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CMA Nos. 4863 & 4864 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA Nos. 4863 & 4864 of 2019

A.Murugan

..Appellant(s) in both
CMAs

Vs

D.Jayakumari

..Respondent(s) in both
CMAs

PRAYER IN CMA No. 4863 of 2019: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, to set aside the judgment and decree passed in HMOP No.22 of 2010 dated 31.10.2019, on the file of the Additional Family Court, Coimbatore.

PRAYER IN CMA No. 4864 of 2019: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, to set aside the judgment and decree passed in HMOP No.282 of 2011 dated 31.10.2019, on the file of the Additional Family Court, Coimbatore.

In Both Appeals:

For Appellant(s): Mr.E.K.Kumaresan

For Respondent(s): M/s. G.Ramapriya



COMMON JUDGMENT

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

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The petitioner in HMOP No.22 of 2010, on the file of the Additional Family Court, Coimbatore, aggrieved by the dismissal of the said petition by judgment dated 31.10.2019 is the appellant in CMA No.4863 of 2019. CMA No.4864 of 2019 has also been filed by the appellant to set aside the judgment and decree passed in HMOP No.282 of 2011, dated 31.10.2019, by the Additional Family Court, Coimbatore.

2.The said petition in HMOP No.22 of 2010 had been filed by the appellant seeking divorce under Sections 13 (1) (i-a) and 13 (1) (ii) of the Hindu Marriage Act, 1955. The appellant was working as a Teacher in a Government High School, while the respondent was working as a Senior Lecturer in a College at Coimbatore. Marriage between them was solemnized on 16.05.2008 as per the rites and rituals prevailing in their community. Even quite earlier in the marriage, the appellant had difficulties in cohabiting with the respondent, however, a child was born on 31.03.2009. The main ground on which the appellant had sought dissolution of marriage was his assumption that the respondent had commenced to profess Christianity religion and also wanted to convert him to Christianity. In the petition, however he had described that both of them are belonging to Hindu religion, but had also subsequently stated that the respondent had embraced Christianity. It had been stated that since the



respondent had embraced that religion, it would amount to cruelty inflicted on him. Further, it had been alleged that she had also wanted him to convert to that religion. It is under those circumstances, the petition had been filed seeking divorce.

3.The respondent in her counter however denied this particular allegation. She had stated that she was born as a Hindu and continues to live only as a Hindu. She also denied other allegations of cruelty and claimed that she is always ready and willing to reside with the petitioner.

4.On the basis of these pleadings, the parties went to trial. During trial, the petitioner examined himself as PW1 and examined another witness as PW2. The respondent examined herself as RW1 and examined another witness as RW2. The petitioner marked Exs.P1 to P34. The respondent however did not mark any documents. Among the documents filed by the petitioner, Exs.P1 to P3 and P6 to P7 relate to marriage. Exs.P8, P9 and P10 relate to the Valaikappu function of the respondent prior to the birth of the child.

5.The learned Trial Judge had held that there was no specific evidence produced to show that the respondent had converted herself to Christianity and on that ground, refused to grant divorce. During the evidence, it is the categorical stand of the appellant that he came to know that the respondent professed the Christian religion in August 2008. But however, the documents



which had been mentioned above, namely, Exs.P8, P9 and P10 are of January 2009 and relate to the Valaikappu function of the respondent. This would only indicate that even if he had knowledge that the respondent was professing Christianity, he had condoned that particular act, which fact is also evident from the fact that subsequently a daughter was born.

6.The learned counsel for the appellant however insisted that subsequent to the filing of the petition, the respondent had filed several complaints against the appellant, first by initiating a petition under the Domestic Violence Act and later, lodged a complaint under Section 498 A of IPC. It is contended that not only the appellant was made as an accused, but his aged parents were also dragged into the criminal proceedings as accused.

7.The learned counsel for the appellant therefore argued that the subsequent events should be taken note of by this Court and if viewed from that angle, it must be taken that the respondent had actually acted with cruelty with the appellant. The learned counsel for the respondent refuted this particular contention. According to her, visitation rights had been granted so far as the daughter is concerned, who is aged about 16 years, and has forged a healthy relationship with the appellant. The learned counsel therefore submitted that in spite of various complaints lodged against the appellant, the respondent is still willing to live with him.



8. We have carefully considered the arguments advanced and perused the material on record.

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9. The main thrust of the argument advanced by the learned counsel for the appellant is that the respondent had converted herself to Christianity and also insisted the appellant to convert himself to Christianity. But no evidence in that regard had been produced, except Ex.P5, which is a Xerox copy of photographs of the respondent wearing a chain with a cross symbol, but that will not prove that the respondent had converted herself to Christianity. The petitioner himself had vaguely in his petition first described them both as Hindus and later, he came to know that she had converted in August 2008. But however, subsequently, they had cohabited and a child was born. The Valaikappu function was conducted in January 2009 and documents to that effect had also been produced. It is thus evident that the appellant had condoned this particular act and if ever the respondent had converted to Christianity, he had accepted it. The further fact to be examined is that whether the subsequent act, after filing of the petition, namely, the act of lodging complaint against the appellant would constitute cruelty. The stand of the learned counsel for the respondent is that the respondent was instructed by her father to lodge the complaint and that she had no intention to use the said complaint against the appellant for any oblique purpose. But however, much time has flown by and now the daughter is having a healthy relationship with



the father. Since there is no merit in the initial allegation placed in the petition that the respondent had converted herself as a Christian and thereby committed cruelty, we are not inclined to interfere with the judgment passed by the learned Trial Judge.

10. In view of the reasons stated, the judgment of the Trial Court stands confirmed. The Appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions, if any, are also closed.

(C.V.K.,J.) (K.R.S.,J.)
12-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To
The Additional Family Court,
Coimbatore.



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CMA Nos. 4863 & 4864 of 2



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

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