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CMA No. 1978 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.12.2025

PRONOUNCED ON : 23.01.2026

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

CMA No. 1978 of 2016

A.S.Siva Coumar

Appellant(s)

Vs

S.Renuka Devi

Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act to set aside the judgment and decree dated 18.04.2016 made in O.P.No.4106 of 2009 passed by the learned Principal Judge, Family Court, Chennai and allow this Civil Miscellaneous Appeal

For Appellant(s): Mr.Haja Nazarudeen
Senior Counsel for
Mr.K.Azhaguraman

For Respondent(s): Ms.Geetha Ramaseshan

JUDGMENT

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

The petitioner in O.P.No.4106 of 2009, on the file of the learned Principal Family Judge, Chennai, is the appellant herein. O.P.No.4106 of 2009 had been filed by the petitioner seeking a declaration that the marriage solemnised



between him and the respondent on 15.12.2002 as null and void, or in the alternative to dissolve the said marriage by a decree of divorce. The said petition was filed under Sections 12 (1)(b), 13(1)(iii) and 13(1)(Ia) of the Hindu Marriage Act, 1955. By judgment dated 18.04.2016, the said O.P.No.4106 of 2009 was dismissed necessitating filing of the present appeal.

2.In the petition in O.P.No.4106 of 2009, the appellant herein/the husband had contended that both he and the respondent were married on 15.12.2002. A daughter was born on 26.05.2007. It was contended that the respondent was never interested in matrimonial relationship. She avoided the appellant and his mother. She also behaved in an unconventional manner. There were always problems right from the inception of marriage. She always used to find faults with him. She also spoke rudely with him and his family members. She also used to hit him and assault his mother with the TV remote. He was abused, beaten and had suffered serious injuries. It had been stated that on the date of first Diwali, she removed her Thali. The appellant was of the opinion that this abnormal behaviour required medical attention and therefore, he took her to a Psychiatrist. The Doctor informed that the respondent was suffering from serious mental disability for a long time even prior to the marriage. This fact had been suppressed. It was under those circumstances, the relief of declaration



of the marriage as null and void was sought and the petition had been filed under Section 12 (1)(b) of the Hindu Marriage Act, 1955.

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3.The petitioner further claims that once, the respondent just left the house abruptly. She went away the whole night and did not turn up either at her mother's house or at the marital house. She thereafter came in the morning in a stranger's Motor Cycle who said that he found her roaming around. The appellant further stated that the respondent had never taken care of the child and this attitude added to the misery of the appellant. He then shifted to a separate house. He stated that these acts amounted to cruelty. He further stated that on and from January 2009, the respondent left the matrimonial house and never came back. It was stated that this desertion was deliberate and therefore, a petition was also filed for dissolution of the marriage on the ground of cruelty and desertion under sections 13(1)(iii) and 13(1)(ia) of the Hindu Marriage Act, 1955.

4.In the counter affidavit, the respondent denied all these allegations. It was stated that at the time of marriage, substantial cash, jewels and also household articles were given by her father. However, there were further demands raised by the appellant. It was stated that she behaved normally and as a matter of fact, she had to undergo medical termination of pregnancy in 2003



and in 2006 and again in 2008, after the birth of the child. It was contended that she never picked up quarrels and she never treated either the appellant or his family members with cruelty. On the other hand, it was contended that she was subjected to much mental cruelty and harassment by the appellant and his family members. It was also contended that the appellant was her relative and that the family therefore knew her background. She denied that she suffered from mental illness either before the marriage or even after the marriage. It was also contended that the Doctor who was consulted had clearly stated that there was nothing wrong with her. She stated that the allegations by the appellant were false to her knowledge.

5. With respect to the demand for a separate establishment, she denied that she wanted to live separately from the family of the appellant. It was contended that it was the appellant who wanted a separate residence and wanted her father to bear the expenses. She stated that after the birth of the child, she was not allowed to enter into the marital house and therefore, she had taken refuge with her mother. She stated that she would like to continue to live only with the appellant. She stated that she did not file any application seeking restitution of conjugal rights since she did not want to raise any allegation against the appellant. She stated that the appeal should be dismissed.



