IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE TWENTY FOURTH DAY OF SEPTEMBER TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE JUSTICE MOUSHUMI BHATTACHARYA AND THE HONOURABLE SRI JUSTICE GADI PRAVEEN KUMAR

CIVIL MISCELLANEOUS APPEAL NO: 820 OF 2007

Appeal Under Section 28 of Hindu Marriage Act, against orders aggrieved by the order dated 25.06.2007 passed in OP No.637 of 2005 on the file of the Court of the Principal District Judge at Khammam.

Between :

Chenigarapu Chandrasekhar, S/o.Rajam Employee in S.C.Company Limited R/o.Pilot Colony Quarter No.T-II-9 Bandarugudem.

...Appellant/Petitioner

AND

Chenigarapu Satyavathi, W/o.Chandrasekhar Housewife R/o.P.S.Bose Branch Post Master R/o. Kalakota Village Siripuram Mandal

...Respondent/Petitioner

Counsel for the Appellant : Sri Rohan Aloor, representing for

Sri A.Giridhar Rao

Counsel for the Respondent : NA

The Court made the following : JUDGMENT

THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR

C.M.A. No.820 of 2007

JUDGMENT: (*per Hon'ble Justice Gadi Praveen Kumar*)

The present CMA is filed by the appellant/husband aggrieved by the order passed by the Principal District Judge at Khammam in O.P.No.637 of 2005 dated 25.06.2007 in dismissing the OP, which is filed under Section 27, Rule 1(b) and (d) of the Special Marriage Act, 1954 seeking dissolution of marriage.

2. Heard Sri Rohan Aloor, learned counsel representing Sri A.Giridhar Rao, learned counsel for the appellant.

3. A memo was filed on behalf of the appellant on 16.09.2025 stating that as per the direction of this Court dated 10.09.2025, the notice to the respondent through paper publication in 'Eenadu' Telugu daily, Khammam Edition and 'Deccan Chronicle' English Daily, Khammam Edition, has been given on 15.09.2025

4. Despite substitute service of notice through paper publication, there is no representation on behalf of the respondent either in person and or through Advocate. Hence, this Court proceeded with the matter.

5. The facts emanated from the record are that the respondent herein is the legally wedded wife of the appellant, whose marriage was performed on 11.04.1986 at Kothagudem as per Hindu rights and customs. Out of their wedlock, the parties are blessed with two children, one son and daughter viz., Sarath and Chandrika respectively.

6. It was contended by the appellant that the respondent used to abuse him in filthy language in the presence of neighbours and his family members and insulted him causing mental agony without any valid reason.

7. It was further contended that after getting job, when the appellant shifted to Manuguru with the respondent, she used to consume drugs and misbehave with the appellant stating that she would kill him and thereafter she would commit suicide. The respondent used to mix drugs in the meals and drinking water and also used to give the same to the appellant and his father, and without noticing the same, the appellant and his father used to consume the said food, on account of which, they suffered ill-health. After consulting the Doctor, they came to know that they are consuming drugs.

Subsequently, the father of the appellant died on 16.08.2000 due to consuming food which is mixed with drugs. In this regard, a panchayat was conducted. Even then the respondent/wife did not mend her attitude and continued her harassment against the appellant.

8. It was further contended by the appellant that the respondent permanently deserted him on 15.03.1996 without intimation and since then there was no connection between the parties. The respondent also left the children with the appellant who is looking after the welfare of the children. Having vexed with the attitude of the respondent and lost hope of reunion, he approached the learned Trial Court under Section 27, Rule 1(b) and (d) of the Special Marriage Act, 1954 seeking dissolution of his marriage with the respondent by way of a decree of divorce.

9. On the other hand, the respondent/wife filed counter before the learned Trial Court denying the allegations leveled against her by the appellant. She contended that the appellant filed O.P.No.2[illegible] of 2001 on the file of the Senior Civil Judge, Kothagudem, wherein the said Court vide order dated 27.07.2004 in I.A.No.369 of 2004 in O.P.No.2[illegible]/2001 held that the OP was not maintainable and the OP was returned for presentation

before the proper Court, and as such, the appellant resubmitted the OP No.25 of 2001 and the same was renumbered as O.P.No.637 of 2005.

