IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13th DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE K.S.BHARATH KUMAR

MISCELLANEOUS FIRST APPEAL NO.10597 OF 2018 (FC)

BETWEEN:

1. SMT. NETHRA
   D/O LATE. SRI. MUNIYAPPA
   AGED ABOUT 35 YEARS,
   NO.83, 1ST MAIN ROAD,
   2ND CROSS, JAKKUR LAY-OUT,
   BENGALURU - 560 064.

...APPELLANT

(BY SRI. CHANDRASHEKAR B. A., ADVOCATE)

AND:

1. SRI. JAYASIMHA
   S/O LATE. KRISHNAPPA
   AGED ABOUT 42 YEARS,
   NO.26, VI MAIN ROAD,
   6TH CROSS, PILLAPPA BLOCK,
   GANGANAGAR,
   BENGALURU - 560 032.

...RESPONDENT

(BY SRI. PRAFULL KUMAR M., ADVOCATE)

Digitally signed by RAKSHA
Location: high court of karnataka

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 19(1) OF FAMILY COURT ACT, PRAYING TO CALL FOR THE RECORDS AND SET-ASIDE THE JUDGMENT AND DECREE

DATED 29.09.2018 IN MC.NO.1603/2011 ON THE FILE OF VI ADDL. PRINCIPAL FAMILY JUDGE, BENGALURU AND ETC.,

THIS MISCELLANEOUS FIRST APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 27.10.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, ***K.S.BHARATH KUMAR, J.,*** PRONOUNCED THE FOLLOWING :

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE K.S.BHARATH KUMAR

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE K.S.BHARATH KUMAR)

The appellant has preferred the instant appeal assailing the judgment and decree dated 29.09.2018, passed by the VI Addl.Prl.Judge, Family Court, Bengaluru, (hereinafter referred to as 'Family Court'), in M.C.No.1603/2011.

2. Brief facts of the case are that :

The appellant and respondent are wife and husband. Their marriage was solemnised on 23.02.2003 at Gajanana Seva Mandali, HMT Layout, Ganganagar, Bengaluru, as per Hindu customs. Out of their wedlock, three children were born. After the marriage, the

respondent/husband came to know that the appellant/wife was a short tempered woman and she used to pick up quarrel with him. Further, she was in the habit of going over to her parents house every now and then. As a result of the appellant's strange behaviour, the respondent/husband was subjected to physical and mental agony.

3. It is further the case of the respondent/husband that on 22.02.2006, he had purchased a site and thereafter, by raising a housing loan, constructed a four floored house on the said site and the appellant/wife is residing in the said house along with the children and her mother. The respondent/husband had provided all comforts to the appellant/wife and their children in the said house and further the appellant/wife is also receiving monthly rent of Rs.15,000/- from the said house, which is being used by her to maintain herself and their children.

4. It is further the case of the Respondent/husband that, he had gifted the said house in favour of the Appellant/Wife. However, she continued to torture him

over trivial reasons she continuously harassed the Respondent/husband both physically and mentally. Hence, having no other alternative, the Respondent/husband filed a petition under Section 13(1)(ia) and (ib) of Hindu Marriage Act, 1955 (for short, `Hindu Marriage Act'), seeking a decree of divorce by dissolving the marriage solemnised between the Respondent/husband and the Appellant/wife.

5. Pursuant to the service of notice, the Appellant/wife entered appearance before the Family Court and filed her statement of objections. She has denied all the allegations made by the Respondent/husband. It is contended that the Respondent/husband had purchased the said site from the income of the Appellant/wife and registered the same in his name as the bank could not sanction loan in her name. It is further contended that two houses are let out at the rent of Rs.2,000/- per month and other two houses are mortgaged by the Respondent/husband and out of total rent of Rs.4,000/-,

an amount of Rs.2,000/- is being paid towards water charges and Rs.600/- towards electricity charges.

6. It is further contended that, since the respondent/husband has failed to pay the installments towards the loan, the bank officials are demanding the appellant/wife to pay the loan amount or to vacate the house. It is further contended that the respondent/husband has completely neglected her and the children and also she is not getting the monthly rent of Rs.15,000/- as contended by the respondent/husband. It is also stated that she had never tortured the respondent/husband as contended by him.

9. The appellant/wife subsequent to filing her objections to the main petition, filed an application - I.A.No.5 under Section 24 of the Hindu Marriage Act, seeking interim maintenance and upon considering the facts and circumstances of the case, the Family Court vide order dated 03.01.2013, directed the respondent/husband

to pay a sum of Rs.15,000/- towards interim maintenance to the wife and their children.

10. The respondent approached this Hon'ble Court challenging the quantum of maintenance in Writ Petition No.4931/2013 and this Hon'ble Court vide order dated 19.03.2013, was pleased to uphold the quantum of interim maintenance awarded by the Family Court.

