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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA Nos.2072 of 2018 and 2821 of 2015

In C.M.A.No.2072 of 2018

KS.Vetrivel

..Appellant(s)

Vs

V.E.Maya

..Respondent(s)

This Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Acts, to set aside the judgement and decree, dated 08.09.2015, made in H.M.O.P.No.465 of 2014 on the file of the Family Court, Erode.

For Appellant(s): Mr.Vikram Veerasamy

For Respondent(s): Mr.M.Mohammed Riyaz

In C.M.A.No.2821 of 2015

V.E.Maya

..Appellant(s)

Vs

K.S.Vetrivel

..Respondent(s)

This Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Acts, to set aside the judgement and decree, dated 08.09.2015, made in



H.M.O.P.No.465 of 2014 (originally H.M.O.P.No.469 of 2010, Family Court, Coimbatore) on the file of the Family Court, Erode.

For Appellant(s): Mr.M.Mohammed Riyaz

For Respondent(s): Mr.Vikram Veerasamy

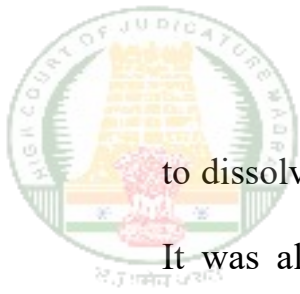
COMMON JUDGMENT

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

C.M.A.No.2072 of 2018 has been filed by the husband questioning judgment and decree of the Family Court, Erode, in M.O.P.No.465 of 2014, by which judgment and decree, judicial separation has been granted, whereas the relief sought was dissolution of marriage.

C.M.A.No.2821 of 2015 has been filed by the wife, who had questioned the grant of judicial separation in the judgment and decree in M.O.P.No.465 of 2014 on the file of the Family Court, Erode.

2. These appeals had been earlier heard by a Co-ordinate Division Bench of this Court and the judgment and decree of the Family Court, Erode, had been confirmed. However, the wife/appellant in C.M.A.No.2821 of 2015 had filed S.L.P(Civil) Nos.11761-11762 of 2022 before the Hon'ble Supreme Court and by an order dated 11.09.2023, the appeals were disposed of, wherein the Hon'ble Supreme Court observed that the High Court had committed an error of law by relying on the principle of irretrievable breakdown of marriage



to dissolve the marriage between the parties in a contested divorce proceedings.

It was also observed that the High Court had not given any finding on the allegations of cruelty on the part of the wife, on which the Family Court had come to a specific conclusion. Holding as above, the Hon'ble Supreme Court had set aside the judgment of the High Court and remanded the appeals to the High Court for fresh hearing.

3. We have heard Mr.M.Mohamed Riyaz, learned counsel appearing for the wife/appellant in C.M.A.No.2821 of 2015 and Mr.Vikram Veerasamy, learned counsel appearing for the husband/appellant in C.M.A.No.2072 of 2018.

4. Since the array of parties interchange in the two appeals, the appellant in C.M.A.No.2072 of 2018, who is the respondent in C.M.A.No.2821 of 2015 shall be called the husband and the appellant in C.M.A.No.2821 of 2015, who is the respondent in C.M.A.No.2072 of 2018 shall be called the wife.

5. It contended by the learned counsel for the wife that the marriage between the parties had taken place on 27.08.2007 in Chennimalai Temple and thereafter, a reception was held at Erode and another reception was held at Pollachi on 28.08.2007. The marriage had been performed as per Hindu rites and customs. It was an arranged marriage. It is further contended that the parties herein had lived happily thereafter.



6. The learned counsel further contended that the husband thereafter filed H.M.O.P.No.469 of 2010 on file of the Family Court, Coimbatore, which was later transferred to the Family Court, Erode and renumbered as H.M.O.P.No.465 of 2014, seeking dissolution of marriage on the ground of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act 1955. In the said petition, it had been contended that the wife had continuously treated the husband with cruelty. It had been stated that she had refused to perform her conjugal duties. It had been further contended that, however, a male child was born, but the attitude of the wife did not change. It had been further stated that they proceeded to the residence of the wife by car and when they were nearing Pollachi Town, Palladam Road, near New Scheme Road Junction, before a Vinayaga Temple, the wife jumped out of the car along with the child and went to an auto where her father and others were waiting.

7. It had been further contended in the petition that he tried to locate her at various places but could not find her. It was then found that she had lodged a complaint stating that her family had given 500 sovereigns of gold and a Honda car and that there was demand of dowry of Rs.2/- crores. It was contended that he was left with no option but to seek dissolution of marriage.

8. A counter had been filed denying and disputing all these contentions. It had been reiterated that during the marriage, sufficient cash, gold



jewellery and a Honda car had been given as dowry. It was further contended that there was a quarrel between the husband and father of the wife, consequent to which, the two of them (husband and wife) moved out of the matrimonial home and thereafter, a male child was born on 12.08.2008. It was stated that on 24.06.2009, the husband again demanded a huge amount on the pretext that he wanted to start a mattress manufacturing unit at Pollachi and there were quarrels relating to such demands.

9. On 30.07.2009, when the wife, along with the child, was travelling from Chinnampalayam residence to Mahalingapuram residence at aboutt 7.30 p.m., she was forced out of the car along with the child. The husband simply deserted her and drove the car away. It was further contended that she had never acted with cruelty or inflicted any mental or physical cruelty and that she had not deserted the matrimonial house.

