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CMSA. No.5 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2026

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THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

CMSA.No.5 of 2025

and

CMP.No.4928 of 2025

S.Shanmugam
S/o.K.Sundaram

... Appellant

Vs

A.Nathiya
W/o.S.Shanmugam

... Respondent

PRAYER: Civil Miscellaneous Second Appeal filed Under Section 100 of the Code of Civil Procedure, against the Judgment and decree dated 22.11.2024 passed in CMA.No.1 of 2023, on the file of the II Additional District Judge, Tiruchengode, confirming the decree and the judgement dated 26.10.2022 rendered in HMOP.No.151 of 2014, on the file of the Subordinate Judge, Tiruchengode, by allowing this Civil Miscellaneous Second Appeal.

For Appellant : M/s.G.Sumitra

For Respondent : Mr.Palanisamy



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JUDGEMENT

The appellants have filed this Second Appeal against the judgment and decree dated 22.11.2024 passed in CMA.No.1 of 2023, on the file of the II Additional District Judge, Tiruchengode, confirming the decree and the judgement dated 26.10.2022 rendered in HMOP.No.151 of 2014, on the file of the Subordinate Judge, Tiruchengode.

2. For the sake of convenience, the parties are referred to as ‘husband’ and ‘wife’.

3. Challenging the findings of the Courts below, the appellant/husband has preferred the present appeal. Before the trial Court, the appellant/husband filed H.M.O.P. No.151 of 2014 seeking a decree of divorce on the ground of cruelty under Section 13(1)(ia) of the Hindu Marriage Act against the respondent/wife. The said petition was contested by the respondent/wife by filing a counter statement, and both parties adduced oral and documentary evidence before the trial Court. Upon



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consideration of the evidence and documents, the learned trial Judge held that the petitioner/husband had failed to prove the allegation of cruelty on the part of the respondent/wife and accordingly dismissed the petition.

4. Challenging the said findings, the appellant/husband preferred C.M.A. No.1 of 2023 before the II Additional District Judge, Tiruchencode. The First Appellate Court, after analysing the evidence on record, concluded that the reasons assigned by the petitioner were not sufficient to hold that the conduct of the respondent caused mental suffering to the petitioner beyond bearable limits. Accordingly, the appeal was dismissed, confirming the findings of the trial Court. Aggrieved by the concurrent findings of the Courts below, the appellant/husband has preferred the present appeal.

5. The learned counsel for the appellant submits that the Courts below failed to consider the fact that psychotherapy counselling suggested by the employer of the appellant could not be continued solely due to the adamant attitude and refusal on the part of the respondent. This clearly demonstrates that the respondent was not willing to mend her ways or adjust to the realities of life with the appellant, which resulted in irreconcilable

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differences between the spouses. When the cause of action for filing the petition was based on cruelty arising out of a false complaint lodged before the All Women Police Station, the failure of the Courts below to even consider the same as an instance of cruelty is perverse. He further submits that the Courts below failed to properly appreciate the fact of unnecessary and persistent quarrels initiated by the respondent on all occasions. The same is evident from Exhibit P5, the Counsellor's report. However, the Courts below, on misplaced sympathies, concluded that quarreling by the wife cannot be a ground for granting divorce, completely overlooking the mental cruelty suffered by the appellant due to such continuous quarrels.

6. The learned counsel for the appellant would also point out that the Courts below failed to consider the attitude and conduct of the respondent, who constantly threatened the appellant that she would commit suicide by jumping into a well or by exploding herself using an LPG cylinder. She also inflicted injuries upon herself using sharp objects and knives. This behaviour indicates a serious psychological issue, and the efforts taken by the appellant to address and cure the same were abruptly terminated due to the non-cooperation of the respondent, as evidenced by Exhibit P5.



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Continuation of such conduct by the respondent clearly amounts to mental agony and harassment caused to the appellant. Further, it is submitted that the Courts below failed to consider that the dispute between the appellant and the respondent is purely personal in nature, hinging upon private issues between the spouses. Expecting third-party evidence in such matrimonial disputes is highly impractical, and therefore, the evidence of P.W.1 and P.W.2 ought not to have been brushed aside lightly.