6. During trial, the appellant examined himself as PW1 and marked Exs.P1 to P4. Ex.P4 was the prescription of the Doctor. The respondent examined herself as RW 1 and marked Exs.R1 and R2. Ex R1 was the medical report. Ex.C1 was the report regarding the medical status of both the appellant and the respondent.

7. On consideration of the oral and documentary evidence, it had been observed by the learned Trial Judge that Ex.P4 was only a prescription and of the year 2009 and the said document had not been proved in the manner known to law by examining the Doctor, who had prescribed the same. It was also contended that the allegation that the respondent suffered from Paranoid Schizophrenia had not been established. The learned Trial judge held that Ex.C1 very clearly showed that neither the appellant nor the respondent suffered from any mental illness. In view of the said findings, the petition seeking divorce was dismissed.

8. Heard arguments advanced by Mr.Haja Nazarudeen, learned Senior Counsel for the appellant and Ms.Geetha Ramaseshan, learned counsel for the respondent.



9. The learned Senior Counsel for the appellant took the Court through the facts of the case and pointed out that though the family members knew each other even prior to the marriage, the family of the respondent had not disclosed that the respondent was suffering from mental illness even before the marriage. The learned Senior Counsel stated that the respondent had left the house on one occasion in the night, and later was brought back by a stranger, who said that she was roaming around during the night. The learned Senior Counsel pointed out this fact and stated that the respondent has an inclination to suffer temporary bouts of medical illness and claimed that this medical illness made her unfit for marital life. He also claimed that she did not take care of the child and did not discharge her duty as a mother to the child. The learned Senior Counsel insisted that the marriage should be declared as null and void and even otherwise, since the respondent has been living away from the marital house from 2009, the marriage should be declared to be dissolved on the ground of desertion and owing to the attitude of the respondent must also be dissolved on the ground of cruelty.

10. In this connection, the learned Senior Counsel drew the attention of this Court to Ex.C1, which is the psychological evaluation report of both the appellant and the respondent. He pointed out that it was found that the respondent had dependant tendencies and it was asserted that therefore she suffered from mental illness.



11. In this connection, the Senior Counsel placed reliance on the following judgments of the Hon'ble Supreme Court,

(i) **2007 (4) SCC page 511, Samar Ghosh Vs. Jaya Ghosh**, wherein, it had been held in paragraph No.101 as follows:

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) Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable.



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(iv) Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the 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) Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty.

(viii) The conduct must be much more than jealousy, selfishness, possessiveness, which causes unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty.

(ix) Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day-to-day life would not be adequate for grant of divorce on the ground of mental cruelty.



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(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) *If a husband submits himself for an operation of sterilisation without medical reasons and without the consent or knowledge of his wife and similarly, if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty.*

(xii) *Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty.*

(xiii) *Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.*

(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 contrary, it shows scant regard for the feelings and emotions of the*



parties. In such like situations, it may lead to mental cruelty.

The learned Senior Counsel stated that the allegations of cruelty against the respondent should be carefully considered by this Court and that the judgment of the Trial Court should be set aside and divorce granted.

(ii) 2025 SCC online SC 1436, Pradeep Bhardwaj Vs. Priya

The learned Senior Counsel placed specific reliance to paragraph Nos.22 to 25, wherein, it had been held as follows:

22. It has been consistently held by this Court that the institution of marriage is rooted in dignity, mutual respect and shared companionship, and when these foundational aspects are irreparably lost, forcing a couple to remain legally bound serves no beneficial purpose. It has been emphasized by this Court in Amutha v. A.R. Subramaniam that the welfare and dignity of both the spouses must be prioritized, and that compelling a dead marriage to continue only perpetuates mental agony and societal burden.

23. In the present case, it is apparent that due to complete detachment and the prolonged estrangement, there has been an irretrievable breakdown of the marital bond, which cannot be mended by any means. Moreover, both the parties have spent the prime years of their youth entangled in this marital discord, which has persisted for more than the last fifteen years.

24. It is as clear as a day that in the case at hand, the continuance of marriage shall only fuel animosity and litigation between the parties, which runs contrary to the ethos of matrimonial harmony envisioned by the



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law. This would ring true even more in the light of appellant's and his family members' acquittal in the cruelty case preferred by the respondent. It cannot be expected by the appellant to now continue in a marital bond with the respondent, a partner who had filed and fought false case against her husband and in-laws.

