating terms to her to go and die. While so, the petitioner's mother compelled her to drink milk by mixing insecticide in it on the pretext of giving her an energy drink, as a result of which the respondent fainted and she was admitted in the Government Hospital, Periyakulam, for further treatment. However, while admitting her, the petitioner's mother had informed the medical officers that she had eaten a banana with repellent powder.

4.4. In such circumstances, the petitioner made up his mind to take her to his workplace at Jammu, leaving the child with the



C.M.A.(MD)/No.260 of 2020

petitioner's parents, taking into consideration the cold climate at Jammu. However, even after commencing a separate life in the army quarters at Jammu, there was no improvement in the condition of the respondent, for the petitioner conducted her with cruelty and domestic abuse on the ill-advice of his parents. He went to the extent of locking her from outside in his army quarters when he left for duty, and after returning, he subjected her to physical and emotional abuse and went to the extent of throwing cold water on her. On noticing the acute domestic violence suffered by the respondent at the hands of the petitioner, the neighbours facilitated her in contacting her parents, and thereafter, the respondent's parents came to Jammu and informed the higher authorities of the petitioner that she was leaving the army quarters for visiting her minor son.

4.5. However, on 30.10.2014, when the respondent left for Madurai and reached Madurai on 31.10.2014, the petitioner's mother had left for Jammu with the child without showing the child to the respondent. Thus, the petitioner and his parents subjected her to a difficult situation by taking away all her jewellery and taking away her minor child. Hence, left with no other option, she gave a complaint before the Commissioner of Police at Madurai, for which an inquiry was



C.M.A.(MD)No.260 of 2020

conducted by the All Women Police Station, Madurai South, in which inquiry, the petitioner appeared and handed over all the 28 sovereigns of gold jewellery and the child. The petitioner declared before the police officer that he was not intending to live with the respondent anymore and filed a petition for divorce in H.M.O.P. No.161 of 2014 on the file of the Family Court, Madurai. In that proceeding, the learned Family Court directed the petitioner to pay an interim alimony of Rs.6,000/- (Rupees Six Thousand only) per month to the respondent. However, the petitioner paid monthly interim maintenance only for a period of two months.

4.6. Thereafter, only with an intention of deceiving the respondent, the petitioner voluntarily came forward for a compromise and executed a compromise deed on 27.08.2015 and took the respondent along with the child to his army residential quarters at Tezpur, Assam. Since there was no change in attitude and behaviour of the petitioner, and the respondent was continuously subjected to domestic abuse, left with no other option, she fled from Assam along with the child. For the purpose of maintaining herself and the child, she filed a maintenance case in M.C. No.54 of 2015 against the petitioner, in which the Family Court passed an order directing the petitioner to



C.M.A.(MD)/No.260 of 2020

pay monthly maintenance of Rs.25,000/- (Rupees Twenty Five Thousand only) to the respondent and her son. Meanwhile, the petitioner's mother filed a petition seeking the custody of the minor child in G.W.O.P. No.28 of 2016 and the same was also pending. However, the petitioner, having compelled the respondent to withdraw M.C. No.54 of 2015, failed to withdraw the petition for divorce filed by him and cheated the respondent. In fact, with an intention of separating her from her minor child, he cunningly persuaded the respondent to leave her son with his parents for a period of eight months while making her stay with her sister's house at Batlagundu. During this time, he went to the extent of compelling the respondent wife by instigating her to lodge several complaints against her parents in various police stations on the pretext of recovering her jewellery from them.

4.7. When the respondent became pregnant for the second time, the petitioner even compelled her to abort the pregnancy. Hence, for the purpose of saving herself, she directly went to the Assistant Commissioner of Police, Madurai City, and a compromise was arrived at, in which all the pending cases were withdrawn. In the meanwhile, the respondent gave birth to a girl child on 18.04.2008. Though the birth of the girl child was informed to the petitioner several times, he



C.M.A.(MD)No.260 of 2020

refused to visit the child. According to the respondent, the petitioner's parents are the main impediment for her to live with their son, and hence she sought dismissal of the petition for divorce filed by the petitioner to enable her to live with her husband along with her two children.

