



WEB COPY

CMA No.369 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No.369 of 2022

Anuj Kothari

..Appellant(s)

Vs

Deepa

..Respondent(s)

Appeal against the judgment and decree, dated 16.12.2021, passed in H.M.O.P.No.140 of 2021 by Family Court, Thiruvannamalai.

For Appellant(s): Mr.K.Subhashini Suresh
for M/s.Chennai Law Associates

For Respondent(s): M.Arvind Kumar

JUDGMENT

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

The petitioner in H.M.O.P.No.140 of 2021, aggrieved by the dismissal of the said petition by Family Court at Tiruvannamalai by judgment, dated 16.12.2021, is the appellant herein.



2. The appellant had initially filed F.C.O.P.No.2917 of 2019 before III Additional Family Court, Chennai, seeking dissolution of his marriage with the respondent, which was solemnised on 29.01.2001 at Vellore. He sought dissolution of marriage on the ground of cruelty under Section 13 (1) (i-a) of the Hindu Marriage Act, 1955. During the pendency of the petition, the respondent had sought transfer of the said petition to Tiruvannamalai. By an order, dated 14.07.2021, this Court transferred F.C.O.P.No.2917 of 2019 from III Additional Family Court, Chennai, to Family Court at Tiruvannamalai. The said petition was renumbered as H.M.O.P.No.140 of 2021.

3. During trial, the appellant had examined himself as P.W.1 and marked Exs.P-1 to P-15. The respondent had examined herself as R.W.1 and marked Exs.R-1 to R-6.

4. On consideration of the oral and documentary evidence, the Family Court at Tiruvannamalai had, by judgment, dated 16.12.2021, dismissed the said petition, necessitating the petitioner therein to file the present appeal.

5. In the petition filed in H.M.O.P.No.140 of 2021, the appellant had stated that the marriage between him and the respondent was solemnized on 29.01.2001 at Vellore. It had been stated that they have two children, a boy, who was aged 17 years at the time of filing of the petition in the year 2019 and a girl, who was aged 9 years in the year 2019. It had been contended that the respondent was very adamant in her behaviour and the appellant chose to suffer silently in the interest of the children. It was also stated that his father passed



away in a car accident in the year 2005 and the respondent was extremely quarrelsome with the wife of the younger brother of the appellant. It was also contended that over each and every issue there were continuous quarrels between the parties over the share of the property and also in adjusting to the family needs. It was further stated that all these issues were pointed out to the relatives of the respondent, who also came forward to mediate, but it only flared up the quarrels. It was also stated that on and from 2011, the respondent neglected him on all counts. It was further stated that in the year 2013, he underwent surgery and again she had not taken much care of him. It was also stated that in the year 2015, he suffered business loss, but again, she refused to come over and help him out over that particular aspect. It was contended that there were also police complaints which had been lodged before All Women Police Station at Flower Bazaar, Chennai. It was further contended that owing to all these acts, the respondent had continuously behaved with cruelty and hence divorce should be granted, dissolving marriage.

6. The respondent filed a counter affidavit, denying and disputing the said contentions. She stated that even when she was pregnant, she was forced to do all house hold works. It was stated that the appellant faced a loss in business and he forced the respondent to bring money from third parties and later criminal proceedings were initiated and the appellant was also arrested. It was contended by her that she only took care of the appellant and also proceeded



with the litigation process. She, therefore, stated that the petition was devoid of merits and was to be dismissed.

7. An additional counter was also filed by the respondent, reiterating the correctness of the facts before the Family Court, Tiruvannamalai.

8. The trial Court had examined the allegations made relating to cruelty and was of the opinion that such allegations did not constitute continuous cruelty and as sufficient evidence to grant a decree of divorce. It was also opined that cruelty should have been continuous in nature and only sporadic instances had been stated by the appellant and that the allegations were not sufficient to grant a decree of divorce. Accordingly, the petition was dismissed.

9. Challenging that particular judgment, the appellant has filed the present appeal.

10. During the course of hearing, parties had the benefit of settlement talks being conducted through Medication and Conciliation Centre.

11. A Memo of Compliance has been filed today by the appellant with respect to the settlement reached between the parties. It is also to be noted that the daughter has unfortunately died in the accident and this has also compounded the issue between the appellant and the respondent. For better appreciation, the Memo of Compliance is extracted below :

“MEMO OF COMPLIANCE FILED BY THE APPELLANT/PETITIONER

The Appellant/Petitioner herein files the following memo of compliance of the terms of settlement agreed between the parties in mediation :



1. That in part compliance of the agreed total settlement amount of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs only), the Appellant has made a payment of Rs.34,85,043/- (Rupees Thirty Four Lakhs Eighty-five thousand forty-three only) favouring the Respondent and the 2 children born from the wedlock, -Mr.Chetan (now aged 24 years) and Ms.Dhwani (then aged 14 years) by way of bank transfer/Demand Drafts, which was duly received by the Respondent.

