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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. 522 of 2017

and

CMA No.523 of 2017

and

CMP No.3305 of 2017

S. Antony Luther Singh

..Appellant in both
CMAs

Vs

L. Damindoori @ Abhi

..Respondent in both
CMAs

Prayer in CMA No.522 of 2017: This Appeal filed under Section 55 of the Indian Divorce Act, 1869, prayed to set aside the judgment and decree dated 06/10/2016 made in DOP No.347 of 2014, on the file of Principal District Court at Coimbatore.

Prayer in CMA No.523 of 2017: This Appeal filed under Section 55 of the Indian Divorce Act, 1869, prayed to set aside the judgment and decree dated 06/10/2016 made in DOP No.52 of 2016, on the file of Principal District Court at Coimbatore.



For Appellant(s): Mr.P.Arumugavel in both CMAs

For Respondent(s): Ms.V.S.Usharani in both CMAs

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COMMON JUDGMENT

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

CMA No.522 of 2017 had been filed by the respondent / husband in D.O.P.No.347 of 2014 aggrieved by the common judgment dated 06.10.2016 in D.O.P.No.347 of 2014 and in D.O.P.No.52 of 2016 which had been filed by the appellant herein before the Principal District Court, Coimbatore.

2.DOP No.347 of 2014 had been filed by the respondent herein L.Damindoori @ Abhi under Section 32 of the Indian Divorce Act, 1869 against the appellant S.Antony Luther Singh seeking restitution of Conjugal Rights.

3.IDOP No.1591 of 2015 had been filed by the appellant herein under Section 10(i)(x) and (ix) of the Indian Divorce Act, 1869 seeking dissolution of marriage solemnized between him and the respondent on 18.11.2010 as per Christian rites and customs on the ground of cruelty and desertion.

4.It is to be noted that during the pendency of IDOP No.1591 of 2015, the appellant herein had filed Tr.C.M.P.No.409 of 2015 before this Court seeking transfer of IDOP No.1591 of 2015 from Family Court Chennai to Coimbatore. Accordingly, the same had been transferred and re-numbered as DOP No.52 of 2016.



5.By common judgment dated 06.10.2016 DOP No.347 of 2014 was allowed and DOP No.52 of 2016 was dismissed.

6.The respondent herein / wife had contended in her petition in DOP No.347 of 2014 that she had qualified herself in degree of Bachelor of Engineering in Electrical and Electronics and also obtained her Masters of Engineering in Electrical Machines and obtained a job in PSG College of Art and Science, Coimbatore. The appellant herein / husband had also obtained his Bachelor of Engineering in Electrical and Electronics and MBA from Annamalai University. The marriage between them was an arranged marriage and solemnized on 18.11.2010 at St.Theresa's Child Jesus Church in Coimbatore. Thereafter, they went over to the house of the respondent at Chennai.

7.It had been further contended that she was uncomfortable in the house which was not conducive for family life as in the other portions of the apartment many bachelors were staying. She then got appointment in DMI College of Engineering in Pazhanjur in Chennai. She then conceived. She however complained that during her pregnancy the appellant did not bestow sufficient care, requiring her to move over to Coimbatore. She gave birth to a female child on 19.01.2012. After the birth of the child, she went back to Chennai to reside with the appellant. She complained that the appellant treated her with cruelty, which necessitated her to approach the police and lodge complaint. She was then taken back by her relatives to Coimbatore.



8.The appellant then issued a notice seeking restitution of conjugal rights. The respondent replied to the said notice. She then got an employment in VSB College of Engineering near Coimbatore. She was also doing research for her doctorate degree. Claiming that the appellant was deliberately avoiding her, she filed the petition seeking restitution of conjugal rights.

9.In DOP No.52 of 2016 the appellant / husband claimed that he was employed in Chennai and was living with his aged parents. He contended that neither he nor his family members demanded any dowry from the respondent. He contended that the respondent was not able to attend office after giving birth to a child. Owing to this there were financial constraints in the family and therefore, his sisters advised her to join employment, as the salary would be useful for the expenses of the family.

