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C.M.A.No.606 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.12.2025

PRONOUNCED ON : 09.01.2026

CORAM :

THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN
and
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

C.M.A.No. 606 of 2018 and C.M.P. No.5305 of 2018

Sankari @ M.G. Angulakshmi

... Appellant

Vs.

S. Gokulakrishnan

... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act 1984, against the judgment and decree dated 19.06.2017 made in HMOP No.331 of 2015 on the file of the Family Court, Erode.

For Appellant : Mr. M. Guruprasad

For Respondent : Mr. K.S. Jayaganeshan

JUDGMENT

This instant appeal has been preferred by the appellant/wife against the final judgment and decree dated 19.06.2017 made in HMOP No.331 of 2015 on the file of the Family Court, Erode, wherein the Family Court, Erode, granted divorce in favour of the respondent/husband on the ground of cruelty.



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2. The brief facts leading to the instant appeal are that the marriage between the appellant / wife and respondent / husband was solemnised on 02.02.2006 according to the Hindu Rites and Ceremonies at Uthukuli, Tiruppur Taluk and District. The conflict ensued between the parties and the parties have been living separately since December 2014.

3. The respondent / husband preferred a divorce petition under Section 13(1) (i-a) of Hindu Marriage Act, 1955, vide HMOP No.331/2015, before the Family Court, Erode, seeking dissolution of marriage on the grounds of mental cruelty and threat of life on the petitioner and his mother. The grounds seeking divorce were that the appellant / wife used to develop quarrel everyday and did not permit respondent / husband even to touch his mother and thereby caused mental cruelty to the respondent / husband. Under these circumstances, the respondent / husband filed HMOP No.209/2012 before Sub Court, Erode, under Section 13(1) (i-a) (i-b) of Hindu marriage Act, which was transferred to the Family Court, Erode, and renumbered as HMOP No.75/2014. Thereafter, in pursuant to the mediations, they rejoined and the said HMOP No.75/2014 was not pressed.



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4. Few months later, the appellant / wife again started quarrelling with the husband and used filthy languages against him and his mother and also accused him of having illicit relationship with his mother. Her behaviour was abnormal and openly challenged her husband that she would kill him and his mother. On 24.09.2014, she deliberately picked up a quarrel with regard to the formalities in the tonsuring and ear piercing ceremony of their daughter at Kuladeivam temple and used filthy language against his mother, who was 65 years old. Hence, he was constrained to file the present HMOP No. 331/2015 on the grounds of mental cruelty and threat to life.

5. The divorce petition was contested by the wife who denied all the allegations and claimed that her parents at the time of marriage had given her jewels and household articles. She had denied all the allegations made in the divorce petition and that while leaving the matrimonial home she had left 69.500 gms of gold jewels and expressed her willingness to live along with her husband and prayed for dismissal of the divorce petition. The respondent's petition seeking for divorce on the ground of mental cruelty was allowed by the Family Court, Erode, vide order dated 19.06.2017.



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6. Aggrieved by this, the present appeal is preferred by the wife.

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7. The learned counsel for the appellant / wife strongly urged before this Court that, the ground on which the learned Family Court granted divorce is illegal and implausible and the same necessitates interference by this Court and that there is no acceptable and cogent evidence to substantiate that the husband suffered cruelty at the hands of the wife. It is further submitted that the husband failed to prove the allegations of cruelty against himself and his mother. Without proper appreciation of evidence on record, the learned Family Court Judge had granted divorce in a cavalier manner which is not tenable on law and facts. Hence, prayed for setting aside the judgment and decree dated 19.06.2017, made in HMOP No. 331/2015 on the file of the Family Court, Erode.

8. On the other hand, the learned counsel appearing for the respondent would submit that the parties are living separately from the year 2014, i.e., for more than 11 years and there has been a complete cessation of cohabitation and consortium, rendering the marriage defunct for all practical and legal purposes. The learned Family Court Judge, after appreciating the evidence on



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record, has rightly granted the decree of divorce which calls for any interference by this Court.