10. On the basis of the aforesaid pleadings, the Family Court, Erode, proceeded to invite both the parties to tender evidence. During trial, both examined themselves as P.W.1 and R.W.1 respectively. On the side of the husband, Exs.P1 to P5 were marked. Ex.P3 is the copy of the first information report, Ex.P4 is the copy of the charge sheet. On the side of the wife, Exs.R1 to R8 were marked. Exs.R.1 and R2 are the copies of the medical receipts issued



by K.G.Hospital and Ex.R.3 is the copy of the scan report. Ex.R6 is the copy of the complaint given by her and Ex.R7 is the copy of the complaint given by the husband.

11. On the basis of the evidence adduced, the documents presented and the pleadings of both parties, the Family Court, Erode, held that acts of cruelty had been made out and proceeded to grant judicial separation rather than dissolution of marriage. This constrained both parties to file two separate appeals, which are now before this Court.

12. During trial, the husband was examined as P.W.1. He again contended that the wife had acted with cruelty and had not performed her marital duties and though a child was born, she did not mend her ways and that while they were travelling by car to her residence, she jumped out of the car along with the child and thereafter, did not rejoin him in matrimonial life.

13. In her evidence as R.W.1, the wife denied and disputed these contentions. As a matter of fact, she stated that he had also lodged a criminal complaint against her. It had been further contended that she did not jump out of the car as alleged but was dropped in the middle of the road along with the child and deserted and the husband had driven the car away. She expressed her intention to reside with him and to continue matrimonial life.



14. The learned counsel for the husband insisted that the judgment of the trial Court has to be modified from judicial separation to dissolution of marriage. He argues that the wife had lodged a complaint for offences punishable under Sections 498A and 506(i) of IPC and under Section 4 of the Tamil Nadu Dowry Prohibition Act. It had been contended that after trial, the husband had been acquitted, which acquittal was also confirmed in the appeal.

15. The main ground on which dissolution of marriage was sought was that the wife had lodged a false complaint alleging demand of dowry and cruelty and had also deserted the matrimonial home by jumping out of the car when she was travelling along with her child and not returning back to the matrimonial house.

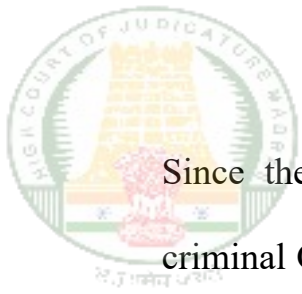
16. For her part, it was alleged by the wife that the husband had also lodged a complaint against her. It was observed by the trial Court while examining the issue of demand of dowry that there could have been a demand for the purpose of business and at the same time, it could also be possible that a sum of Rs.2/- crores was demanded as dowry, but there was no independent evidence supporting such demand. The prosecution witnesses, who were examined to speak about the dowry, had not spoken about the demand.



17. This conclusion of the criminal Court, which forms the pith of the arguments before this Court, since the husband had been acquitted, is not helpful to either party. It only strengthens the inference that the husband had demanded money either for advancement of his business or as dowry. It is also to be noted that in view of the absence of corroboration for such demand, he had been acquitted of all charges and such acquittal had also been confirmed by the appellate Court.

18. The other aspect regarding whether the wife had jumped out of the car or was dropped from the car is again a fact which could not be established by either side. There are two different versions for the said incident. There also contradictory statements given by the husband in the complaint before the police. It was stated that, they had gone to her place and on the way back, she had got down from the car and had lodged a complaint before the All Women Police Station.

19. We are deeply conscious of the fact that both of them are blessed with a male child. The allegations of cruelty mainly relates to the lodging of complaints. The other aspect within the family are scratches which happen in every family. It cannot be said to have severed the relationship to such an extent that they cannot live together and move on with their life together. The two allegations of demand for dowry and jumping out of the car can neither be proved nor disproves. There are two different versions for both the allegations.



Since the demand had not been proved in the manner known to law, the criminal Court had acquitted the husband. At the same time, an opinion had also been expressed that the demand was made only for starting his business and not as dowry. It is only a normal expectation that when the husband begins a business, the family of the wife also supports him financially or otherwise. This can never be termed as resistance to extending financial support. Lodging a complaint when there is a demand for such financial support can never be termed as an act of cruelty.

20. It is also to be noted that on each and every issue, contradictory versions have been given by both the parties, particularly by the husband. Mental cruelty or physical cruelty should be continuous from the date of the marriage or should have commenced on a particular day and continued till the date of filing of the petition. Sporadic instances of complaints or acts of cruelty cannot be a ground to dissolve the marriage. The allegation of cruelty are not made out and even the trial Court had examined only these two allegations and had come to a conclusion that cruelty had not been made out warranting dissolution of marriage.

21. Even in his evidence, the husband had only stated that on 30.07.2009, while travelling by car, she had jumped out with the child. There is



a conflicting version he dropped her. We hold it is not possible for a lady with a child of less than one year to jump out from the car without suffering injuries, particularly while the car is driven in a highway. Even otherwise, it only shows frustration on her part and certainly cannot be termed as an act of cruelty. It would only be a momentary expression of frustration. We are not inclined to hold that incident as an act of cruelty serious enough to dissolve the marriage.

22. In view of the above stated reasons, we set aside the judgment and decree of the trial Court dated 08.09.2015 passed in H.M.O.P.No.465 of 2014 and accordingly, C.M.A.No.2821 of 2015 stands allowed and C.M.A.No.2072 of 2018 stands dismissed. No costs.

(C.V.K.,J.) (K.R.S.,J.)
09-04-2026

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

VKR

To

1.The Judge, Family Court, Erode.



WEB COPY

CMA Nos. 2072 of 2018 & 2821 of 2



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

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