10.The appellant further stated that the respondent thereafter went over to Coimbatore and settled there. He claimed that she had deserted him on and from 08.07.2011. He further stated that she was never interested in living with him and remained inaccessible. He stated that her desertion was without any reason. He further stated that he had issued a notice to her and in the reply she stated that she was willing to live with him provided he comes over to Coimbatore. Claiming that this was an act of cruelty, he filed petition seeking dissolution of marriage solemnized between him and the respondent on 18.11.2010.



11. In both the petitions, counter affidavits had been filed raising allegation over the conduct of the other. There were allegations by the respondent with respect to demand of dowry, which was denied by the appellant. There were allegations by the appellant that the respondent did not take care of him and his aged parents which allegation was denied by the respondent. There were allegations that the respondent had deserted the family which allegation was also denied by her. On the other hand, she justified moving out the marital house at Chennai and moving over to Coimbatore.

12. Both the petitions were taken up for joint trial by the Principal District Court, Coimbatore. By common judgment dated 06.10.2016, DOP No.347 of 2014 was allowed indicating that the petition seeking restitution of conjugal rights was allowed and DOP No.52 of 2016 was dismissed. Challenging the common judgment, the present two appeals had been filed.

13. The learned Principal District Judge, Coimbatore, in his common judgment, had held that the appellant had not taken any effective steps to maintain his wife / respondent as “*an ordinary human being*”. It was further pointed out that owing to the acts of the appellant, the respondent consumed All Out liquid attempting to commit suicide. The learned Principal District Judge further examined the evidence of the appellant, who was examined as PW-1, wherein he stated that the respondent did not cook, did not offer food and



picked up quarrels and she threatened to commit suicide. He also observed that in the notice issued on behalf of the appellant intention to resume marital life and reunion was sought, though allegations against the conduct of the respondent had been raised.

14.The learned Judge, in those circumstances, came to a conclusion that the appellant had not come to Court with a true case and had stated falsehood before the Court to obtain divorce from the respondent. It was also held that the acts of cruelty had not been established by the appellant. The evidence of the appellant was balanced with the pleadings of the respondent that she was willing to join with the appellant and the only condition she put was that they should resume the marital life at Coimbatore.

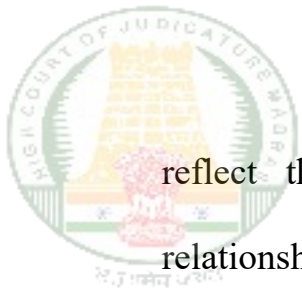
15.In view of the above observations, DOP No.347 of 2014 seeking restitution of conjugal rights was allowed and DOP No.52 of 2016 filed by the appellant seeking dissolution of the marriage was dismissed.

16.Heard arguments advanced by Mr.P.Arumugavel learned counsel appearing for the appellant and Ms.V.S.Usharani learned counsel appearing for the respondent.



17. The learned counsel for the appellant assailed the reasonings given by the learned Principal District Judge, Coimbatore, by stating that in reply to the notice issued on behalf of the appellant, wherein clear intention was expressed for reunion, the respondent, in her reply, had stated that she was prepared to stay with the appellant but not in Chennai but at Coimbatore. The learned counsel stated that the appellant was living with his aged parents and therefore, it was impossible for him to shift his residence from Chennai to Coimbatore and further alleged that putting this condition only reflected that the respondent was also not interested in continuing with the marital relationship. The learned counsel further asserted that the respondent had tendency to threaten to commit suicide and on one occasion had actually consumed All Out liquid attempting to commit suicide. The learned counsel also argued that the respondent had voluntarily left the marital house at Chennai and had shifted her residence to Coimbatore which indicated desertion from the companionship of the appellant. The learned counsel therefore urged that this Court should set aside the judgment of the trial Court and allow both the appeals and thereby, dissolve the marriage between the appellant and the respondent.

18. The learned counsel for the respondent, however, disputed the said contentions. The learned counsel asserted that the petition seeking dissolution of marriage filed by the appellant and the petition seeking restitution of conjugal rights filed by the respondent should be read in entirety and a reading would



reflect that the respondent was always willing to resume the marital relationship. She pointed out that the respondent was forced to reside in an apartment, wherein, in other flats many bachelors were living and therefore, the place was not conducive to lead a healthy family life. She also pointed out that during the pregnancy the respondent suffered physical torture in the hands of the appellant necessitating her to go over to Coimbatore, where the child was born. The learned counsel stated that inspite of these difficulties, the respondent was always ready to condone the acts of the appellant and reside with him. The learned counsel stated that the trial Judge had appreciated the facts in their proper perspective and had come to a correct decision granting restitution of conjugal rights and dismissing the petition seeking dissolution of the marriage.

