



WEB COPY

CMA No. 1651 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No. 1651 of 2019

G.Rukmani

..Appellant(s)

Vs

R.Balasubramanian

..Respondent(s)

This Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 to set aside the judgement and decree dated 31-10-2018 passed by the Principal Family Court, Chennai in FCOP No.2793 of 2013.

For Appellant(s): Mr.R.Prabhavathy

For Respondent(s): No Appearance

JUDGMENT

(Judgment of the Court was delivered by C.V.Karthikeyan J.)

The respondent in F.C.O.P.No.2793 of 2013 on the file of the Principal Family Court Chennai, aggrieved by the Judgment and Decree dated 31.10.2018 is in appeal before us.



2. The said Original Petition had been filed by the respondent herein / husband seeking dissolution of marriage solemnized between him and the appellant on 25.01.2006. He had sought such dissolution under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 on the ground of alleged mental cruelty inflicted by the appellant on him. In this petition, he had contended that the appellant did not even cook for a single day, did not perform the marital obligations, used to scold him as useless and fit for nothing. It was further contended that the father of the appellant had retired as Divisional Engineer from Tamil Nadu Electricity Board and was often interfering with the marital life. It was further contended that the appellant had gone over to her parents house for birth of a child and the child was also born on 2.11.2006. When the respondent herein had gone over to visit the child, he was abused and spoken degradingly. It was contended that later the appellant did not return back from her parents house. They then shifted the residence to yet another place, by taking a place for rent, but the appellant lodged a police complaint against the landlord and started quarrelling again with everybody. It is contended that under the said circumstances, complaining mental cruelty, the respondent herein filed the petition seeking dissolution of marriage.

3. The appellant filed a counter denying and disputing each and every allegation. She denied that she used to scold the respondent, she denied that she did not perform her marital obligations, she justified lodging a complaint



against the landlord stating that the landlord had severed the electricity and water connection, necessitating lodging of the police complaint, she denied that her father interfering with the marital life and she finally stated that she was ready and willing to stay with the respondent herein in the interest of the child.

4. The Principal Family Court, Chennai then invited both the parties to tender evidence. Accordingly, the respondent examined himself as PW-1 and the appellant examined herself as RW-1. The respondent marked the copy of the Marriage Invitation as Ex.P1 and a Diary regarding various events as Ex.P4.

5. On the basis of the evidence adduced, the learned Trial Judge had listed out the various acts of cruelty alleged by the respondent in his petition and thereafter, held that the appellant had not cross examined the respondent on each one of those allegations.

6. The learned counsel for the appellant herein pointed out that the respondent who was examined as PW-1 had been extensively cross examined on each and every allegation alleged by him in the petition. It is contended that the trial Court had not properly appreciated the evidence and had come to a prior conclusion to dissolve the marriage and delivered the judgment in accordance with the said conclusion.



7. In this appeal, though the respondent had been served and the counsel Ms.D.Kanaka Lakshmi, Enrol: MS 909(a)/1995 had entered appearance, thereafter, consistently there has been no appearance on her behalf.

8. The learned counsel for the appellant stated that he had taken every effort to contact her on the phone number given in the vakalat and also in the office address, but he was unable to conduct her. Therefore, we are not given assistance by the respondent about the various grounds raised in the appeal.

9. The primary ground alleged by the learned counsel for the appellant is that the Trial Court had come to a preconceived decision to dissolve the marriage and had delivered the judgment accordingly. The vital points of the cross examination has been omitted to be stated by the learned Trial Judge. It is contended that very specifically, each and every allegation raised in the petition, by the respondent, has been touched upon and questions had been put during cross examination of the respondent, who tendered evidence as PW-1.

10. We had also perused the averments in the petition and in the counter affidavit. There appears to be continuous quarrels between the appellant and the respondent, but none of those incidents could be stated to be so serious as to dissolve the marriage.



11. There were two allegations raised by the respondent herein namely, that the appellant had deliberately pushed the father of the respondent and he never recovered from the fall and the other serious allegation raised was that she alleged that the respondent had illicit relationship with his own mother and other women including sister. Though evidence had been tendered on these aspects, the same had not been discussed by the learned Trial Judge. There should have been a complete discussion of each and every aspect tendered as evidence by the parties during trial and the probability of the allegations should have been examined by the learned Trial Judge.

12. In view of the fact that the Trial Judge had not examined the evidence in its proper perspective and had come to preconceived finding, we are of the opinion that, it would only be appropriate that the matter is remanded back for fresh consideration. It is also to be noted that the allegations and counter allegations raised will necessarily have to be proved by the individual who raised such allegations. Mere statements are not sufficient.

13. Holding that there has not been proper appreciation of the evidence tendered, we are inclined to set aside the judgment and decree dated 31.10.2018 on the file of the learned Principal Family Court, Chennai, and remand the matter back for fresh consideration of the evidence already tendered. Accordingly, this Appeal stands allowed.



14. The parties are directed to appear before the Principal Family Court at Chennai on 05.06.2026 in the first instance. Independently, the Trial Court may also send notice for the appearance of both the parties for the hearing date 05.06.2026.

15. The Registry is directed to forward the entire records to the Trial Court forthwith.

(C.V.K.,J.) (K.R.S.,J.)
16-04-2026

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No



To

The Principal Family Court, Chennai.

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CMA No. 1651 of 2





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CMA No. 1651 of 2



**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

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