



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-06-2026

CORAM

WEB COPY

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No. 68 of 2024

and

CMA No.114 of 2024

and

CMA No.2609 of 2025

and

CMP No.1015 of 2024

CMA No.68 of 2024:

Vikas Jain

..Appellant

Vs.

Sneha Jain

..Respondent

CMA No.114 of 2024:

Vikas Jain

..Appellant

Vs.

Sneha Jain

..Respondent

CMA No.2609 of 2025:

Sneha Jain

..Appellant

Vs.

Vikas Jain

..Respondent

Prayer in CMA No.68 of 2024: This Appeal filed under Section 19(i) of Family Court Act, 1955 to set aside the common order and decree dated 20.09.2023 in O.P.No.1472 of 2018 on the file of the VI Additional Principal Family Court, Chennai.



Prayer in CMA No.114 of 2024: This Appeal filed under Section 19(i) of Family Court Act, 1955 to set aside the common order and decree dated 20.09.2023 in O.P.No.4009 of 2017 on the file of the VI Additional Principal Family Court, Chennai.

Prayer in CMA No.2609 of 2025: This Appeal filed under Section 19(i) of Family Court Act, 1955 to set aside the order passed in I.A.No.3826 of 2018 in O.P.No.4009 of 2017 passed by the learned VI Additional Principal Judge, Family Court, Chennai, through a common order dated 20.09.2023.

For Appellant(s): Mr.M.Arvind Kumar
in CMA.Nos.68 and 114 of 2024

Mr.Sanjay Pinto
in CMA No.2609 of 2025

For Respondent(s): Mr.Sanjay Pinto
in CMA.Nos.68 and 114 of 2024

Mr.M.Arvind Kumar
in CMA No.2609 of 2025

COMMON JUDGMENT

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

All the three Civil Miscellaneous Appeals arise from a common order dated 20.09.2023 passed by the VI Additional Principal Family Court, Chennai in O.P.No.1472 of 2018, O.P.No.4009 of 2017 and I.A.No.3826 of 2018 in O.P.No.4009 of 2017.



WEB COPY

2.C.M.A.No.68 of 2024 had been filed to set aside the decree dated 20.09.2023 in O.P.No.1472 of 2018. O.P.No.1472 of 2018 had been filed by the appellant, Vikas Jain, seeking restitution of conjugal rights. The said petition had been dismissed, necessitating filing of the appeal in C.M.A.No.68 of 2024.

3.C.M.A.No.114 of 2024 had been filed to set aside the decree dated 20.09.2023 in O.P.No.4009 of 2017. O.P.No.4009 of 2017 had been filed by the respondent Sneha Jain, seeking dissolution of the marriage solemnized on 17.12.2014. The dissolution of marriage was sought under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 on the ground of cruelty. The said petition had been allowed, necessitating filing of the appeal in C.M.A.No.114 of 2024.

4.C.M.A.No.2609 of 2025 had been filed to set aside the order dated 20.09.2023 in I.A.No.3826 of 2018 in O.P.No.4009 of 2017. I.A.No.3826 of 2018 had been filed by Sneha Jain, seeking a direction against Vikas Jain, to return the articles as specified in the petition. The said application had been dismissed, necessitating filing of the appeal in C.M.A.No.2609 of 2025.

O.P.No.4009 of 2017:

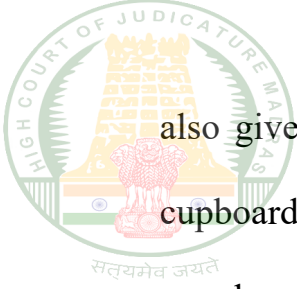
5.In the petition filed, the petitioner, Sneha Jain had stated that her marriage with the respondent therein Vikas Jain had been solemnized on 07.12.2014 at Chennai, and they commenced their matrimonial life in the



WEB COPY

residence of the respondent which was a joint family and included the parents of the respondent and also his sister. She contended that right from the first day of the marriage, she faced several problems from the respondent and from his family members. It was contended that prior to the marriage the respondent held out that he was drawing a salary of about Rs.75,000/- apart from other benefits and was also doing part-time business with his father and drawing an additional income of about Rs.75,000/- to Rs.1,00,000/- per month. He also stated that he likes travelling. He further stated that neither he nor his family members were interested in seeking dowry. It had been contended that however contrary to these statements made prior to the marriage, she found that he was not profitably employed and was not doing part-time business with his father and that more importantly both he and his family members were extremely interested in seeking dowry. This attitude of the respondent had put her off from the beginning days of the marriage. She also stated that the sister of the respondent played a dominant role in his life and was always present in all discussions. She further stated that she discovered that her mother-in-law had the strange habit of shop lifting. She was distressed by such act which she had seen directly. She further stated that though she protested about this particular habit of the mother-in-law, the respondent did not take care to address the same.