5. *Undisputed Facts and Procedural History:*

The marriage between the petitioner-husband and the respondent-wife was solemnised on 23.05.2012 at Melmangalam Saurashtra Marriage Hall as per Hindu rites and customs. The petitioner was serving in the Indian Army even at the time of the marriage. The respondent's parents contributed 28 sovereigns of gold jewellery and certain household articles as stridhan. Matrimonial cohabitation initially took place in the petitioner's family home. The petitioner resumed his posting thereafter. Multiple proceedings ensued between the parties over time, including (i) H.M.O.P. No.161 of 2014 (first divorce petition), (ii) a compromise dated 27.08.2015, pursuant to which the respondent rejoined the petitioner at his Army quarters in Tezpur, Assam, (iii) M.C. No.54 of 2016 (maintenance), (iv) G.W.O.P. No. 28 of 2016 (custody by the petitioner's mother), (v) Tr.C.M.P(MD)No.49 of 2018 and (vi) H.C.P. (MD) No.16 of 2018. Out of their wedlock they



C.M.A.(MD)No.260 of 2020

are blessed with a male child and a female child. It is admitted that from 2017, the parties have been living separately. Ultimately, the petitioner pursued H.M.O.P. No.90 of 2017 on the file of the Family Court, Periyakulam, which, upon transfer to Madurai, was renumbered as H.M.O.P. No.477 of 2018 and culminated in the impugned decree of divorce dated 29.03.2019.

6. Submissions of the Parties' Cases before the learned Trial Court:

6.1. Petitioner-Husband:

The petitioner alleged persistent mental cruelty caused by the respondent and her family, including humiliations, repeated demands for a separate residence, hostile conduct during access to the minor child, and lodging of police complaints with false allegations, which compelled him to attend enquiries at the All Women Police Station, Madurai South, while in service. He relied on the compromise dated 27.08.2015, subsequent conduct in Tezpur, the respondent's departure with the child in December 2016, and the filing/withdrawal of maintenance proceedings. He asserted that the cumulative conduct caused deep mental agony and destroyed the substratum of marriage.



C.M.A.(MD)No.260 of 2020

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6.2. Respondent-Wife:

The respondent did not dispute the marriage. She alleged that soon after marriage she was harassed in the joint family, subjected to dowry demands of ten sovereigns, prevented from communicating with the petitioner, compelled to pursue Teacher Training upon a payment of Rs.45,000/- by her parents, and was treated with unkindness even during post-partum recovery. She further alleged physical/emotional cruelty, including an incident of mixing insecticide in milk, and continued abuse at Jammu; that she was forced to leave; that on her complaint the jewellery and the child were restored; that despite a compromise she continued to face domestic abuse at Tezpur, compelling her to leave; and that she filed M.C. No.54 of 2016 for maintenance. She sought dismissal of the divorce petition to enable reunion with the petitioner along with the children.

7. Evidence Considered by the Trial Court:

7.1. On the petitioner's side, he deposed as PW1 and one Pon Rakku as PW2; Exs.P-1 to P-26 were marked, including marriage invitation (P1), marriage photograph (P2), ID (P3), pleadings/orders in H.M.O.P. No.161 of 2014 (P4-P6), pleadings/order in M.C. No.54 of



C.M.A.(MD)No.260 of 2020

2016 (P7–P8), interim alimony petition (P9), H.C.P. (MD) No.163 of 2018 records (P10–P11), compromise dated 27.08.2015 (P12), the respondent's statement/admissions (P13, P26), maintenance order (P14), respondent's letter to bank dated 19.07.2017 (P15), CSR dated 14.07.2017 (P16), action-taken report dated 22.02.2018 (P17), respondent's ID (P18), TTC records (P19), school/education documents of the minor (P20–P22), photographs (P23–P25), and the respondent's statement/admission(P26).

