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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.12.2025

PRONOUNCED ON : 09.01.2026

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

CMA No. 2924 of 2017
And
C.M.P.No.17186 of 2017

V.Kasthuri
Wife of D.Bharath

... Respondent/Appellant

Vs

D.Bharath
Son of Dhandapani

...Petitioner/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act 1984, against the Order and Decreetal order dated 02.01.2017 in F.C.H.M.O.P.No. 83 of 2015 on the file of the Family Court at Dharmapuri.

For Appellant : Mr. A.S.Viajyaragavan

For Respondent : Mr. F.Terry Chellaraja

J U D G M E N T



WEB COPY (Order of the Court was made by **C.V.KARTHIKEYAN, J.**)

The respondent in F.C.H.M.O.P.No. 83 of 2015 on the file of the Family Court at Dharmapuri is the appellant herein.

2. F.C.H.M.O.P.No. 83 of 2015 had been filed by the respondent under Section 13(1) (i-a) of the Hindu Marriage Act, 1955 seeking dissolution of the marriage held between the appellant and the respondent on 23.03.1999.

3. By Judgment dated 02.01.2017, the said Petition was allowed with costs thereby granting the decree of divorce. Challenging the same, the present Appeal had been filed.

4. It is to be noted that during the pendency of the Appeal, a claim was made by the appellant that the respondent, who is working as Assistant Commissioner of Commercial Taxes at Erode had failed to pay the maintenance amount and that a total balance due towards maintenance with respect to the son and daughter is Rs.2,85,000/-. Quite apart from that it had



been urged by the learned counsel for the appellant that though there had been a direction issued to the respondent to pay the maintenance as directed, the respondent had failed to pay or deposit the maintenance amount and also bear the education expenses of the children, who are unmarried and are now pursuing higher studies in Canada and Australia.

5. In the petition in F.C.H.M.O.P.No. 83 of 2015, the respondent contended that the marriage between him and the appellant took place on 26.03.1999 and they were blessed with a daughter and son. It was further contended that the respondent was employed in the Commercial Tax Department, and the appellant had also joined Government Service. It was further contended that the appellant had filed H.M.O.P.No. 17 of 2014 before the Sub Court at Dharmapuri, which was later transferred to the Family Court at Dharmapuri and re-numbered as F.C.H.M.O.P.No. 223 of 2014 seeking dissolution of marriage. That petition was dismissed by Judgment dated 13.03.2015. It had been contended that the allegations therein were false to the knowledge of the appellant. It was contended that thereby the appellant had committed acts of cruelty by laying false allegations against the respondent. It was under those circumstances that the respondent had filed the petition seeking divorce.



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6. A counter had been filed by the appellant herein that the respondent had abandoned the family and was living separately. It was contended that the allegations raised in the earlier petition were not false. It was further contended that the respondent did not share his monthly salary towards the family expenses but spent time with his friends drinking and leading a wayward life. He also caused mental harassment to the appellant and also to the children. He did not take care of the children. It was contended that the petition has been filed with malafide intentions and therefore the petition should be dismissed.

7. During trial, the respondent examined himself as PW-1 and the appellant examined herself as RW-1 and examined another witness as RW-2. The copies of the pleadings in F.C.H.M.O.P.No. 223 of 2014 were marked as Exs. P-4 and P-5 and the order copy was marked as Ex.P-3. The copy of a complaint and FIR were marked as Ex.P-6 and the petition seeking anticipatory bail was marked as Ex.P-7 and the order granting anticipatory bail was marked as Ex.P-8. On the side of the respondents, an Out Patient case sheet dated 25.09.2019 was marked as Ex.R-2.



8. On the basis of the evidence, the learned trial Judge found that both the appellant and the respondent had unfortunately indulged in raising allegations against each other and as a matter of fact, the appellant had earlier filed a petition seeking divorce in the year 2014 on the ground of cruelty. In that particular petition, she had raised an allegation that the respondent was a womaniser and living a wayward life and his behaviour was rude, insulting and quarrelsome. It had been stated that however the said petition was dismissed for non prosecution. But the learned trial Judge found that the allegations still remain and even in the counter affidavit, she had raised the very same allegations as against the appellant. Taking into consideration these facts, the learned trial Judge had allowed the petition and had granted dissolution of the marriage between the appellant and the respondent.