6. She further stated that at the time of marriage several gold and silver jewellery items apart from other articles had been given to her. Her parents had



WEB COPY

also given a cupboard. It was contended that she had kept the articles in the cupboard, but however, the keys were taken by the respondent and his family members and on several occasions, she found that several of the articles were missing. It was also stated that there was also an issue about bearing the expenses to be incurred while going for honeymoon. All these issues seriously affected her mental health.

7.She further stated that immediately after entering into the marital house, her mother-in-law told her that she must surrender all her jewels and sreedhana items and that they should be under her mother-in-law's control. The petitioner had not raised any protest at that time. She also stated that no special treatment was extended even though she had entered the house as a newly wed daughter-in-law. This attitude of neglect had impacted her mental health. She was also not permitted to take food along with the other family members and was instructed that she could take food only after everybody else had taken their food.

8.In the petition, she had further stated that though she was permitted to cook food, she found that on several occasions her mother-in-law and sister-in-law added other spices additionally to the food preparations and the quality of the food was thereafter commented upon by the other family members. She also narrated one specific instance when several visitors had come to the house and



she was directed to cook food for all of them and after she had completed the cooking, additional salt and other spices were added to the preparations to make the preparations unpalatable. She stated that she was subjected to humiliation owing to these nefarious acts committed by her mother-in-law and her sister-in-law. Her grievance was that the respondent did not support her when she raised these issues. She further stated that her father-in-law kept a personal watch over all her activities, which again put her to embarrassment.

9. Thereafter, she became pregnant. Even then the acts of cruelty continued. She was sent to her mother's house, but however, nobody took care to even enquire about her health or to come forward to meet the expenses. She further stated that the respondent and his family members teased her with respect to her appearance, which amounted to body shaming. The photographs of other women were also shown to her and it was commented that she was in poor state when compared with others.

10. She further stated that after the child was born, the respondent did not visit her. It was contended that prior and after the birth of the child, no ceremonies or functions were celebrated welcoming the new child into the family. A boy child was born to her. When she had taken the baby in her arms to the house, she was shocked when the respondent questioned whether the baby was his baby and also went to the extent of asking her to undertake a DNA



test for the baby. This behaviour and attitude of the respondent had very seriously affected her. Contending that all these acts amounted to continuous mental cruelty without any letup, she had presented the petition seeking divorce on the ground of cruelty.

11.The respondent, Vikas Jain filed a counter affidavit, in which, he denied the allegations. But however, it must be pointed out that a careful reading of the counter affidavit did not reveal that there was specific denial of the specific allegations raised by the petitioner. He stated that he had never informed the petitioner that he was drawing salary of Rs.75,000/-, never stated that he would be able to earn an additional income of Rs.75,000/- to Rs.1,00,000/- by participating in the business of his father. He further stated that he was employed in a private company and earning Rs.18,000/- from his full-time job. He stated that he had showered good love and affection on the petitioner, but it was the petitioner who created problems with unjust demands. The allegations raised by the petitioner were denied and it was stated that they had been stated only to defame his mother.

12.With respect to the honeymoon, he gave his own version and stated that it was the petitioner who did not come forward to make it a happy event. With respect to the jewels and other articles demanded by the mother-in-law to be kept in safe custody, he stated that they were always in the possession of the



WEB COPY

petitioner. The allegations against his sister was also denied. He also denied all other allegations raised by her, though not specifically. With respect to the birth of the child, he stated that he and his parents were excited at the information that the petitioner had become pregnant. The other allegations stated by her were all denied. He, however, claimed that he was not informed about the birth of the child and he came to know about the same only through a distant relative. He stated that he immediately rushed to the hospital to see his child and the petitioner. But her family members picked up quarrels. He further stated that there was no discussion at all about conducting any function to welcome the child and it is for that reason that such function were not conducted. He stated that there was no demand of jewellery or money. He, however, stated that he had lodged a complaint before the jurisdictional police station on 12.06.2016. He further stated that thereafter in January 2018, the petitioner had given a complaint against him. He denied all other allegations raised and contended that the petition seeking dissolution of marriage should be dismissed.

O.P.No.1472 of 2018:

13.This petition has been filed by Vikas Jain, the husband, seeking restitution of conjugal rights. As is evident, from the year on which the petition had been filed, it was filed only after the petition seeking dissolution of marriage had been filed. It is to be pointed out that this petition seeking restitution of conjugal rights had been presented on 05.04.2018. Any petition



seeking restitution of conjugal rights is presented only to bring about reconciliation among the parties, stating that the petitioner is ready and willing to lead a normal matrimonial life with the respondent therein.