2. The Appellant is therefore required to comply with the balance payment of Rs.1,15,14,957/- (Rupees One Crore Fifteen Lakhs Fourteen thousand nine fifty-seven only). The unfortunate, tragic and fatal accident that occurred to minor daughter Ms.Dhwani, has caused delay in the compliance and subsequently, both the parties have concurred before this Hon'ble Court to receive the balance amount in the following amount manner :

a. Four (4) Demand Drafts accumulating to the sum of Rs.34,20,076/- (Rupees Thirty Four Lakhs Twenty thousand Seventy-six only), payable in favour of the Respondent (Mrs.Deepa Kothari), in the following manner :

i. DD No.138854 dated 20.03.2026, taken on Bank of Baroda, George Town Branch, for a sum of Rs.4,93,764/- (Rupees Four Lakhs Ninety-three thousand Seven Hundred Sixty-four only); and

ii. DD No.138853 dated 20.03.2026, taken on Bank of Baroda, George Town Branch, for a sum of Rs.4,94,754/- (Rupees Four Lakhs Ninety-four thousand Seven Hundred Forty-four only); and

iii. DD No.832847 dated 20.03.2026, taken on Kotak Mahindra Bank, Sowcarpet Branch, for a sum of Rs.11,53,859/- (Rupees Eleven Lakhs Fifty-three thousand eight hundred fifty-nine only); and

iv. DD No.832845 dated 20.03.2026, taken on Kotak Mahindra Bank, Sowcarpet Branch, for a sum of Rs.12,77,699/- (Rupees Twelve Lakhs Seventy-seven thousand Six hundred Ninety-nine only)



b. Four (4) Demand Drafts accumulating to the sum of Rs.33,79,924/- (Rupees Thirty-three Lakhs Seventy-nine thousand Nine hundred twenty-four only), payable in favour of Mr.Chetak Kothari (son), in the following manner :

i. DD No.138852 dated 20.03.2026, taken on Bank of Baroda, George Town Branch, for a sum of Rs.4,95,762/- (Rupees Four Lakhs Ninety-five thousand Seven Hundred Sixty-two only); and

ii. DD No.138855 dated 20.03.2026, taken on Bank of Baroda, George Town Branch, for a sum of Rs.4,92,756/- (Rupees Four Lakhs Ninety-two thousand Seven Hundred fifty-six only); and

iii. DD No.832846 dated 20.03.2026, taken on Kotak Mahindra Bank, Sowcarpet Branch, for a sum of Rs.11,53,859/- (Rupees Eleven Lakhs Fifty-three thousand eight hundred fifty-nine only); and

iv. DD No.832844 dated 20.03.2026, taken on Kotak Mahindra Bank, Sowcarpet Branch, for a sum of Rs.12,37, 547/- (Rupees Twelve Lakhs Thirty-seven thousand Five hundred forty-seven only).

c. Gold to the value of Rs.47,14,957/- (Rupees Forty-seven lakhs fourteen thousand Nine hundred fifty-seven only) at the rate of Rs.14,642/- per gram approximately, as on 26.03.2026. Hence, 322 grams of gold being handed over to the Respondent.

Thus, the total sum of Rs.1,15,14,957/- (Rupees One Crore Fifteen Lakhs Fourteen thousand nine fifty-seven only) towards balance settlement amount has been duly paid and honoured today.

3. The Respondent has affixed her signature for acknowledgement of having received the entire sum of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs only) towards full and final settlement, and complete



satisfaction of all the payments agreed under the Mediation Settlement Agreement dated 26.03.2026, on her behalf as well as on behalf of Mr.Chetan Kothari, even though their son is not a party to the matrimonial proceedings, in full quits of all their claims, rights, interests, etc. past, present and future, in the person and properties of the Appellant/Petitioner. Consequently the MoU dated 21.03.2026 entered during Mediation between the parties is modified and fully complied vide this Memo of Compliance.

It is therefore prayed that this Hon'ble Court be pleased to record this memo of compliance and pass appropriate Orders, allowing the present appeal in CMA No.369 of 2022 and granting dissolution of marriage between the Appellant/Petitioner and the Respondent/Respondent, as prayed for, and pass such further and other orders and as necessary in the interest of justice.

Dated at Chennai on this the 26th day of March,2026."

12. A perusal of the records shows that during evidence, it had been admitted that the respondent had been sleeping in the sofa in the hall for three years. When it is stated that she was sleeping in the sofa for three years, it would indicate that the respondent had been residing separately and there was no conjugal relationship between the parties. It is also to be seen that a police complaint had been lodged in the year 2019 by the respondent against the appellant before Flower Bazaar Police Station, Chennai. In the complaint, she had alleged that the appellant had not given any money to her and the children. Immediately thereafter, the petition had been filed seeking divorce in



June, 2019. This lodging of police complaint without any basis would have caused sufficient mental cruelty and harassment to the appellant.

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13. Considering all these factors into consideration, we hold that the learned trial Judge had not properly appreciated the evidence, wherein the respondent had admitted that she stayed away from the appellant and also that she had lodged a police complaint against the appellant, which forced the appellant to face an enquiry before the police. All these facts, taken as a whole, would amount to acts of cruelty.

14. Parties are also present in the Court and we have interacted with the respondent about the terms of the settlement, with which she is in agreement.

15. In view of these facts, we set aside the judgment and decree of the trial Court. This Civil Miscellaneous Appeal is allowed. No costs. The marriage between the appellant and the respondent solemnised on 29.02.2001 stands dissolved.

(C.V.K.,J.) (K.R.S.,J.)
26-03-2026

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

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To

Family Court,
Thiruvannamalai.



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

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