



C.M.A.No.964 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2026

CORAM

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.No.964 of 2026

N.Anandh

... Appellant

VS

A.Gayathri

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act, 1955 to modify the fair and decretal order dated 09.09.2025 passed in H.M.O.P.No.388 of 2021 on the file of Additional Principal Family Judge, Coimbatore by granting divorce in favour of the appellant on the ground of adultery under Section 13(1)(i) of the Hindu Marriage Act, 1955.

For Appellant : Mr.K.Balasubramaniam

JUDGMENT

[Judgment of the Court was delivered by **C.V. KARTHIKEYAN, J**]

The respondent in H.M.O.P.No.388 of 2021 on the file of Family Court, Coimbatore, who is aggrieved by the judgment and decree dated 09.09.2025, is the appellant herein.



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2. The said petition in H.M.O.P.No.388 of 2021 had been filed by the respondent herein /wife seeking dissolution of marriage solemnized between her and the appellant herein on 14.02.2020 on the ground of cruelty / Section 13(1)(i-a) of the Hindu Marriage Act, 1955.

3. The appellant herein had filed a petition in H.M.O.P.No.1132 of 2022 under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights.

4. Both the petitions were taken up for joint trial and common judgment was pronounced on 09.09.2025, allowing H.M.O.P.No.388 of 2021 thereby granting dissolution of marriage under the ground of cruelty and dismissing H.M.O.P.No.1132 of 2022 which was the petition under Section 9 of the Act by the appellant herein.

5. In the judgment, the learned trial Judge had held that the appellant herein used to consume alcohol and assault the respondent. They admittedly



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resided in separate houses after few days of marriage. It was also stated that

the appellant herein initially did coconut business and since it was not profitable, converted into fish business, which was also closed. He then commenced working as an acting driver. It had been further held that the respondent produced a police complaint lodged with the All Women Police Station, Thudiyalur as Ex.P5. An enquiry was also conducted by the police authorities. Thereafter, the respondent had filed a petition seeking divorce. It is to be noted that the police complaint had been lodged within 8 months of marriage. It was also found that both the parties were not able to lead the life peacefully. Finally, holding that the respondent herein had made out sufficient grounds for cruelty, dissolution of marriage was granted on such grounds. Simultaneously, the petition filed by the appellant herein seeking restitution of conjugal rights was dismissed.

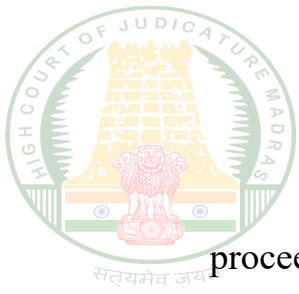
6. In this appeal, the relief sought is to modify the ground granted for dissolution of marriage from cruelty viz., Section 13(1)(i-a) of Hindu Marriage Act to Section 13(1)(i) / ground of adultery.



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7. It is contended by the learned counsel for the appellant that in her evidence, the respondent had stated that she had relationship with one named individual and that a child was also born. It is further contended that the trial Court should have taken note of this particular statement made during trial and should have automatically converted the petition into one under Section 13(1)(i) and should have proceeded to adjudicate the issue for grant of dissolution of marriage on the ground of adultery.

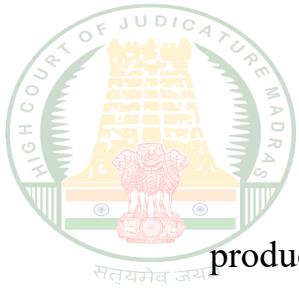
8. Even at the time of admission, we were inclined to dismiss the appeal on the ground that the appellant herein had not taken any steps either to implead the named individual and to continue the proceedings under Section 13(1)(i) of the Act or even to seek that relief in the counter filed by him. He cannot now place the blame on the Court for not having taken note of such evidence and granting dissolution of marriage. Section 13(1)(i) makes it very clear that the named adulterer should be made a party and the circumstances for that particular allegation should be examined and opportunity must be given to all parties, including the adulterer, to refute such an allegation. In this case, the named adulterer was not a party to the



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proceedings. It could also be further inferred that the appellant had condoned the said act. It can never be presumed that the respondent herein was living in adultery on the basis of a stray evidence tendered during the course of trial. The civil Court, being bound the laws of pleadings and evidence, cannot modify the ground under which the dissolution of marriage was sought. The appellant had not taken any steps whatsoever and the Court can travel only within the narrow confines of pleadings and evidence. The appellant had not taken any steps whatsoever to press the ground of adultery. On the other hand, the respondent had established the ground of cruelty and on that basis, the trial Court had granted dissolution of marriage.

9. We also note from the judgment that the trial court had noted that there had been irretrievable break down of marriage. We are constrained to point out that the same cannot be a ground for grant of dissolution of marriage since it is not enacted in the Statute, but however since the ground of cruelty has been made out, the trial Court had granted dissolution of marriage on such ground. We are afraid that we cannot modify the ground for dissolution of marriage without any pleadings and without any material



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produced either before the trial Court or before this Court.

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We are not inclined to admit the appeal and the appeal is dismissed.

There shall be no order as to costs.

[C.V.K., J]

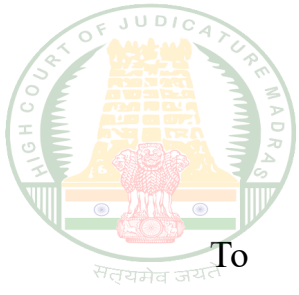
[K.R.S., J]

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Index: Yes/No

Neutral Citation: Yes/No

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To

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1. The Additional Principal Family Judge
Coimbatore
2. The Section Officer, VR Section,
Madras High Court



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C.V. KARTHIKEYAN, J

and

K.RAJASEKAR, J

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