7.2. On the respondent's side, she deposed as RW-1 and one document was marked.

7.3. The learned Trial Court recorded, inter alia, certain admissions by the respondent in cross-examination and in Ex.P-12, Ex.P-13, Ex.P-15, Ex.P-16, and Ex.P-26, including: (i) her departure from Army quarters with her father and brother; (ii) compromise/withdrawal of pending cases; (iii) mortgage of jewellery in her name by her parents; (iv) complaint by her against her parents regarding jewellery; (v) acknowledgement that allegations earlier foisted against the petitioner and his family were baseless; and (vi) that the



C.M.A.(MD)/No.260 of 2020

child remained in the custody/care of the petitioner and his parents.

The learned Trial Court noted the absence of corroboration for the respondent's allegation that the admissions were procured under threat.

8. *The learned Trial Court's Findings:*

Upon an appraisal of pleadings, depositions and exhibits, the learned Trial Court held that the cumulative conduct of the respondent, particularly lodging multiple complaints against the petitioner and his family and before his higher authorities while he was in Army service, coupled with the admitted statements and the persistent marital discord leading to separation since 2017, constituted mental cruelty, rendering it unsafe and impracticable for the petitioner to continue the marital relationship. The petition for divorce was accordingly allowed. Challenging the same, this Civil Miscellaneous Appeal has been filed by the respondent wife.

9. *Grounds of this Civil Miscellaneous Appeal:*

9.1.The learned Trial Court erroneously came to the conclusion that the ground of cruelty was proved only through the evidence of the



C.M.A.(MD)No.260 of 2020

respondent. Apart from the respondent, no witness was examined on her side and no documents were marked. Therefore, the learned Trial Court ought not to have allowed the application for divorce on the ground of cruelty, as the same was not proved from the evidence of the respondent.

9.2. The learned Trial Court failed to look into the averments made by the respondent in her counter and deposition. Though the petitioner and his family members harassed the respondent all the time, the respondent was ready to live a happy matrimonial life with the petitioner only in view of her child's future. In view of the same, she filed a petition for restitution of conjugal rights in H.M.O.P. No.1000 of 2018 and the same is also pending before the Family Court, Madurai.

9.3. The learned Trial Court ought not to have allowed the application for divorce because the petitioner and the respondent continuously lived together and the respondent had never treated the petitioner with cruelty at any point of time.



C.M.A.(MD)No.260 of 2020

9.4.The learned Trial Court failed to look into the fact that earlier the petitioner had filed a divorce petition in H.M.O.P. No.161 of 2014 on the same ground, and the same was dismissed on the ground that the petitioner and the respondent were reunited.

9.5. The learned Trial Court failed to see that the petitioner had failed to prove his allegation of cruelty.

10. *Points for Determination in Appeal:*

(i) Whether the learned Trial Court erred in concluding that the petitioner established cruelty within the meaning of the Hindu Marriage Act, 1955?

(ii) Whether the learned Trial Court failed to appreciate the respondent's case and the alleged absence of corroboration on the petitioner's side?

(iii) Whether any ground is made out to interfere with the impugned decree of divorce dated 29.03.2019?



C.M.A.(MD)No.260 of 2020

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11. Submissions on Behalf of the Appellant (Wife):

The learned Counsel for the appellant contends that cruelty was not proved; that apart from the petitioner's evidence there was no independent corroboration; that the learned Trial Court overlooked her averments that she was willing to resume cohabitation for the children's sake; that earlier the first divorce petition (H.M.O.P. No.161 of 2014) ended in dismissal; and that the learned Trial Court failed to see that the petitioner's allegations were unsubstantiated and pressed for allowing the Civil Miscellaneous Appeal.

12. Submissions on Behalf of the Respondent (Husband):

The learned counsel for the respondent supports the impugned decree, emphasizing the respondent-wife's admissions in Ex.P12, Ex.P13, Ex.P15, Ex.P16, and Ex.P26, the long separation, repeated complaints to police/higher authorities during his service, and the compromise/withdrawal of cases followed by further discord. It is submitted that the learned Trial Court's appreciation is proper and the decree warrants affirmation and dismissal of Civil Miscellaneous Appeal.