11. In M.C.No.1603/2011, the Family Court based on the pleadings of the parties, framed the following issues :

i) Whether the petitioner proves that he was subjected to cruelty at the hands of the respondent?

ii) Whether the petitioner further proves that the respondent has dese rted him immediately two years preceding the presentation of the petition?

iii) What order?

12. During the pendency of the matter, the Family Court referred the matter to mediation multiple times and ultimately, the parties entered into a Settlement Agreement before the mediation centre on 17.09.2013

and the same was signed by both the parties. The respondent as per the terms of the settlement agreement paid a sum of Rs. 6,00,000/- in cash to the appellant and further the respondent was required to pay a sum of Rs.13,50,000/- on or before 05.03.2014, however the respondent after a belated period i.e., on 01.09.2016, had produced the demand drafts towards the payment of the said sum, however, the same were returned by the appellant stating that they were about to expire.

13. After considering the pleadings and evidence on record and the documents produced before the Court, the Family Court allowed the petition filed by the petitioner under Section 13(1)(ia) of Hindu Marriage Act, and granted the decree of divorce. Being aggrieved by the same, the appellant/wife has filed this appeal.

14. We have heard the learned counsel appearing on behalf of both parties and perused the materials on record.

15. It is contended by the learned counsel appearing on behalf of the appellant/wife that, the

respondent/husband has failed to comply the terms of the settlement entered into between them before the mediation on 17.09.2013. It is further contended that the respondent/husband subsequent to settlement between the parties had paid Rs.6,00,000/- by way of cash and never came forward to fulfil the balance payment of Rs.13,50,000/-. It is also contended that respondent/husband subjected the appellant to physical and mental cruelty and also cheated her. On these grounds, the learned counsel prays to allow the appeal and to set aside the judgment and decree passed by the Family Court.

16. Per contra, learned counsel appearing for the respondent/husband contended that, subsequent to their marriage, appellant never stayed with him peacefully and she used to pick up quarrel with him. It is further contended that the appellant tortured him both physically and mentally. It is also submitted that he is taking care of his wife and children and the monthly rent of Rs.15,000/- is being used by the appellant.

17. It is contended that, for the balance amount of Rs.13,50,000/-, the respondent had paid the same by way of cheques. It is further contended that the wife never placed those cheques for encashment on the ground that they were about to expire. It is further contended that again on 18.08.2013, the cheques were issued for the balance amount of Rs.13,50,000/- and the same were accepted by the appellant/wife. However, on 21.08.2014, the appellant had returned those cheques and sought for demand drafts.

18. It is further contended that the appellant did not accept the demand drafts since the same were about to expire, as a result, the respondent took back the same for encashment. It is further contended that since the appellant failed to accept the cheques and demand drafts, the balance amount of Rs.13,50,000/- remained unpaid to the respondent.

19. It is seen from the records that the respondent/husband was always ready and willing to

comply with the terms and conditions of the said agreement. It is the appellant/wife who has not cooperated with him in encashing the said cheques and the demand drafts submitted by the respondent/husband towards fulfillment of the conditions of the agreement. Since the appellant/wife has entered into an agreement with the respondent/husband and got the matter settled before the mediation and thereby failed to co-operate with the petitioner husband to execute the terms and conditions of the agreement, the learned Family Judge has rightly come to the conclusion that the act of the appellant/wife clearly shows that she has continuously harassed the respondent/husband even prior to filing of the petition and also after filing of the petition before the Family Court.

20. As stated supra, the respondent/husband and the appellant/wife have entered into a settlement before the mediation. If at all the respondent/husband has not complied with the terms of the said settlement, the remedy for the appellant is not to challenge the judgment

and decree passed by the Family Court. On the other hand, it is for the appellant to take recourse to enforcing the said agreement entered into between the parties before the mediation.

21. Since the appellant/wife has continuously harassed the respondent/husband subsequent to the settlement entered into between the parties before the mediation, we do not find any error in the findings and conclusions arrived at by the learned Family Judge and in granting a decree of divorce.

22. It is also seen from the records that, as per the settlement entered into between the parties before the mediation, the respondent/husband has not paid the balance amount of Rs.13,50,000/-. Since the present case is a matrimonial dispute, in the interest of justice, we deem it appropriate to direct the respondent/husband to pay the said balance amount of Rs.13,50,000/- as per the settlement entered into between the parties before the mediation along with interest at the rate of 10% p.a.

23. Accordingly, we proceed to pass the following :

ORDER

(i) The appeal is ***allowed in-part.***

(ii) The judgment and decree dated 29.09.2018, passed by the VI Addl.Prl.Judge, Family Court, Bengaluru, in M.C.No.1603/2011, stands confirmed.

(iii) The respondent/husband is directed to pay the balance amount of Rs.13,50,000/- to the respondent/wife along with interest at the rate of 10% p.a., from the date of petition, till the date of realisation.

Pending interlocutory applications, if any, shall stand *disposed of*.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(K.S.BHARATH KUMAR)
JUDGE

bk/