7. The learned counsel for the appellant further submits that the Courts below, by relying upon Exhibit B5, erroneously concluded that there was no proof of the respondent having psychological issues. In fact, the respondent refused to cooperate during cross-examination, which itself demonstrates her unwillingness to maintain compatibility and lead a happy marital life with the appellant. Despite these aspects, the decree of divorce was not granted to the petitioner, which is illegal and the findings are liable to be set aside. He also submits that the lower appellate Court failed to consider the fact that the appellant had lodged a complaint on 31.07.2014 due to unbearable harassment caused by the respondent. The same was ignored, and the Courts below erroneously held that there was no

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convincing evidence on the side of the appellant to prove mental cruelty.

Such findings are perverse and liable to be set aside.

8. The learned trial Judge observed that the dates and events were not specifically pleaded. However, in a domestic matter, it is impossible to remember and narrate every minute detail. Even otherwise, the refusal to grant a decree of divorce is totally unwarranted and illegal, especially when the respondent had gone to the extent of filing a false case against the appellant. In such circumstances, it would not be conducive for the appellant to live with the respondent, and this crucial aspect has been completely overlooked by the Courts below. He further pointed out that the respondent/wife had not taken any steps towards reunion. Though she expressed before this Court that she was willing for reunion, the same clearly lacks bona fide intention. Therefore, the appeal is admitted on the following substantial questions of law:

“A. Whether the lower appellate Court is justified in dismissing the C.M.A. on the ground of lack of cogency in narration of events and absence of specific details to establish the emotional harm suffered by the appellant at the hands of the respondent?”



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B. Whether the Courts below were justified in denying a decree of divorce to the appellant even after he had established acts of cruelty committed by the respondent?"

9. The learned counsel for the respondent submitted reply that the respondent is a graduate and that the marriage between the appellant and the respondent was an arranged marriage held on 12.06.2013. Thereafter, the couple commenced their matrimonial life at Chennai, where the appellant was employed. The respondent discharged her duties as a dutiful wife. However, the petitioner consistently demanded dowry and compelled her to obtain money from her parents. Upon her refusal, he subjected her to ill-treatment. Owing to such harassment, the respondent lodged a complaint before the All Women Police Station, Tambaram, seeking resolution of the issues. It later came to her knowledge that the petitioner had filed a complaint before the Legal Services Authority, Salem. The police advised the parties to settle the dispute. Within a short span of time, the petitioner drove the respondent out of the matrimonial home without any valid reason and subsequently vacated the house at Tambaram. Therefore, the respondent lodged another complaint before the Tambaram Police Station. Thereafter,



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the petitioner was not inclined for reunion, though the respondent always expressed her willingness and intention to live with him. Having no other option, she continued her studies. The petitioner paid interim maintenance of Rs.12,000/-. Subsequently, based on false allegations, the petitioner came forward with the petition for divorce.

10. The learned counsel for the responded further contended that the petitioner falsely alleged that the respondent was suffering from split personality disorder and that she mentally harassed him, due to which he suffered mental agony. These allegations were made without any material evidence. In fact, the respondent is hale and healthy, a double graduate, and does not suffer from any psychological disorder. The petition for divorce was filed only with an intention to dissolve the marriage on false grounds. The Courts below rightly appreciated these facts and dismissed the petition, which does not warrant any interference. Hence, the respondent prayed for dismissal of the appeal as devoid of merit.

11. The facts of the case reveal that the petitioner and the respondent were married on 12.06.2013 at Arulmigu Arthanareeswarar Thirukoil,



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Tiruchengode, and the marriage was an arranged one. At the time of marriage, the petitioner was employed at Chennai, and therefore, the couple commenced their matrimonial life at Tambaram. Out of the wedlock, they have no children.

12. According to the petitioner, immediately after the marriage, the respondent frequently quarrelled with him over trivial matters, due to which he was unable to concentrate on his work. His superiors advised him to undergo counselling along with his wife. Accordingly, both attended counselling on 21.08.2013, however, the respondent did not cooperate, and therefore, the counselling could not be completed. The counsellor's report to that effect was marked as Exhibit B5.