C.M.A.(MD)No.260 of 2020

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13. **The Law on “Cruelty” - Guiding Principles:**

13.1. Cruelty under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, is a conduct-based ground assessed on the totality of circumstances, impact on the spouse, and likelihood of cohabitation becoming impossible or unsafe. The Supreme Court has consistently held that mental cruelty may consist of sustained abusive/ humiliating conduct, reckless allegations, and filing of complaints/initiating proceedings with reckless imputations that cause deep mental pain and suffering and adversely affect the career and reputation of the other spouse. It is a settled proposition of law that, independent eyewitness corroboration is not a *sine qua non*; matrimonial cruelty is often inferred from conduct, circumstances, admissions, and probabilities borne out by documents and testimony.

13.2. The Hon’ble Supreme Court in **Samar Ghosh v. Jaya Ghosh**¹, has held as follows:.

“23. The term "mental cruelty" has been defined in the Black’s Law Dictionary [8th Edition, 2004] as under:

"Mental Cruelty - As a ground for divorce, one spouse’s course of conduct (not involving actual violence) that creates such

¹(2007) 4 SCC 511



C.M.A.(MD)No.260 of 2020

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anguish that it endangers the life, physical health, or mental health of the other spouse."

The concept of cruelty has been summarized in Halsbury's Laws of England [Vol.13, 4th Edition Para 1269] as under:

"The general rule in all cases of cruelty is that the entire matrimonial relationship must be considered, and that rule is of special value when the cruelty consists not of violent acts but of injurious reproaches, complaints, accusations or taunts. In cases where no violence is averred, it is undesirable to consider judicial pronouncements with a view to creating certain categories of acts or conduct as having or lacking the nature or quality which renders them capable or incapable in all circumstances of amounting to cruelty; for it is the effect of the conduct rather than its nature which is of paramount importance in assessing a complaint of cruelty. Whether one spouse has been guilty of cruelty to the other is essentially a question of fact and previously decided cases have little, if any, value. The court should bear in mind the physical and mental condition of the parties as well as their social status, and should consider the impact of the personality and conduct of one spouse on the mind of the other, weighing all incidents and quarrels between the spouses from that point of view; further, the conduct alleged must be examined in the light of the complainant's capacity for endurance and the extent to



C.M.A.(MD)No.260 of 2020

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which that capacity is known to the other spouse. Malevolent intention is not essential to cruelty but it is an important element where it exists."

In 24 American Jurisprudence 2d, the term "mental cruelty" has been defined as under:

"Mental Cruelty as a course of unprovoked conduct toward one's spouse which causes embarrassment, humiliation, and anguish so as to render the spouse's life miserable and unendurable. The plaintiff must show a course of conduct on the part of the defendant which so endangers the physical or mental health of the plaintiff as to render continued cohabitation unsafe or improper, although the plaintiff need not establish actual instances of physical abuse."

29. .. Matrimonial matters are matters of delicate human and emotional relationship. It demands mutual trust, regard, respect, love and affection with sufficient play for reasonable adjustments with the spouse. The relationship has to conform to the social norms as well. The matrimonial conduct has now come to be governed by statute framed, keeping in view such norms and changed social order. It is sought to be controlled in the interest of the individuals as well as in broader perspective, for regulating matrimonial norms for making of a well-knit, healthy and not a disturbed and porous society. The institution of marriage occupies



C.M.A.(MD)No.260 of 2020

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an important place and role to play in the society, in general.”

13.3. The Hon’ble Supreme Court in **Naveen Kohli v. Neelu Kohli**², has held as follows:

“85. Undoubtedly, it is the obligation of the Court and all concerned that the marriage status should, as far as possible, as long as possible and whenever possible, be maintained, but when the marriage is totally dead, in that even, nothing is gained by trying to keep the parties tied forever to a marriage which in fact has ceased to exist. In the instant case, there has been total disappearance of emotional substratum in the marriage. The course which has been adopted by the High Court would encourage continuous bickering, perpetual bitterness and may lead to immorality.”

