



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-03-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No. 494 of 2018

and

CMP No.4416 of 2018

Mohanapriya

..Appellant(s)

Vs

Sivakumar

..Respondent(s)

Appeal filed under Section 19(1) of the Family Court Act, against the fair and final order passed by the Family Court, Erode in F.C.O.P.No.76 of 2016 dated 19.09.2017.

For Appellant(s): Mr.V.S.Kesavan

For Respondent(s): No appearnace

JUDGMENT

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

The appeal had been filed by the respondent in FCOP No.76 of 2016 on the file of the Family Court at Erode, aggrieved by the judgment dated 19.09.2017, by which judgment, the marriage between the appellant and the respondent, which was registered on 04.07.2011 in the office of the Sub-Registrar, Kodumudi, was dissolved.



2.The respondent herein / husband had preferred the said petition in FCOP No.76 of 2016 seeking dissolution of marriage on allegations of cruelty committed by the appellant herein. Accordingly to him, without any reason, alleging that he was cruel to her, she had lodged several police complaints against him. Further, owing to various medical issues, he had been admitted to hospital and she did not come over and visit him in the hospital. It had been contended all these acts had caused much mental harassment and agony to him, necessitating him to seek dissolution of the marriage.

3.The appellant herein, in her counter, had denied all these allegations. As a matter of fact, she had stated that she was willing to live with her husband and stated that the marriage actually remains intact and should not be dissolved.

4.The matter went to trial. During the course of trial, they both examined themselves as witnesses. On the side of the respondent herein, four documents were marked namely, the document relating to the marriage as Exs.P1 and P2, the Driving Licence of the respondent as Ex.P3 and the document relating to admission in the hospital as Ex.P4.

5.The learned trial Judge had listed out a string of judgments relating to desertion and had come to a conclusion that since the complaint had been



lodged against the respondent by the appellant in the police station and since the appellant did not visit the respondent when he was admitted to hospital, she had committed acts of cruelty and had dissolved the marriage.

6. Heard arguments advanced by Mr.V.S.Kesvan, learned counsel for the appellant.

7. The main crux of the case of the respondent was that the appellant had lodged police complaints without any basis. Unfortunately, a copy of those police complaints had not been produced as documents during the trial. The contention of the learned trial Judge that cruelty had been made out on the basis of such complaints and therefore cannot withstand the scrutiny of this Court as the complaints have not been produced and therefore the contents of the complaint are not known. This fact has to be read along with the statement made in the counter by the appellant that she was willing to stay with the appellant.

8. The other document which had been produced is Ex.P4, which is the hospital records of the respondent. But however, there is no indication that the appellant did not come over to meet him. It is a fact that he had been admitted to hospital. But admission in hospital would not amount to an act of cruelty by the appellant against the respondent.



9. We are also informed that subsequently, in CMP 134 of 2022 in MC No.11 of 2017 before the District Munsif Cum Judicial Magistrate, Kodumudi, the maintenance had also been paid to the appellant by the respondent wherein, she had also stated that they are both living together. Mr.V.S.Kesavan learned counsel for the appellant also affirmed that particular fact.

10. This would only indicate that both the parties have condoned the acts alleged against each other by them. Once the allegations are condoned and the marital relationship stands restored, it would only appropriate that the Court also affirms continuation of the marital relationship. As on date, there is no cause to press any issue relating to dissolution of marriage. We would therefore set aside the judgment dated 19.09.2017 in FCOP No.76 of 2016. Accordingly, the Appeal stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

(C.V.K.,J.) (K.R.S.,J.)
05-03-2026

smv

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



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To

- 1.The Family Court, Erode.
- 2.The Section Officer,
VR Section, Madras High Court.



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

smv

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