



C.M.A(MD)No.396 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 18.07.2025

Pronounced on : 28.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A(MD)No.396 of 2025

and

C.M.P(MD)No.7029 of 2025

R.Meena

... Appellant/Respondent

Vs.

J.Rajadurai

...Respondent / Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 19(1) of the Family Court Act, 1984, r/w. Order 41 Rule 1 of C.P.C., to set aside the fair and decreetal order dated 08.07.2024 made in H.M.O.P.No.564 of 2017 on the file of the Family Court, Madurai and allow this Civil Miscellaneous Appeal.



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For Appellant : Mrs.S,Meena
for Mr.A.L.Kannan

For Respondent : Mr.B.Babu

JUDGMENT

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

The appellant/respondent/wife has filed this Civil Miscellaneous Appeal against the fair order and decreetal order dated 08.07.2024 passed in H.M.O.P.No.564 of 2017 on the file of the Family Court, Madurai.

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

(a) The marriage between the petitioner (husband) and respondent (wife) was solemnised on 27.06.2013 at Thembavani Social Work Forum, A.A.Road, Madurai. The petitioner was working as a Lecturer in a Private Catering Institute, and the respondent was working as a Police Constable in Ramanathapuram.

(b) Ever since the date of marriage, the respondent has not performed her duty as a dutiful wife towards her husband/the petitioner, but has spoken disrespectfully using derogatory words towards him. The



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respondent herein never spent even a single pie for the family but has spent all her earnings to repay the loan obtained by her mother, that too without the knowledge or consent of the petitioner. When the petitioner asked about the huge loan of Rs 2,00,000/- borrowed by the respondent from the thrift society, she scolded him in filthy language using unparliamentary words and insulted him.

(c) After she gave birth to the child, without informing the petitioner she had vacated the house where the respondent and the petitioner had previously resided and shifted to the Police Quarters. The respondent always used filthy language to scold the petitioner and his mother. She has continuously caused mental distress and has chased the petitioner from the matrimonial home even in the year 2017, saying that she will not live with the petitioner anymore. Further, the respondent threatened the petitioner that she would put the petitioner and his mother behind the bars by filing a false complaint against them. Due to the said acts of cruelty caused by the respondent, the petitioner tried to commit suicide.

(d) The respondent has never spoken the truth about her work, salary and loan which was obtained by her to settle the debts of her mother. Further, on the coercion of the respondent, the petitioner has



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settled a loan amount of Rs 60,000/- which was borrowed by the mother of the respondent even before their marriage.

(e) Further the respondent compelled the petitioner to get his share of the property and sell it to settle the debts incurred by her mother for which the petitioner has not accepted for which the respondent created problems. The respondent failed to cook food and maintain the child.

(f) It is submitted that neglecting the husband without even performing any duty towards him as a dutiful wife and voluntarily deserting the husband by the wife amounts to cruelty. Furthermore, the petitioner had attempted to commit suicide due to the cruelty committed by the respondent by foisting a false complaint against him and the coercive action taken by the police personnel under the instigation of the respondent.

(g) Therefore, the petitioner submits that there is no possibility of leading a peaceful life with the respondent, hence filed this petition for divorce as against the respondent on the ground of cruelty, seeking to dissolve the marriage solemnized with the respondent on 27.06.2013.



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3. Brief averment contained in the counter filed by the

respondent is as follows:

The respondent denied all the allegations contained in the petition. The petitioner has not visited the child since the date of filing of the divorce petition. Taking into consideration the welfare of the child she wants to live with the petitioner and hence, she seeks dismissal of the divorce petition.

4. On the side of the petitioner, P.W.1 was examined and Exs.P1 and Exs.P17 were marked. On the side of the respondent, he was examined as R.W.1 and Exs.R1 to Exs.R6 were marked.

5. The trial Court after considering the evidence and records allowed the petition. Aggrieved by the said order, the present Civil Miscellaneous Appeal has been filed by the appellant /respondent /wife against the divorce order with the following among other grounds:

i. That the trial Court failed to take note of the fact that as per the averments of the Respondent/husband that the appellant/wife has deserted the Respondent/husband if so the Respondent/husband would have preferred restitution of conjugal rights instead of filing a petition



seeking divorce.