13.4. The Hon’ble Supreme Court in; **K. Srinivas Rao v. D.A. Deepa**³, has held as follows:

*“11. In **Samar Ghosh** this Court set out illustrative cases where inference of ‘mental cruelty’ can be drawn. This list is*

2(2006) 4 SCC 558

3(2013) 5 SCC 226



C.M.A.(MD)No.260 of 2020

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obviously not exhaustive because each case presents it's own peculiar factual matrix and existence or otherwise of mental cruelty will have to be judged after applying mind to it. We must quote the relevant paragraph of Samar Ghosh.

We have reproduced only the instances which are relevant to the present case.

“101. No uniform standard can ever be laid down for guidance, yet we deem it appropriate to enumerate some instances of human behaviour which may be relevant in dealing with the cases of “mental cruelty”. The instances indicated in the succeeding paragraphs are only illustrative and not exhaustive:

(i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.

(ii) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party.

(iii) xxx xxx xxx

(iv) Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the



C.M.A.(MD)No.260 of 2020

conduct of other for a long time may lead to mental cruelty.

(v) A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse.

(vi) Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty.

(vii) - (ix) xxx xxx xxx

(x) The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill conduct must be persistent for a fairly lengthy period, where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty.

(xi) - (xiii) xxx xxx xxx

(xiv) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the



C.M.A.(MD)No.260 of 2020

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contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.”

*16. Thus, to the instances illustrative of mental cruelty noted in **Samar Ghosh**, we could add a few more. Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing notices or news items which may have adverse impact on the business prospect or the job of the spouse and filing repeated false complaints and cases in the court against the spouse would, in the facts of a case, amount to causing mental cruelty to the other spouse.”*

14. **Analysis:**

We have carefully considered the pleadings, the oral and documentary evidence, the grounds urged in appeal, and the findings of the learned Trial Court. Having perused the pleadings, depositions and exhibits particularly Ex.P12 (compromise dated 27.08.2015), Ex.P13 (respondent's statement dated 27.07.2014), Ex.P15 (respondent's letter to the bank dated 19.07.2017), Ex.P16 (CSR 14.07.2017), Ex.P26 (respondent's disclosure/admissions), we are unable to discern any perversity or misdirection in the learned Trial Court's appreciation.



C.M.A.(MD)No.260 of 2020

14.1. **Admissions and Conduct:** The respondent's own statements acknowledge (a) departure from Army quarters, (b) compromise and withdrawal of cases, (c) the position regarding jewellery and complaints against her parents, and (d) that prior allegations against the petitioner and his family were baseless. No independent witness or material has been produced to support the plea that such admissions were procured by threat. The learned Trial Court rightly held that the burden to substantiate coercion lay on the respondent and remained undischarged.

14.2. **Complaints to Police/Higher Authorities:** The record reflects multiple complaints and enquiries necessitating the petitioner's attendance while in uniformed service, which, on the facts as found, were unfounded/reckless. Jurisprudence recognizes that such conduct, particularly when directed at the spouse's reputation and employment, amounts to mental cruelty and the Hon'ble Apex court has tested this proposition in **K. Srinivas Rao v. D.A. Deepa**⁴.

14.3. **Long Separation and Fracture of the Marriage:** It is admitted that the parties have lived separately since 2017. The

⁴ Supra 3



C.M.A.(MD)No.260 of 2020

intermittent reconciliations (including after the compromise of 27.08.2015) did not restore a stable matrimonial life. The cumulative effect of sustained discord, repeated complaints, and breakdown of trust satisfies the threshold of mental cruelty within Section 13(1)(i-a) of Hindu Marriage Act, 1955.

