



WEB COPY

AS No. 1226 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-03-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

AS No. 1226 of 2025

Ayisha Parveen

..Appellant

Vs

Abdul Kaleel

..Respondent

Appeal Suit filed under Section 96 of CPC read with Section 19 of Family Courts Act seeking to set aside the dismissal order in O.S.No.51/2022 dated 27.11.2024 on the file of the VI Additional Family Court, Chennai

For Appellant:

Mr.J.P.Rajesh

For Respondent:

Mr.J.Pravin for
Mr.P.Jesus Moris Ravi

JUDGMENT

(Judgment of the Court was delivered by K.Rajasekar J.)

Unsuccessful plaintiff before the Trial Court is the appellant herein.

2. The plaintiff had approached the VI Additional Family Court seeking dissolution of marriage that had taken place between the appellant and the respondent on 05.08.1996 as per Muslim Law.



3. Though the appellant had participated in the matrimonial life with dedication, the respondent husband had shown indifference with her and started harassing her and also physically attacked her. Unable to bear the same, she had lodged a police complaint and an enquiry was also conducted by the Inspector of Police, Thiruvannamipur under CSR No.455/2021 dated 24.06.2021. During the enquiry, the respondent was severely warned and advised by the police not to harass the appellant. However, the respondent continued the harassment and unable to bear the same, the appellant was forced to leave the matrimonial home and issued legal notice dated 22.06.2021. It was also replied by the respondent alleging that the accusation made against him are false and he had not harassed her and thereafter, the appellant had filed the suit for dissolution of marriage.

4. The defendant/respondent had filed written statement before the Trial Court and contended that he was diligent in the matrimonial life and he had handed over all his income to the appellant, however, the appellant had obtained various credit cards and misusing the same, spent money for her father and started harassing the respondent. Further, the appellant used to lodge various police complaints to avoid further litigation against her. The respondent had several times advised the appellant to live peacefully with him, however, she had not changed her attitude and started threatening him.

5. The Trial Court, framed an issue as to whether the plaintiff is entitled to the relief on the ground of cruelty as sought for. Before the Trial Court, the

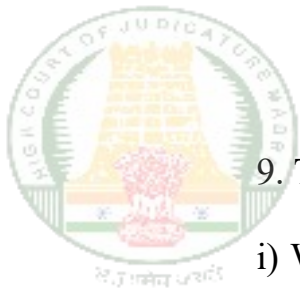


appellant examined herself as PW1 and marked Exs.A1 to A8. The respondent had not come forward to cross-examine her, rather failed to participate in the trial proceedings, which resulted in setting the respondent ex parte and the trial was proceeded. On conclusion of the trial, the Trial Court had dismissed the suit finding that the appellant had failed to prove the allegations of cruelty suffered by her. Challenging the said order, this Appeal has been filed.

6. Learned counsel for the appellant submitted that there are ample evidence produced before the Trial Court and particularly oral and documentary evidence, however, the same had not been considered by the Trial Court and even in the absence of any cross examination of the evidence adduced by her, merely based on some pleadings made by the defendant in his written statement, the Trial Court had rejected the case of the appellant and dismissed the suit, which is not proper and the finding rendered by the Trial Court is not based on any evidence produced by the respondent, but, only on rejecting the evidence adduced by the appellant without any reason and hence, prayed for setting aside of the same.

7. Learned counsel for the respondent submitted that the allegations levelled against the respondent herein are presumptive and there is no material produced before the Trial Court to substantiate the allegations of cruelty and hence, the judgment of the Trial Court does not warrant any interference.

8. We have heard the learned counsel appearing for the parties and perused the entire materials available on record.



9. The questions that arise before this court are as under:-

i) Whether the plaintiff has established her case of cruelty suffered at the hands of the defendant/respondent? and

ii) Whether the judgment and decree passed by the Trial Court is liable to be set aside and the appeal is to be allowed or not?

10. Admittedly, in this case, the appellant had examined herself as PW1 and gave elaborate oral testimony which is also corroborated by Exs.A5 and A8, which are police complaints and CSR receipts to show that there was enquiry regarding the matrimonial dispute between the parties herein. In Ex.A5, it has been categorically stated that there is allegation levelled by the appellant that she had been beaten by the respondent herein and she had sought for protection. She had also lodged a complaint in Ex.A8, wherein she had narrated the entire events that had taken place including the physical attack made on her. Such vital evidence had not been disputed or contradicted by the respondent herein by cross examining or producing any contra evidence. The respondent has not come forward even to participate in the trial and remained ex parte, after merely filing a written statement and by denying the allegations levelled against him while sharp allegations had been thrown against him by the appellant/plaintiff. These points have not been properly appreciated by the Trial Court.

11. The Trial Court has held that the plaintiff has produced Ex.A8 and Ex.A5 to show that she had given two complaints and she had not produced any proof of receipt of Ex.A8 complaint by the police, but, the Trial Court has



failed to appreciate the fact that Ex.A5, which is CSR enquiry sheet, which elaborately states that there was a quarrel between the parties which leads to the attack on the appellant by the respondent. Such being the case, the probability is more on the evidence adduced by the appellant herein. The Trial Court ought not to have rejected the evidence in toto and this court finds that the oral and documentary evidence produced by the appellant is acceptable and probable, especially uncontradicted by the respondent herein and same is sufficient to arrive at a conclusion that the appellant has proved her case.

12. We are of the view that the Appeal has to be allowed and accordingly, it stands allowed. The order dated 27.11.2024 passed by the Trial Court VI Additional Family Court, Chennai in O.S.No.51/2022 stands set aside. The marriage solemnized between the appellant and the respondent on 05.08.1996 stands dissolved. No order as to costs.

(C.V.K.,J.) (K.R.S.,J.)
09-03-2026

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

ssk

To

VI Additional Judge,
Family Court, Chennai



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

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