



WEB COPY

CMA Nos.4802/2019 & 999/2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA Nos.4802 of 2019 & 999 of 2024

Balakrishnan

..Appellant(s) in both
appeals

Vs

Vimala

..Respondent(s) in both
appeals

Appeals against the judgment and decree dated 08/11/2019 made in
HMOP No.225 of 2018 on the file of Family Court, Cuddalore.

For Appellant(s): Mr.Prakash Goklaney
for Mr.Suchit Anant Palande

For Respondent(s): Mr.R.Muralidharan

Judgment

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

The petitioner in H.M.O.P.No.225 of 2018 on the file of Family Court at
Cuddalore, aggrieved by the judgment and decree, dated 08.11.2019, has filed
the present two appeals.



2. H.M.O.P.No.225 of 209 had been initially filed as H.M.O.P.No.90 of 2015 by the appellant herein on the file of Principal Sub-Court, Cuddalore, and, subsequently, on the constitution of Family Court at Cuddalore, the case had been transferred to the said Court. The said petition had been filed under Section 13 (1) (i-a) of the Hindu Marriage Act,1955, seeking dissolution of marriage between the appellant and the respondent solemnised on 01.02.2009, on the ground of cruelty. The respondent had filed a counter claim, seeking restitution of conjugal rights, which was allowed. The petition seeking dissolution of marriage was dismissed, necessitating the filing of these two separate appeals.

3. In the petition, the appellant had contended that the respondent, after marriage, had lived without any love or affection and used to cause cruelty by distancing herself from him. It was also stated that she used to beat him and scratch him with her nails, one of which incident happened specifically on 14.04.2015. A panchayat was convened by the grandfather of the respondent. The respondent had lodged a complaint before the All Women Police Station, Cuddalore, on 18.04.2015. Thereafter, the appellant had issued a notice to the respondent on 10.05.2015, expressing that he was no longer interested to continue the marital life. Hence, he filed the petition, seeking divorce.

4. A counter had been filed by the respondent, denying and disputing all the allegations contained in the petition. She stated that it was the appellant



herein, who had ill-treated her and pushed her out of the house. She had suffered mentally and physically and was also subjected to cruelty. She had purchased plots at Tiruvarur and Chidambaram, by pledging her jewels. It had been stated that the appellant had requested her to pledge her jewels to buy another plot and when that was refused, the appellant started to act with cruelty. However, she was always ready and willing to live with the appellant in spite of physical and mental cruelty. She also filed a separate counter claim, stating that she was ready to live with the appellant and seeking restitution of conjugal rights.

5. The learned Family Judge at Cuddalore, on examination of the petition, had invited the parties to tender evidence. During trial, the appellant examined himself as P.W.1 and marked documents, Exs.P-1 to P-3. Ex.P-2 was a copy of the Advocate notice for divorce, dated 10.05.2015. The respondent examined herself as R.W.1 and marked Ex.R-1, copy of the complaint lodged by her before All Women Police Station, Cuddalore, dated 18.04.2015.

6. The learned trial Judge, on examination of the documents, particularly, Ex.P-2, copy of Advocate notice, observed that the appellant had very fairly stated that he was no longer interested in continuing with the marital life. It was also observed that the appellant had raised allegations that the respondent had quarrelled with him and beat him and also scratched him. It was further observed by the learned trial Judge that immediately after issuing notice, he had filed a petition, seeking divorce. It was also observed that as a matter of fact, the



respondent had lodged the complaint Ex.R-1 with All Women Police Station, Cuddalore, even prior to issuance of notice, wherein she had stated that the marital life should be restored. It was held that the appellant was at fault and he could not take advantage of his own wrongs and seek divorce. By so holding, the trial Judge dismissed the petition for divorce and allowed the counter claim for restitution of conjugal rights.

7. Challenging the said judgment and decree, the husband has filed the present two appeals.

8. We have heard the learned counsel for the parties at length.

9. Learned counsel for the appellant submitted that the parties, during the course of evidence, had only reiterated their respective submissions made in the petition and the counter and also the additional counter and the counter claim. It had been stated that, therefore, two separate versions had been given before the learned trial Judge. The learned counsel argued that the parties had been living separately for more than a decade and that no effective purpose would be served by asking them to live together or continue with the marital life. It had also been stated that mediation efforts also failed. He further pointed out that for Ex.P-2 Advocate notice, no reply had been issued on behalf of the respondent.

10. Learned counsel for the respondent pointed out that the consistent stand of the respondent was that she was always ready and willing to live with the appellant in spite of all difficulties and she had also filed a counter claim in



that regard. He insisted that the appellant had not come to court with clean hands and stated that irrespective of the odd attitudes of the appellant, the respondent was always ready and willing to lead the marital life with the appellant.

11. We have carefully considered the arguments advanced by the learned counsel.

12. The marriage between the appellant and the respondent was solemnised on 01.02.2009. The parties initially commenced residing at Kaladipet, Thiruvotriyur, and, thereafter, they moved to the marital house at Koothapakkam Village in Cuddalore District. The case of the appellant was that the respondent used to beat him and scratch him using her nails. It was also stated that a panchayat was convened. Later, an Advocate notice was issued on behalf of the appellant, expressing that the appellant was not interested in living with the respondent. The respondent had earlier lodged a complaint with All Women Police Station at Cuddalore, calling for reunion.

13. The evidence in this case is extremely insufficient on behalf of the appellant to establish the acts of cruelty. He only stated that the respondent used to beat him and scratch him with her nails. He had not examined any individual or relatives of either the appellant or the respondent to prove the said acts of cruelty or any other issues. It is also seen from the records that he had issued an Advocate notice, stating that he was no longer interested in living with



the respondent and immediately thereafter he filed the petition, seeking divorce.

The appellant had not tendered evidence either from any of the relatives, villagers or from those who convened the panchayats or from his family members to speak about the cruelty said to have been inflicted by the respondent. It was for the appellant to prove the act of cruelty, alleged by him. Merely stating these facts in the petition would not amount to proving the same. He had also not specifically examined the panchayatdars or the respondent's grandfather or anybody, who had convened the panchayats to bring amicable settlement between the parties. We find no evidence, which would indicate that the respondent had inflicted cruelty on the appellant.

14. Learned counsel for the appellant pointed out that the parties have been living separately for number of years. But, however, it is also seen that a daughter was born to them on 11.11.2009. In the interest of daughter, it is only appropriate to reexamine the entire issue. On the other hand, it is further seen from the records that the respondent had also spoken that after the panchayat, she joined with the appellant and resided with him in the marital house and only thereafter the appellant started to ill-treat her and asked her to leave the house. She then lodged a police complaint, seeking reunion with the appellant.

15. Taking all these factors into consideration, we hold that the learned trial Judge had come to the correct conclusion that no evidence was adduced to prove that the respondent had acted with cruelty. The appellant cannot take



advantage of his own wrongs and put the blame on the respondent. We find no reason to interfere with the well considered judgment of the trial Court. Hence, both the Civil Miscellaneous Appeals stand dismissed. No costs.

(C.V.K.,J.) (K.R.S.,J.)
09-04-2026

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

DIXIT

To
Family Court,
Cuddalore.



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

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