9. The learned counsel for the appellant in his arguments pointed out that the earlier petition has been filed seeking dissolution by the appellant but however, the same had not been prosecuted to its logical end. The learned counsel stated that the respondent had not complied with the payment of monthly maintenance to the son and daughter as directed in the maintenance proceedings. He contended that there were huge arrears



pending as on date. A memo of calculation had also been given.

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10. The learned counsel for the respondent stated that the maintenance had been paid for the son till he attained the age of 18 years and maintenance is paid to the daughter. The learned counsel stated that both the children are studying abroad and that therefore, their education has been taken care of by the respondent. With respect to the appeal, the learned counsel contended that the appellant had filed an earlier application seeking divorce on the ground of cruelty raising allegations against the respondent and stated that even in the counter affidavit, she had again reiterated the same allegations. The learned counsel stated that this fact thus would establish that the ground of cruelty stood established and therefore urged that this Court should dismiss the appeal.

11. We have carefully considered the arguments advanced and perused the materials available on records.

12. The marriage between the appellant and the respondent had taken place on 26.03.1999. A daughter was born on 02.05.2000 and a son was



born on 29.09.2004. The appellant had earlier filed H.M.O.P.No. 17 of 2014 before the Sub Court at Dharmapuri which was later transferred to the Family Court at Dharmapuri and renumbered as F.C.H.M.O.P.No. 223 of 2014 seeking divorce on the ground of cruelty. She had alleged that the respondent herein was addicted to alcohol and was living a wayward life and was also having relationships with other women. A counter affidavit had been filed by the respondent denying and disputing the said allegations. The said petition was dismissed by order dated 13.03.2015 for default.

13. Thereafter, the respondent had filed F.C.H.M.O.P.No. 83 of 2015 again before the Family Court at Dharmapuri seeking divorce on the grounds of cruelty. According to him, in the earlier petition, the appellant had raised very serious allegations and had also given a complaint to the Inspector of Police, All Women Police Station, Dharmapuri and an FIR had also been registered in Crime No. 2 of 2016 against the respondent. The respondent had to obtain anticipatory bail. It had been contended that all these issues had very seriously affected him.

14. The fact that the appellant had filed a petition seeking divorce raising allegations against the respondent had not been denied or disputed by



the learned counsel for the appellant.

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15. As a matter of fact, the only focus of the learned counsel for the appellant was that the respondent had not paid the maintenance amount as directed. It had been contended that more than Rs.2/- lakhs is due and payable towards the maintenance. But however, the appellant will have to take steps in manner known to law for recovery of the maintenance amount. It is a fact that the respondent is a public servant working in the Commercial Tax Department. Naturally steps could be taken for recovery of the amount from the employer.

16. So far as the grounds for divorce are concerned, it is seen that there is extreme animosity between the parties.

17. The appellant had alleged that the respondent was a womaniser and was addicted to alcohol and was living a wayward life. She had stated these allegations in the earlier petition filed by her seeking divorce on the ground of cruelty. She had reiterated the said statements in her counter affidavit. Even in the deposition, she had again reiterated the same facts. It is thus evident that the appellant herself is not interested in living with the



respondent. Though the respondent had denied all these allegations, he had filed the petition seeking divorce on the ground that false allegations had been raised against him stating that he was a womaniser and that he was addicted to alcohol. We hold that these statements should have been made with same responsibility by the appellant.

18. We hold that the learned trial Judge had come to a correct conclusion that the marriage for all practical purposes had come to an end so far as the appellant and the respondent are concerned. We are not inclined to interfere with the said order. The Appeal Stands dismissed. We would reiterate that the appellant is at liberty to proceed against the respondent and his employer for recovery of the maintenance amount payable either towards the appellant or towards the children.

19. The Civil Miscellaneous Appeal stands dismissed. Consequently, connected Miscellaneous Petition stands closed. No order as to costs.

[C.V.K., J.]

[K.B., J.]

09.01.2026

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

To:



Family Court at Dharmapuri

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C.V.KARTHIKEYAN, J.
AND
K.KUMARESH BABU, J.

vsg

Pre-Delivery Judgment made in



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