9. We have heard the learned counsel for the parties and perused the materials on record.

10. The husband had sought for divorce mainly on the ground of 'mental cruelty'. Recent judgments emphasize the subjective nature of 'cruelty' and the importance of a consistent pattern of behaviour. Courts acknowledge that what constitutes cruelty for a woman may differ from a man, requiring a broad and elastic approach in examination. It looks for a consistent pattern of behaviour causing emotional distress, not just occasional quarrels. 'Mental cruelty' is a significant factor. Sustained emotional torment, false allegations and loss of trust in the marital relationship can constitute mental cruelty. Further, mental cruelty refers to the infliction of emotional or psychological distress on one spouse by the other. It includes behavior or conduct that is of such a nature that it makes it impossible for a spouse to live with the other. Mental cruelty can take various forms, such as constant humiliation, verbal abuse, harassment, neglect, threats, or persistent indifference towards the well being



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of the other spouse. The concept of mental cruelty is subjective and depends on the facts and circumstances of each case. There is no exhaustive list of acts or behaviors that constitutes mental cruelty, as it can vary based on individual experiences and cultural contexts. It is important to note that the courts consider the cumulative effect of various acts and behaviors when determining mental cruelty. The severity, frequency, and duration of conduct are also taken into account. The spouse seeking divorce on the grounds of mental cruelty must provide evidence and demonstrate that the cruelty has reached the level where it has made the continuation of the marriage intolerable.

11. The outcome depends on whether the wife can effectively prove that the decision of the Family Court was erroneous. While each case is unique, recent judgments illustrate these principles. The Hon'ble Supreme Court in the case of *Amutha vs. A.R. Subramanian in Civil Appeal No.2643 of 2023*, in a case where a wife appealed a divorce decree, the Hon'ble Supreme Court upheld the divorce, agreeing that 'sustained emotional torment' and a pattern of behavior making cohabitation impossible, constituted cruelty.



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12. Ultimately, the decision to set aside a decree of divorce depends entirely on the appellate court's assessment of the evidence and whether the initial finding of cruelty was legally sound and factually supported. Even a few incidents can amount to mental cruelty if they are severe, cause significant emotional distress, and make living together impossible, but generally Courts look for a consistent pattern of behavior, not just normal marital disagreements. Actions like false accusations, severe humiliations, or persistent neglect can be grounds for divorce, depending on the specific circumstances and impact on the victim.

13. In the present case, the incidents narrated by the husband are only normal marital friction. Normal quarrels, jealousy or everyday disagreements are generally not considered mental cruelty. The conduct of the wife in the present case is not so grave that it causes reasonable apprehension of harm, making it unsafe or injurious to live with the husband. There is no acceptable and cogent evidence to demonstrate that the husband suffered cruelty at the hands of the wife. The husband failed to provide sufficient evidence to show that the wife was engaged in a pattern of behavior that caused him immense mental and emotional distress. The evidence on record suggests that the



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action of the wife are only isolated incidents.

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14. But, the main consideration which has weighed heavily with this Court while considering the rival contentions is that, the parties have been living separately since December 2014, i.e., almost for the past 11 years. It has been consistently held by the Hon'ble Apex Court and this Court that, the institution of marriage is rooted in dignity, mutual respect and shared companionship, and when these foundational aspects are irreparably lost, forcing a couple to remain legally bound serves no beneficial purpose. In the present case, it is apparent that due to complete detachment and the prolonged estrangement, there has been an irretrievable break down of the marital bond, which cannot be mended by any means. The length of separation and the evident animosity between the parties make it clear that there is no possibility of the marriage being revived. Therefore, forcing the parties to remain together serves no purpose and only prolongs their misery. The appellant/wife and the respondent/husband have been embroiled in legal disputes for years, with no signs of reconciliation. The husband has expressed his desire to move on with his life, while the wife, despite her assertions to the contrary, has failed to demonstrate any genuine willingness to repair the relationship. As held by the



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Hon'ble Supreme Court in *Ashok Hurra vs. Rupa Bipin Zaveri* reported in (1997) 4 SCC 226 and *Shilpa Sailesh vs, Varun Sreenivasan* reported in (2022) 15 SCC 754, prolonging a dead marriage serves no interest and only perpetuates the agony of the parties involved.

15. In view of the above, this Court upholds the judgment of the Family Court, granting a decree of divorce to the respondent/husband.

16. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The judgment and decree dated 19.06.2017 made in HMOP No.331 of 2015 on the file of the Family Court, Erode, is upheld. Consequently, connected miscellaneous petition is closed.

[C.V.K., J]

[K.G.T., J]

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Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order

9/11



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



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**C.V. KARTHIKEYAN, J.
and
K.GOVINDARAJAN THILAKAVADI, J.**

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Pre-delivery Judgment in

C.M.A.No. 606 of 2018

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