10. The respondent further contended that compromise talks were held by the Legal Services Authority at Yellandu in L.S.A.No.22 of 2002, which was filed by her, wherein a decree was passed awarding Rs.2,500/- towards maintenance of the respondent, which can be recovered from the salary of the appellant by way of attachment commencing from the month of August, 2001.

11. It was further contended by the respondent that the appellant is making payment pursuant to the aforesaid decree, and that the second term of the compromise was that the children of the parties should be in the custody of the appellant and he should maintain children and look after their regular necessities.

12. The respondent contended that the appellant is a man of suspicious nature and he attributes illegal intimacy on the part of respondent with milk boy and even paper boy. The appellant used to keep her under lock and key by fixing signed paper on the lock.

13. The respondent further contended that the appellant got addicted to drinking, playing cards and incurring debts and that he is in the habit of lamenting for all his failures, whether it was failure to collect loan amount or liable to pay the chit amounts as security for the third parties and he used to throw the blame on the respondent.

14. The respondent further contended that the appellant leveled wild and baseless charges that she used to mix drugs in the food and drinking water, on account of which, father of appellant expired by consuming such things. On the other hand, the appellant used to ill-treat her subjecting her to torture both physically and mentally, and finally, prayed for dismissal of the OP.

15. Basing on the pleadings of the parties, the learned Trial Court framed the following issues for consideration:

> *"(1) Whether the respondent has withdrawn from the society of the petitioner without any sufficient and reasonable cause?*
>
> *(2) Whether there is a reasonable apprehension that it would be unsafe for the respondent to live with the petitioner?"*

16. In order to prove the contentions, the appellant himself examined as P.W.1 and got examined one Sri G.Satya Prakash, Advocate as P.W.2 and

got marked Exs.A-1 to A-5. The respondent herself examined as R.W.1 and got marked Exs.B-1 to B-5.

17. The provision of Section 27, Rule 1(b) and (d) of the Special Marriage Act, 1954 states as under:

> *"27. Divorce.—(1) Subject to the provisions of this Act and to the rules made thereunder, a petition for divorce may be presented to the district court either by the husband or the wife on the ground that the respondent—*
>
> *(a) has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or*
>
> *(b) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition;*
>
> *(c) is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Indian Penal Code (45 of 1860);*
>
> *(d) has since the solemnization of the marriage treated the petitioner with cruelty; .."*

18. The learned Trial Court while examining the statement of P.W.1 recorded the contention of the appellant that the respondent used to mix drugs in meals, drinking water etc. and used to give the same to the appellant as well as his father, on account of which, P.W.1 and his father became ill-health and subsequently, the father of the appellant died on 16.08.2000.

19. It is the further deposed that he was un-employed at the time of marriage and subsequently, he got job, and that out of wedlock, two children were born to them. The respondent used to abuse the appellant in filthy language in the presence of neighbours and family members and caused mental agony, and despite the advice of elders, the respondent never changed her attitude and continued the harassment.

20. During the examination of P.W.2 G.SatyaPrakash, a practicing Advocate at Kothagudem, who he deposed in his evidence that he knows the respondent and in the year 2002, the respondent approached him and asked to file divorce O.P. against the appellant herein, accordingly, he filed divorce O.P. on the file of the Senior Civil Judge's Court, Kothagudem and the same was numbered. He further stated that the respondent signed on the petition and vakalat before its presentation before the Court, and that the appellant herein, who is respondent in the above said O.P., remained *exparte*, and since the respondent did not attend the Court, he reported no instructions and as such, said O.P. was dismissed. After dismissal of the O.P. by the Senior Civil Judge Court, Kothagudem, the respondent did not meet him. During cross-examination, P.W.2 stated that at the time of filing of the O.P., he was attached to the office of one Sri

P.Ganesh Babu. He further admitted that 13 days after dismissal of the petition filed by respondent, the appellant approached Sri Ganesh Babu and requested to file divorce O.P. and accordingly divorce O.P. was filed.

21. As against the evidence of appellant, the respondent/wife herself was examined as R.W.1 before the learned Trial Court. She stated that for her studies, she shifted to Kothagudem and got a seat in S.C. Women's College, Kothagudem, and there she developed intimacy with the appellant, leading to marriage which was registered before the Registrar of Marriages on 11-04-1986 under the Special Marriage Act. She denied the allegations leveled against her. She also denied that she herself deserted the appellant and children on 15.03.1996.