25. Therefore, we are of the belief that it is in the best interest of both the parties and their minor child that they be allowed to lead their lives independently and peacefully, free from the shadow of prolonged and futile legal battles. This Court finds it a fit case to exercise its power under Article 142 of the Constitution and grant the relief of divorce to the parties on the ground of irretrievable breakdown of marriage.

It must however be pointed that the Hon'ble Supreme Court had exercised the power under Article 142 of the Constitution and had granted divorce on the ground of irretrievable breakdown of marriage. This ground is not available as a ground for dissolution of the marriage under the provisions of the Hindu Marriage Act, 1955.

(iii) (1984) 4 SCC 90, *Saroj Rani Vs. Sudarshan Kumar Chadha*.

The learned Senior Counsel placed reliance on the observations of the Hon'ble Supreme Court that in that case, the respondent had not taken any recourse by filing any petition seeking restitution of conjugal rights and this fact established that there was no interest in continuing with the marital relationship. However, the learned counsel for the respondent countered this argument by



stating that the respondent never wanted to raise any allegation as against the appellant since she always wanted to reside with him and it was for that reason, she did not file any petition seeking restitution of conjugal rights.

(iv) (1956) 2 SCC 382, **Bipinchandra Jaisinghbai Shah Vs. Prabhavati.**

The learned Senior Counsel placed specific reliance on paragraph No. 20, which is as follows:

20. Thus the quality of permanence is one of the essential elements which differentiates desertion from wilful separation. If a spouse abandons the other spouse in a state of temporary passion, for example, anger or disgust, without intending permanently to cease cohabitation, it will not amount to desertion. For the offence of desertion, so far as the deserting spouse is concerned, two essential conditions must be there, namely, (1) the factum of separation, and (2) the intention to bring cohabitation permanently to an end (animus deserendi). Similarly two elements are essential so far as the deserted spouse is concerned: (1) the absence of consent, and (2) absence of conduct giving reasonable cause to the spouse leaving the matrimonial home to form the necessary intention aforesaid. The petitioner for divorce bears the burden of proving those elements in the two spouses respectively. Here a difference between the English law and the law as enacted by the Bombay legislature may be pointed out. Whereas under the English law those essential conditions must continue throughout the course of the three years immediately preceding the institution of the suit for divorce, under the Act, the period is four years without specifying that it should



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immediately precede the commencement of proceedings for divorce. Whether the omission of the last clause has any practical result need not detain us, as it does not call for decision in the present case.

The learned Senior Counsel stated that the respondent had moved away to her parents' house on and from 2009 and therefore contended that this would effectively indicate desertion and also stated that the marriage had broken down and claimed that the dissolution of the marriage must be granted by this Court. However, it should be pointed out that the respondent had always expressed her willingness to reside with the appellant and it was her contention that she was not permitted to reside in the marital house.

(v) (2006) 3 SCC 778, *Vinita Saxena Vs. Pankaj Pandit*,

Specific reference was made to paragraph Nos.32, 35 and 36 relating to the concept of cruelty. The said paragraphs are as follows..

32. The word "cruelty" has not been defined and it has been used in relation to human conduct or human behaviour. It is the conduct in relation to or in respect of matrimonial duties and obligations. It is a course of conduct and one which is adversely affecting the other. The cruelty may be mental or physical, intentional or unintentional. There may be cases where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or the injurious effect on the other spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted.



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35. *Each case depends on its own facts and must be judged on these facts. The concept of cruelty has varied from time to time, from place to place and from individual to individual in its application according to social status of the persons involved and their economic conditions and other matters. The question whether the act complained of was a cruel act is to be determined from the whole facts and the matrimonial relations between the parties. In this connection, the culture, temperament and status in life and many other things are the factors which have to be considered.*

36. *The legal concept of cruelty which is not defined by the statute is generally described as conduct of such character as to have caused danger to life, limb or health (bodily and mental) or to give rise to reasonable apprehension of such danger. The general rule in all questions of cruelty is that the whole matrimonial relation must be considered, that rule is of a special value when the cruelty consists not of violent act but of injurious reproaches, complaints, accusations or taunts. It may be mental such as indifference and frigidity towards the wife, denial of a company to her, hatred and abhorrence for wife, or physical, like acts of violence and abstinence from sexual intercourse without reasonable cause. It must be proved that one partner in the marriage however mindless of the consequences has behaved in a way which the other spouse could not in the circumstances be called upon to endure, and that misconduct has caused injury to health or a reasonable apprehension of such injury. There are two sides to be considered in case of cruelty. From the appellant's side, ought this appellant to be called on to endure the conduct? From the respondent's side, was this conduct excusable? The court has then to decide*