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ii. That the trial Court ought to have seen that all the allegation levelled by the respondent/husband against the appellant/wife is not supported by any material evidence.

iii. That the trial Court ought to have seen that if the appellant/ wife willfully deserted the respondent/husband then she would have immediately given her consent for granting the divorce decree instead of contesting the same.

iv. That the trial Court ought to have seen that all along the appellant had taken care of herself and her minor child and also the family's needs during the matrimonial life. Even as per the statement of the respondent, the appellant had only pledged her jewels and spent her salary to clear the debt of her mother without his consent which shows the appellant/wife had lived in the matrimonial home only with the intention to live with the respondent/husband and not for any other reasons as alleged by the respondent.

v. That the trial Court ought to have seen that the appellant, being a woman and mother of the minor child, she would have faced a lot of struggles more particularly when she was working in the Uniform Service and at no point of time respondent/husband supported her to



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overcome the struggles.

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vi. That the trial Court failed to take note of the future of the minor child and the allegation levelled by the respondent/husband which were not supported by any material evidence or witnesses from which one could easily understand that it is only a concocted story.

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

6. The learned counsel for the respondent submitted that the appellant/wife has never treated the respondent/husband as her husband or even a human being. The appellant used to scold the respondent using filthy language and never speaks any truth about her work, salary and loan which was obtained by the respondent to settle the debts of her mother. Further, he reiterated all the averments contained in the petition and prayed to dismiss the petition.

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



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8. In this case, the points for consideration are :

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

9. Point No.1:

The husband /petitioner filed a petition under section 13(1) (i-a) of the Hindu Marriage Act seeking dissolution of marriage solemnized on 27.06.2013, on the ground of cruelty with the following allegations:

a) That the respondent/appellant did not contribute any money towards the family expenditure. On the contrary, she pledged her jewels and borrowed money from the bank to discharge the huge debts incurred by her mother, that too without his knowledge and consent. Consequently, the creditors, constantly pressurised the petitioner to discharge the said loans borrowed by his mother-in-law. Under such compulsion, the petitioner had to discharge a debt incurred by his mother-in-law by paying a sum of Rs 60,000/-.

b) The respondent compelled the petitioner to get his share of the property from his mother. Upon the petitioner's refusal to accede to such a demand, the respondent drove him out of the matrimonial home



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along with the child. The petitioner was constrained to leave the matrimonial home due to the continuous harassment meted out by the respondent. She further insulted and threatened the petitioner that she would file a false case against the petitioner by influencing her position in the police Department. The petitioner however, declined to succumb to such threats. Subsequently, the petitioner complained to the police alleging that she had threatened him that she would file a false case. However, no action was taken by the police authorities as the respondent influenced the matter to, ensure that the complaint was not acted upon there by driving him to attempt to commit suicide.

c) The respondent disrespectfully treated the petitioner, failed to discharge her duties as a dutiful wife. Further misusing her position in the police department took away the child from his custody.

10. The respondent in her counter totally denied the allegations contained in the petition. She merely stated that she is willing to reunite with her husband for the welfare of the child.

11. Regarding the allegations about the debt incurred by the mother-in-law of the petitioner and the repayment of money, the



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respondent initially denied having borrowed any money to discharge the said liability. However, during cross-examination when, the salary certificate Ex.B16 was shown to her by pointing out the specific entry, indicating that she had borrowed money from the thrift society, then she admitted that she had repaid the money borrowed by her mother. Though the petitioner has not produced any document to establish that he had also repaid a portion of the money borrowed by his mother-in-law, the fact remains that the loan was borrowed by the mother-in-law and was subsequently repaid by the respondent without the petitioner's consent, it cannot be said that the respondent committed any mistake in discharging the debt of her mother, but the grievance of the petitioner is that she failed to inform him about the same, which appears to have led to the misunderstanding between the parties.

12. The petitioner further states that his wife became pregnant and went to her parents' home for delivery and thereafter, there was no communication or relationship between the parties for a period of six months. Respondent admitted that the parties had not met in person for a period of six months, but stated that they were, however, in contact through telephone conversation, for which she has not produced any



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evidence.

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13. The petitioner further stated that owing to the misunderstanding between the parties he was compelled to leave the home along with the child as he couldn't tolerate the harassment meted out by the respondent. Subsequently, the respondent by filing a false complaint forcibly took the child away from the petitioner. However, the respondent contended that the child had been in her custody throughout and no such incident occurred as alleged by the petitioner. The complaint lodged by the petitioner on 13.07.2017 and marked as Ex.P4 which was forwarded by the petitioner to the Superintendent of Police, reveals that the allegations were made on account of harassment meted out by the respondent. The respondent did not deny that such a complaint had been filed. Therefore, it stands established that owing to the misunderstanding between the parties, the petitioner left the home along with the child and has been living separately since 2017. It is further evident that although the child was subsequently taken away from the petitioner, he has continued to live separately thereafter, without resuming cohabitation with the respondent.