22. R.W.1 further deposed that the appellant got addicted to vices such as drinking, playing cards and was also guilty of womanisation. She further stated that she filed L.S.A.No.22 of 2002 before the Legal Services Committee, Yellandu and the same was ended in compromise awarding an amount of Rs.2,500/- p.m. towards maintenance to her and the said decree is binding on the appellant irrespective of the result of the O.P. The respondent further stated during examination that the appellant is guilty of attributing illegal intimacy with milk boy and even paper boy and

subjected her to torture both physically and mentally. During cross-examination, she admitted that for the last 5 years they are living separately and both the children are in the custody of the appellant only. She further stated that when she went to appellant's house to lead marital life, the appellant did not open the doors, and thereafter he did not issue notice to the appellant expressing her willingness to the join his society.

23. The learned Trial Court held that the burden lies upon the husband to affirmatively prove the essential ingredients of desertion and cruelty, but the appellant failed to prove that the wife was living separately with 'animous deserende' (i) without his consent, and (ii) absence of conduct in giving reasonable cause to her to leave the matrimonial fold. The Trial Court further held that according to the evidence produced by the husband, the wife herself left his company on 15.03.1996 without intimation and also the wife has permanently deserted him and there were no terms between him and the respondent.

24. The learned Trial Court further held that when the respondent permanently deserted the appellant and there were no terms between them, how the appellant could get Exs.A-1 and A-2 said to have been written by the respondent, and further held that it appears that the appellant forced the

respondent to write the letters at his dictation and kept the same under his custody and filed before the Court as if the respondent wrote the same, and the appellant failed to establish how the said letters reached him after the respondent deserted him once for all, and that a doubt arises about filing of the OP by the appellant since Sri Ganesh Babu, the Senior Advocate of P.W.2 to whom P.W.2 was assisting, filed divorce O.P. as per the instructions of the appellant herein. The learned Trial Court also held that the appellant herein had suppressed the compromise affected between them, thereby the appellant has not approached the Court with clean hands and also failed to establish that the wife has withdrawn his society with 'animous deserendi'.

25. The learned Trial Court gave a categorical finding that it is quite evident that the wife had reasonable cause to live separately from her husband and she has not wantonly withdrawn from the society of her husband with 'animous deserendi', and the husband, thus failed to prove affirmatively both the grounds of desertion and cruelty pleaded by him for granting divorce from his wife, and thereby dismissed the O.P.

26. On a careful consideration of the material on record this Court finds that the learned Trial Court committed an error in dismissing the O.P. No. 637 of 2005 filed by the appellant-husband for dissolution of marriage.

27. It is an admitted fact that the respondent has not been residing with the appellant since the year 1996. The Trial Court itself recorded such a finding but doubted the genuineness of Exs.A-1 and A-2, holding that the letters appeared to have been obtained under dictation. Even assuming, for the sake of argument, that the letters were not voluntarily written, the fact remains that the parties have not resumed cohabitation since 1996. The subsequent letter dated 18.01.1999, addressed by the wife to the husband, contains a categorical statement that she was leaving him without force or influence, which corroborates the fact of separation.

28. Further, in the compromise entered before the Legal Services Authority in LSA No. 22 of 2001, the appellant agreed to maintain the children and keep them in his custody, while also paying maintenance to the respondent. Such an arrangement itself indicates that the parties had no intention of living together and that their marital relationship had irretrievably broken down beyond repair.

29. The conduct of the respondent-wife also assumes significance. In the present appeal she has chosen to remain ex parte, displaying her disinterest in preserving the marital tie. Even in O.P. No.39 of 2000 filed by her, after its dismissal, she made no further effort to pursue the matter. This continuous lack of interest, spanning nearly three decades, unmistakably demonstrates animus deserendi on her part.

30. Learned counsel for the appellant relied upon the judgment of this Court in C.M.A.No.68 of 2022 dated 21.06.2024, wherein this Court in similar circumstances held that the marriage is much more than an exchange of vows or a single ceremony. It requires building of a shared home brick-by-brick cemented by a continuing wish to live a life together. Every marriage has a core and a foundation holding the union of two persons together. The bedrock of the union disintegrates when the married persons intend to break away from the union. It would be unnatural to reject a petition for divorce where the evidence led by both the parties show that the core of the marriage has crumbled beyond restoration. What is evident from the decisions cited is that cruelty is just one of the splinters of a collapsing structure where the substratum of the marriage has broken down in a way in which the structure cannot be preserved or re-built.