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whether the sum total of the reprehensible conduct was cruel. That depends on whether the cumulative conduct was sufficiently serious to say that from a reasonable person's point of view after a consideration of any excuse which the respondent might have in the circumstances, the conduct is such that the petitioner ought not be called upon to endure.

The learned Senior Counsel stated that the very fact that the respondent had exhibited signs of mental instability itself would show that she had caused mental cruelty to the appellant and therefore insisted that the judgment of the Trial Court should be set aside and the Appeal should be allowed.

12.Ms.Geetha Ramaseshan, learned counsel for the respondent however disputed the said contention. According to her, the respondent was always willing to rejoin in the marital life. She stated that there had been occasions of family reunions even during the pendency of the appeal and stated that the appellant and the respondent have joined together in such functions. She stated that there is no deep animosity between the appellant and the respondent and stated that the institution of marriage between them is alive and should not be dissolved by any order of the Court.

13.We have carefully considered the arguments advanced and perused the material records.



14. It is the allegation of the appellant that the respondent, who is a distant relative, exhibited signs of mental abnormality, which made it impossible for him to continue the marital relationship with her. The respondent had however denied these allegations. A child had been born after the marriage. The respondent had very specifically stated that she had suffered miscarriage on three separate occasions, twice before the birth of the child and once after the birth of the child.

15. With respect to the allegations of mental abnormality, the Court had directed psychological evaluation to be conducted on both the appellant and the respondent. It is the specific case of the appellant that the respondent suffered from mental illness, but however, the report speaks otherwise. We would extract the report in entirety, which had been marked as Ex.C1.

Renuka Devi: She reported to all her sessions with her father. She was well dressed, and well groomed. Her attention, concentration and orientation were normal. She maintained good eye contact and answered all questions spontaneously. Her speech was clear, relevant and coherent. Her mood was anxious and she expressed sadness over separation from husband, and felt helpless about being a single parent. She had no hallucinations or delusions. No psychotic features could be



elicited. She had full insight into her problems, but could not envisage a future for herself, as she sees herself as being overly dependent. Her higher cognitive functions were normal, but she lacked the ability to abstract. Her intelligence seemed average.

SIVA COUMAR: He reported to the sessions alone. He was well dressed and well groomed. His attention, concentration and orientation were normal. His speech was measured to start with, but gradually he started speaking spontaneously. His tone, rate and prosody were normal. His mood was euthymic. He seemed indifferent about the outcome of the divorce case. Whether he got a divorce or not, he seemed fully prepared for his life. He exhibits no features of hallucinations or delusions. His higher cognitive functions were normal. He has full insight into his problems.

PSYCHOLOGIST'S REPORT:

RENUKA: She has average neuroticism, extraversion and agreeableness. On MPQ She does not get significant scores on any of the sub scales however her scores on Anxiety were slightly elevated. She is a person with external locus of control. On BAI, she has no difficulties with adjustment. On SCT, She has no conflicts in family unit, sex area and self concept area. Moreover,



projective test reveals her preoccupation with marital conflicts and her unhappiness regarding the separation from husband. On WAIS, she shows average intelligence.

SIVA COUMAR: He has average neuroticism, openness and conscientiousness with low extraversion and agreeableness. On MPQ he does not get significant scores on any of the sub scales however his scores on K-scale (7) indicating his tendency to give socially acceptable responses. He is a person with high internal locus of control. On BAI, he has mild difficulties with social adjustment. On SCT, he has mild conflicts in family unit and sex area and he has severe conflicts in self concept area. Moreover, projective test reveals his preoccupation with marital conflicts and his parents' unhappiness regarding his life. However, he has positive attitude towards the future.

DIAGNOSIS&MULTIAXIAL ASSESSMENT:

RENUKA DEVI:

Axis I: NIL

Axis II: dependant tendencies, average intelligence

Axis III: nil

Axis IV: Spousal neglect

Axis V: 82: very good functioning in a wide range



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of activities.