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14. As per the petitioner, he had filed a divorce petition against the respondent during the year 2017 in which the respondent remained *ex-parte*. Subsequently, she filed a petition seeking to set aside the *ex-parte* order. The same was admitted by the respondent. But as per the petitioner's version during that period they again, had a quarrel, and out of frustration, the petitioner attempted to commit suicide and was admitted in the hospital.

15. It is established through Ex.P7 that he was admitted in Vadamalayan Hospital, Madurai on account of consuming poison on 08.03.2021 and discharged on 14.03.2021. This incident gave rise to several complaints being submitted by the petitioner as well as his mother. It further reveals from the complaints that when the petitioner and his mother raised grievances in this regard, the respondent by misusing her official capacity prevented the said complaints from being acted upon. The petitioner further contended that as a consequence, two police officials were transferred from the concerned police station. In order to establish the same, the petitioner produced Ex.P.6, Ex.P9 and Ex.P.24 complaints as well as news paper cutting Ex.P8 published in the newspaper narrating that when the petitioner approached the police

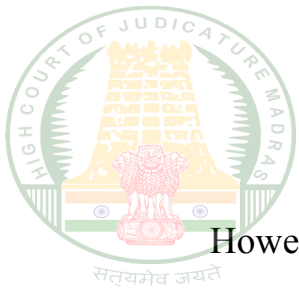


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authorities, instead of taking appropriate action he was subjected to insult and harassment at the hands of police. The documents filed on behalf of the petitioner establish that several complaints have been lodged but no action whatsoever was taken by the police officials. In this context, the respondent was cross-examined. She deposed that she was not aware of anything regarding the situation which does not appear to be true. Since the petitioner had sought details of complaints lodged by him before the police, it is seen from Ex.P.12 information furnished by the Public Information Officer, Madurai that in one such complaint dated 16.08.2021, the respondent had appeared, but as the matter could not be settled, the parties were advised to approach the Court for further course of action.

16. On scrutiny of the entire records it reveals that from the year 2017, till date, the petitioner and the respondent have been living separately. The petitioner had submitted several complaints regarding harassment meted out to him by the respondent. However, the respondent not established that the complaints lodged by the petitioner were motivated by malice or that they were false in nature. On the other hand, the respondent stated that she was not aware of any such complaint.



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However, such a contention cannot be believed as she herself is employed in the police department and any complaint against her would necessarily be brought to her notice. The respondent had not taken any concrete steps to reunite but merely stated that she desires to reunite for the sake of her child. However, it is noted that the child's ear-piercing ceremony which is an important function in the Hindu community was celebrated evident from Ex.P17. However, the petitioner was not invited to participate in the function. If the Respondent had truly intended to reunite with the petitioner for the sake of the child, she would not have prevented him from attending such an important function.

17. Furthermore, since no steps have been taken by her towards reunion and their communications between the parties reflect constant misunderstanding, it is evident that the respondent's intention to reunite is not genuine. The petitioner has proved that he has excluded from family affairs, harassed to part with this share from his family and ultimately driven out of the matrimonial home. Subsequently, the child was also taken away from his custody and he was not allowed to participate in the function held for the child.



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18. The acts of the respondent thus amount to cruelty and the

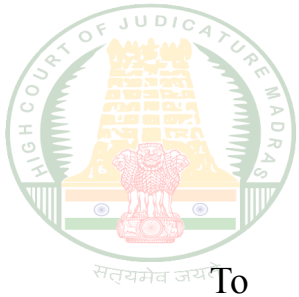
petitioner has successfully made out his case.

19. The trial Court after due appreciation of the evidence and records, rightly allowed the petition by granting a decree of divorce. Therefore, we find no infirmity in the order of the trial Court and hence, the Civil Miscellaneous Appeal is liable to be dismissed.

20. In the result, the Civil Miscellaneous Appeal is dismissed. The fair and decretal order passed in HMOP No.564 of 2017, dated 08.07.2024, by the Family Court, Madurai is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

(A.D.J.C., J.) & (R.P., J.)
28.08.2025

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



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To
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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
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Judgment in
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