Cruelty, desertion, insanity are but a few of the grounds which may form the reason for a step in that direction. The Court should put a quietus to such matters, and finally held that we have no doubt that the appellant is entitled to decree of divorce on the ground of cruelty and of the marriage having broken down beyond repair and there is no chance of the parties resuming their matrimonial life, and since the very foundation of the marriage has fallen apart, the Court cannot force the parties to reconcile and live together as husband and wife.

31. Further, the Hon'ble Supreme Court in ***R. Srinivas Kumar v. R. Shametha***,[1] held that

> *"5.1 At the outset, it is required to be noted and does not seem to be in dispute that since last 22 years both the appellant husband and the respondent wife are residing separately. It also appears that all efforts to continue the marriage have failed and there is no possibility of reunion because of the strained relations between the parties. Thus, it appears that marriage between the appellant husband and the respondent wife has irretrievably broken down. In Hitesh Bhatnagar, it is noted by this Court that courts can dissolve a marriage as irretrievably broken down only when it is impossible to save the marriage and all efforts are made in that regard and when the Court is convinced beyond any doubt that there is actually no chance of the marriage surviving and it is broken beyond repair."*

[1] (2019) 9 SCC 409

32. On perusal of the entire evidence on record and based on the various pleadings on cruelty as well as desertion, an inference can be drawn that the marriage between the parties had irretrievably broken and that there is no chance of the parties resuming their matrimonial life. To continue in such a relationship would serve no purpose but to perpetuate hardship. As such, this court holds that the marriage held on 11.04.1986 is broken beyond repair. Therefore, on the ground of desertion itself it is sufficient to grant divorce.

33. Accordingly, C.M.A.No.820 of 2007 is allowed and the order of the learned Trial Court dated 25.06.2007 in O.P.No.637 of 2005 is set aside.

34. As a sequel, miscellaneous petitions pending if any shall stand closed. There shall be no order as to costs.

SD/- T. KRISHNA KUMAR
JOINT REGISTRAR

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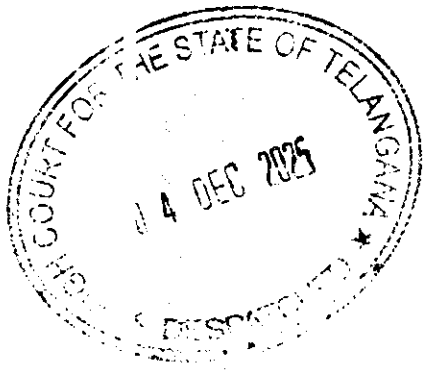
To,

1. The Principal District Judge at Khammam.
2. One CC to Sri A.Giridhar Rao, Advocate [OPUC]
3. Two CD Copies

Svs/sa

HIGH COURT

DATED:24/09/2025



JUDGMENT + DECREE

CMA.No.820 of 2007

ALLOWING THE CMA, WITHOUT COSTS

14/11/25

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE TWENTY FOURTH DAY OF SEPTEMBER TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE JUSTICE MOUSHUMI BHATTACHARYA AND THE HONOURABLE SRI JUSTICE GADI PRAVEEN KUMAR

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...Respondent/Petitioner

Appeal Under Section 28 of Hindu Marriage Act, against orders aggrieved by the order dated 25.06.2007 passed in OP No.637 of 2005 on the file of the Court of the Principal District Judge at Khammam.

This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the case and upon hearing the arguments of Sri Rohan Aloor, representing for Sri A.Giridhar Rao on behalf of Appellant and None appeared for the Respondent.

This Court doth Order and Decree as follows:

1. That the CMA No.820 of 2007 be and hereby is allowed
2. That the order of the trial court dated 25.06.2007 in O.P No.637 of 2005 be and hereby is set aside.
3. That there shall be no order as to costs in this appeal.

SD/- T KRISHNA KUMAR
JOINT REGISTRAR

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SECTION OFFICER

To,

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Svs/sa

HIGH COURT

DATED:24/09/2025

DECREE

CMA.No.820 of 2007

ALLOWING THE CMA , WITHOUT COSTS

14/11/25