SIVA COUMAR:

Axis I: nil

Axis II: nil

Axis III: nil

Axis IV: Marital discord, Role confusions, unable to prioritize life issues, overly under the influence of his family of origin.

Axis V: 90, superior in functioning in a wide range of activities.

16.A further assessment was made by a Clinical Psychologist and Consultant Clinical Psychologist. Their assessment of the appellant and the respondent are as follows:

Summary:

Mr. Sivakumar, aged 39 years reported to the clinic with the complaint of marital conflicts. On NEO-FFI he has average neuroticism, openness and conscientiousness with low extraversion and agreeableness. On MPQ he does not get significant scores on any of the sub scales however his scores on K-scale (7) indicating his tendency to give socially acceptable responses. He is a person with high internal locus of control. On BAI, he has mild difficulties with social adjustment. On SCT, he has mild conflicts in family unit and sex area and he has severe conflicts in self concept area. Moreover, projective test reveals his preoccupation with marital conflicts and his parents' unhappiness regarding his life. However, he has positive attitude towards the future.



DIVYA MERCILINE, M Phil
Clinical Psychologist

DR BHASI SUKUMARAN, M Phil, Ph D
Consultant Clinical Psychologist

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Summary:

Mrs. Renuka, aged 34 years reported to the clinic with complaint of marital conflicts. On NEO-FFI She has average neuroticism, extraversion and agreeableness. On MPQ She does not get significant scores on any of the sub scales however her scores on Anxiety were slightly elevated. She is a person with external locus of control. On BAI, she has no difficulties with adjustment. On SCT, She has no conflicts in family unit, sex area and self concept area. Moreover, projective test reveals her preoccupation with marital conflicts and her unhappiness regarding the separation from husband. On WAIS, she shows average intelligence.

DIVYA MERCILINE, M Phil
Clinical Psychologist

DR BHASI SUKUMARAN, M Phil, Ph D
Consultant Clinical Psychologist

17.A careful perusal of the report show that contrary to what the appellant had alleged the respondent was unhappy owing to her separations from the appellant. As a matter of fact, the appellant has severe conflicts in self concept area. He also has a positive attitude towards the future. It is thus evident that with further counselling, the appellant and the respondent can lead a happy marital life together. There has not been irretrievable breakdown of the marriage. The allegations are only scratches which occur in any marital relationship. The appellant should have taken effective steps to ensure that the relationship continues and is not frustrated. It is clear that he is very pre-



occupied with the unhappiness of his parents regarding his life. It is for the appellant to take control of his life and take a concrete decision regarding his marriage.

18. We hold that the judgments relied on by the learner Senior Counsel for the appellant would not be directly applicable to the facts of this case, particularly since the acts of cruelty as alleged had not been established. There also not been continuous desertion as instances have been pointed out of both the appellant and the respondent participating together in family functions. The marriage cannot also be declared as null and void since both the appellant and respondent are relatives and the families had known each other even prior to the marriage. During her cross examination, the respondent had stated that both she and the appellant are relatives and both the fathers were close friends. There has been no cross examination on the alleged mental illness.

19. The respondent had denied during cross examination that she had deliberately deserted the appellant. She denied that she had not taken care of the child. As a matter of fact, the child has been living with her and she had been taking care of the child.

20. We are of the firm opinion that the psychological evaluation report quite clearly establishes that there is every possibility of both the appellant and



the respondent rejoining each other and living together without any discord. We hold that the grounds of cruelty or of desertion have not been made out by the appellant during the course of trial. The psychological assessments do not speak ill of the mental condition of the respondent. We hold that the learned Trial Judge had correctly appreciated the evidence on record and had come to a correct conclusion not to grant dissolution of marriage on the flimsy grounds placed by the appellant herein.

21.The Appeal stands dismissed. There shall be no order as to costs.

(C.V.K., J.)

(K.B., J.)

23.01.2026

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

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To

The Principal Judge, Family Court,
Chennai.



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CMA No. 1978 of 2



**C.V.KARTHIKEYAN, J.
and
K.KUMARESH BABU, J.**

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**Pre-delivery Judgment
in
CMA No. 1978 of 2016**

23.01.2026