19. We have carefully considered the arguments advanced and perused the material records.

20. The marriage between the appellant and respondent was solemnized in accordance with Christian rites and customs on 18.11.2010 at St. Theresa's Child Jesus Church in Coimbatore. It was an arranged marriage. Both were educated. The appellant was employed in Chennai and the respondent was employed in Coimbatore. The appellant herein, in his petition seeking dissolution of marriage, had stated that the respondent often threatened to commit suicide and she actually consumed All Out liquid on one occasion. He



however contended that, during her pregnancy, she had moved over to Coimbatore, where the child was born. He stated that she refused to cook food for him, refused to serve food for him and when questioned about the same, quarrelled with him. He contended that these were the acts of cruelty. The further the case of the appellant is that, the respondent did not take efforts to look after his aged parents. He also stated that he or his family members have never demanded dowry from the respondent.

21.It is the case of the respondent that she had tried her best to adjust in the house of the appellant at Chennai. But unfortunately, the said premises and the surroundings were not conducive to lead a healthy family life.

22.The appellant had sought divorce on the ground of desertion and cruelty. The ground of desertion had been urged owing to the fact that the respondent had moved away from Chennai to Coimbatore at the time of giving birth to her child. This could never be termed as desertion. Any daughter would feel comfortable to be with her mother at the time of delivery. It was the equal responsibility of the appellant to understand that fact and take the respondent back or provide all facilities for her during the period of pregnancy and when the child was born. But however, the respondent has alleged that the appellant had not taken sufficient care of her during that crucial period.



23. We do not agree that by moving over to Coimbatore the respondent had committed an act of desertion.

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24. The allegations regarding cruelty are extremely flimsy, with allegations of refusing to cook, refusing to serve food, and picking up quarrels when questioned. It had been further alleged that the respondent had placed a demand that the appellant must come over to Coimbatore and reside with her and that she would not come over to Chennai and reside with him. Just as the appellant had alleged that the respondent would not come over to Chennai and therefore, had caused cruelty to him, the respondent could also allege that the appellant, by not coming over to Coimbatore has also committed an act of cruelty on her. These allegations can never be termed as grounds for grant of dissolution of marriage. There would always be friction at the surface of any marriage, but so long as the scars are not deep, there is always a reasonable possibility of them healing. It would be extremely inappropriate for the Court to grant dissolution of marriage without giving leverage or hope for reunion to happen.

25. It is to be noted that the appellant and the respondent are also blessed with a young daughter who was born on 19.01.2012 and as on date, would be in a very formative age of about 13 years and at an age when she would require the support of both the parents.



26.The contention by the learned counsel for the appellant that there had been irretrievable break down of marriage and therefore, on that ground, this Court should grant dissolution of marriage cannot be countenanced by this Court. The law does not provide for dissolution of marriage on that ground.

27.The learned counsel for the appellant placed reliance on the judgment of the Hon'ble Supreme Court in ***Civil Appeal No.5167 of 2012, Nayan Bhowmick Vs. Aparna Chakraborty***, wherein after examining the facts, the Hon'ble Supreme Court had come to the view that the marriage had irretrievably broken down and therefore, in exercise of its power under Article 142 of Constitution of India had dissolved the marriage.

28.This Court can never resort to Article 142 of the Constitution of India. As a matter of fact, in the very same judgment, the Hon'ble Supreme Court had also observed as follows:

“33.This Court is conscious of the view that approach of the Courts should be to preserve the sanctity of marriage and the Court should be reluctant to dissolve the marriage at the mere asking of one of the parties.”



29. We would draw support from the above observation and hold that the appellant has sought dissolution of marriage on extremely flimsy grounds. We are not inclined to interfere with the findings of the learned trial Judge.

30. In view of the said reasons, these appeals stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

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



WEB COPY

CMA Nos. 522 & 523 of 2



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

smv

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