14.4. ***Plea of Willingness to Cohabit for the Children:*** A bald assertion of willingness, without concrete steps and against the run of contemporaneous conduct/admissions, cannot by itself negate proven cruelty. The law looks to objective conduct and the practicability and safety of cohabitation.

14.5. ***Earlier Dismissal of H.M.O.P. No.161 of 2014:*** The first petition's dismissal followed a compromise and reunion. Subsequent events culminating in the present petition including the later conduct and prolonged separation constitute a distinct factual matrix correctly assessed by the learned Trial Court.

14.6. ***Corroboration:*** In matrimonial disputes, insistence on formal corroboration is misplaced where documentary trail and



C.M.A.(MD)No.260 of 2020

admissions exist. Here, Ex.P12, Ex.P13, Ex.P15, Ex.P16, Ex.P26, coupled with RW-1's cross-examination, sufficiently establish the petitioner's case.

15. Accordingly we are of the considered view that, the finding of mental cruelty arrived by the learned Trial Court is borne out by the evidence and accords with the established legal principle. The learned Trial Court neither ignored material in favour of the respondent nor misapplied the standard of proof. The plea of coercion in obtaining admissions remains unproved. Thus we have no hesitation to observe that there is no ground of perversity, misreading of evidence, or legal error is made out to warrant appellate interference under Section 19 of the Family Courts Act, 1984.

16. In the Result,

- (i) The Civil Miscellaneous Appeal fails and is dismissed.
- (ii) The judgment and decree dated 29.03.2019 in H.M.O.P. No. 477 of 2018 on the file of the Family Court, Madurai, are confirmed.
- (iii) There shall be no order as to costs in this appeal.



C.M.A.(MD)No.260 of 2020

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17. Contempt Petition (MD)No.572 of 2019:

17.1. Challenging the disobedience of the interim order passed by the learned Family Judge, Madurai, in I.A.No.403 of 2018 in H.M.O.P.No.477 of 2018, dated 19.02.2019, this Contempt Petition is filed by the husband who is the respondent/petitioner before the learned Family Judge. The wife of the contempt petitioner who is the respondent in the petition for divorce filed by the contempt petitioner before the learned Family Judge, Madurai, in H.M.O.P.No.477 of 2018, filed I.A.No.403 of 2018 in H.M.O.P.No.477 of 2018, seeking interim custody of her minor son from her husband pending main H.M.O.P and the same was disposed of with certain directions by the learned Trial Court on 19.02.2019. For violation of the conditions imposed by the learned Trial Court, this contempt petition has been filed by the contempt petitioner against his wife, pending main H.M.O.P.No.477 of 2018. While so, the said H.M.O.P.No.477 of 2018 was allowed by the learned Trial Judge on 29.03.2019 and an appeal in C.M.A(MD)No.260 of 2020 was also preferred before this Court. When C.M.A(MD)No.260 of 2020 was listed before this Court, on request of both the parties, Contempt Petition (MD)No.572 of 2019 was tagged along with C.M.A. (MD)No.260 of 2020 and has been taken up together.



C.M.A.(MD)No.260 of 2020

17.2. We are of the considered view that, with the disposal of H.M.O.P.No.477 of 2018, the interim order passed in I.A.No.403 of 2018 in H.M.O.P.No.477 of 2018 merges with the final order dated 29.03.2019. Further, neither the respondent wife who preferred C.M.A(MD)No.260 of 2020 has mentioned anything about the pending contempt against her before this court in her C.M.A /arguments before this court nor the respondent husband had pressed for allowing the contempt while dismissing the aforesaid C.M.A.

17.3. In view of the same, we don't find any necessity to keep the Contempt Petition (MD)No.572 of 2019 pending and the same is closed.

[P.V,J.]

[L.V.G,J.]

24.09.2025

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



C.M.A.(MD)No.260 of 2020

To

The Family Court Judge,
Madurai.

Copy to

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD)No.260 of 2020

P.VELMURUGAN, J.,

AND

L.VICTORIA GOWRI, J.,

Sml

C.M.A.(MD)No.260 of 2020

24.09.2025