13. A perusal of Exhibit B5 reveals that within two months of marriage, both parties attended counselling sessions before a psychologist / cognitive behavioural therapist, wherein five sessions were suggested. During the sessions, both parties expressed that they had several differences leading to conflicts. They were advised to attend short-term counselling sessions regularly. However, the second session was attended only after a

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gap of ten months, and thereafter, the respondent refused to continue counselling, leading to discontinuation of the sessions.

14. As per Exhibit P5, the counselling report shows that within two months of married life, both parties attended therapy sessions and expressed mutual conflicts. The evidence of P.W.1 further reveals that even prior to counselling, the respondent had lodged a complaint before the All Women Police Station, Tambaram, on 01.08.2014.

15. There was also a dispute regarding nomination in the insurance policy. After the marriage, the respondent's father passed away, and she stayed at her mother's house. During that time, she contacted her father-in-law, P.W.2, and spoke angrily, threatening to commit suicide. Apprehending danger, P.W.2 immediately went to the respondent's parental home, where she behaved aggressively and refused to speak with him. He further emerges that prior to the marriage, the petitioner had taken an insurance policy nominating his father and sister. Upon learning this, the respondent insisted that their names be removed and that she be appointed as nominee. To resolve the issue, the petitioner took another policy for Rs.50,000/- and

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nominated the respondent. The policy document was handed over to the respondent at her parental home by P.W.2. Thereafter, the respondent agreed to rejoin the petitioner and resumed matrimonial life at Chennai.

16. Though certain facts were denied by the respondent during cross-examination, she did not deny that the petitioner had taken an insurance policy in her name. Within one year of marriage, the respondent again lodged a complaint before the All Women Police Station, Tambaram, pursuant to which the petitioner obtained anticipatory bail. The petitioner also approached the Legal Services Authority, Salem, which reflects that misunderstandings had arisen between the parties within one year of marriage, resulting in mutual complaints.

17. Before the Legal Services Authority, both parties appeared and were advised to undergo family counselling. According to the petitioner, the respondent did not cooperate. The petitioner further stated that the respondent threatened to commit suicide, which caused him severe mental depression. He also alleged that the respondent suffered from psychological issues, but she refused to cooperate for counselling and therapy.

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18. Before the Courts below, the petitioner produced Exhibits P1 to

P11. Exhibit P7 establishes that the insurance policy was taken in the respondent's name. Exhibits P10 reveal that the petitioner obtained anticipatory bail based on the complaint lodged by the respondent against him and his family members.

19. At the time of marriage, the petitioner was about 35 years old and the respondent was about 29 years old. Both were mature individuals. However, the evidence reveals that there was no love, affection, or compatibility between them, which are essential ingredients for a successful matrimonial life. The facts clearly establish that the marital relationship had irretrievably broken down.

20. When this Court directed the parties to appear, the respondent appeared in person, whereas the petitioner appeared through video conferencing as he is employed abroad. It is not in dispute that the parties have been living separately for nearly ten years. When this Court enquired with the respondent, though she expressed willingness for reunion, she had not taken any concrete steps towards reconciliation. On the contrary, she

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repeatedly reiterated past events. The attitude of the respondent clearly indicates that she is not emotionally stable and requires counselling to adapt to day-to-day life. However, the Courts below failed to take into consideration the conduct of the respondent, particularly her refusal to cooperate in the counselling sessions.

21. At the earliest stage of the marriage itself, the events narrated by the petitioner reveal that the respondent frequently quarrelled with him over routine family matters. Without heeding the advice of elders, she lodged a complaint before the Tambaram Police Station within three months of the marriage. This conduct was not properly appreciated by the Courts below.

22. The petitioner contended that the complaint was lodged by the respondent in a fit of anger. Though the respondent denied the same, the evidence on record shows that she repeatedly quarrelled with the petitioner and subjected him to ill-treatment. Cruelty need not always be established by specific overt acts, it can also be inferred from consistent patterns of conduct. A continuous course of irrational behaviour, when viewed cumulatively, can amount to cruelty.



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23. The facts and circumstances further establish that within a short span of marriage, the respondent insisted upon removal of the names of the petitioner's father and sister as nominees in the LIC policy. To pacify her, the petitioner took another insurance policy in her name. When P.W.2, the father-in-law, attempted to mediate and resolve the issue, the respondent treated him disrespectfully and refused to accept any compromise. Within two months of marriage, both parties attended counselling sessions. Thereafter, during the second session, the respondent refused to cooperate, resulting in discontinuation of the counselling. This clearly indicates persistent conflicts of opinion requiring professional intervention, which the respondent was unwilling to accept. The petitioner has thus established that from the very inception of marriage, the respondent subjected him to harassment.

24. Mental cruelty includes conduct of such a nature that makes it impossible for one spouse to live with the other. It may take various forms, including constant humiliation, verbal abuse, harassment, neglect, threats, or persistent indifference to the well-being of the other spouse.



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25. In the present case, the parties never lived a peaceful marital life.

Within two months of marriage, they attended counselling sessions wherein they expressed serious conflicts of opinion. Further counselling was required, but the respondent refused to cooperate. Her continued conduct caused reasonable apprehension in the mind of the petitioner that it would be harmful to continue the matrimonial relationship. Consequently, the petitioner approached the Court seeking divorce on the ground of mental cruelty. The events and circumstances narrated by the petitioner sufficiently establish that he was subjected to mental harassment by the respondent. However, the Courts below failed to properly appreciate the facts and evidence on record.

26. As rightly pointed out by the learned counsel for the petitioner, the counselling report marked as Exhibit P5 was not properly appreciated by the Courts below. Despite sufficient reasons being placed on record, the Courts below erroneously concluded that the petitioner failed to establish mental cruelty. Such findings are perverse and illegal. The evidence of P.W.2 also reveals that there was no cordial relationship between the

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husband and wife. It is also an admitted fact that the parties have been living separately for nearly ten years and that no children were born out of the wedlock.

27. Due to prolonged separation, the matrimonial relationship between the petitioner and the respondent has irretrievably broken down. There is no love or affection between the parties, and without these essential elements, continuation of the matrimonial relationship is impossible. Therefore, the reasons assigned by the petitioner clearly establish that he suffered at the hands of the respondent and is entitled to a decree of divorce as prayed for.

28. During the course of arguments and enquiry before this Court, the respondent demanded more than one crore rupees as permanent alimony. It was brought to the notice of this Court that the petitioner's father owns only about three acres of land. Similarly, the respondent's father owns around three acres, and it was admitted during cross-examination that her family owns approximately seven acres in total. It is also not in dispute that the petitioner has already been paying interim maintenance to the respondent. It

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is brought to the knowledge of Court that respondent possessed 13

Sovereign of gold given by petitioner and same also not been denied.

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29. Considering the assets and liabilities placed on record, it is seen that the petitioner was employed in Canada and earning approximately Rs.1,00,000/- per month. His visa expired on 02.09.2025, and he is required to return to India and take care of his aged parents. It is further evident that the petitioner began his career as a diploma holder, earning a modest income, later continued his education and obtained a B.B.A. degree. At the time of his early employment, his father owned only about 3.5 acres of land, and through agricultural income, the family progressed. Thereafter, the petitioner secured employment in a company, got married, and subsequently went abroad for employment now came down to India as no Job work. Respondent also employed in educational institution being Post Graduate.

30. Considering all these factors, the petitioner is directed to pay a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) as permanent alimony to the respondent, either by way of demand draft or by deposit to the credit of H.M.O.P. No.151 of 2014 on the file of the Subordinate Court,

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Tiruchengode, within a period of three months from the date of receipt of a copy of this order.

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31. Accordingly, this Civil Miscellaneous Second Appeal is **allowed**.

Consequently, Connected miscellaneous petition is closed. There shall be no order as to costs.

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Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non Speaking order

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To

1. The II Additional District Judge, Tiruchengode.
2. The Subordinate Judge, Tiruchengode.
3. The Section Officer, VR Section, High Court of Madras.

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T.V.THAMILSELVI, J.

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