14.The counter affidavit in O.P.No.4009 of 2017 was dated 25.05.2018 after the petition filed seeking restitution of conjugal rights. In the counter affidavit, a reconciliatory stand was not taken. But however, every statement made by the petitioner in O.P.No.4009 of 2017 was questioned and counter allegations were also raised. It was therefore impossible for the Court to adjudicate the bonafide of the petitioner in O.P.No.1472 of 2018. At any rate, the pleadings in the petition were practically the same and therefore, we are not examining the same in detail.

I.A.No.3826 of 2018 in O.P.No.4009 of 2017:

15.This petition, filed by Sneha Jain was dated June 2018 and was filed after the counter affidavit was filed in O.P.No.4009 of 2017. In the affidavit filed, it had been contended that the petitioner was unemployed and not earning anything and was a home-maker. It was contended that at the time of marriage, she was given gifts and valuables as sreedhana. The list of articles had been stated in the annexure to the petition. It had also been stated that she had been compelled to leave the matrimonial home and was not permitted to take back her belongings. It had been stated that a direction should be issued by the Court



WEB COPY

to the respondent to hand over the items and cash mentioned in the annexure. A detailed list of gold articles given to the petitioner, gold articles given to the respondent and his family members, cash given to the respondent, silver articles, electronics items, steel items and other miscellaneous items similarly given to the respondent had been listed.

16.A counter affidavit had been filed by the respondent stating that the petitioner had left the matrimonial home at the instigation of her mother and while leaving the matrimonial home, the jewels and other articles which were always in her possession had been taken by her. He stated that he does not have the jewels or valuables referred in the annexure to the petition. He further stated that the details given in the annexure are not correct and actually exaggerated. He therefore disputed that he could be held responsible and directed to return the articles.

G.W.O.P.No.2136 of 2018:

17.This petition had been filed by the husband, Vikas Jain under Section 7 of the Hindu Minority and Guardianship Act, seeking to appoint him as guardian of the minor child Rishab Jain and for permanent custody of the child. The Trial Court had dismissed the said petition. The petitioner therein had not filed any appeal before this Court challenging the reasons given for the dismissal. It is to be noted that the custody of the child is now with the mother/Sneha Jain.

The Trial:

18. On the basis of the above pleadings, the trial Court conducted joint trial of all the proceedings and framed necessary points for consideration. The parties were invited to tender evidence. Accordingly, the wife/Sneha Jain grazed the witness box as PW-1. She marked Exs.P1 to P5. This included the Marriage Invitation / Photographs and Marriage Certificate as Exs.P1 to P3. The Birth Certificate of the child as Ex.P4. The respondent tendered evidence as RW-1. He did not mark any documents.

The Observations and Findings of the Trial Court:

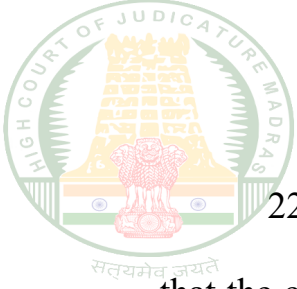
19. The Trial Court observed that the petitioner in her proof affidavit had contended that the respondent and his family members had held out that a better match could have been obtained for the respondent and that they had committed a grave mistake in accepting the petitioner as the daughter-in-law in the family. It was noted that photographs of other girls were shown to the petitioner, who were said to have been prepared to marry the respondent with more dowry than what the petitioner had brought. It was specifically held that this statement by the petitioner had not been denied or disputed by the respondent. The Trial Court held that this conduct of the respondent and his family members belittled the worth of the petitioner. This was held to be one of the acts of cruelty.



WEB COPY

20. It was further observed by the Trial Court that the petitioner had averred in her proof affidavit that she was not permitted to sit in the drawing room when the respondent and his family members were there and she had been excluded and isolated. She had also stated that she could have her food only after other members of the family had their food. Again, it was noted by the Trial Court that these statements were not challenged during the course of cross examination. It was thus held that some restriction had actually been imposed on the petitioner under the guise of tradition. It was stated that this behaviour on the part of the respondent and his family members would have had a severe psychological effect leading to helplessness and humiliation and must have caused mental cruelty.

21. The Trial Court further noted the specific statement and assertion by the petitioner that the respondent had gone to the extent of telling her to undergo DNA test of the newly born child. This statement had again not been either specifically denied nor put in cross examination of the petitioner. The Trial Court was of the opinion that this particular allegation raised against the petitioner would have definitely caused severe mental agony to the petitioner herein and it was held that this conduct of the respondent was a specific act which would come under the definition of mental cruelty. It was also noted that the respondent had not presented any gift to the newly born child.



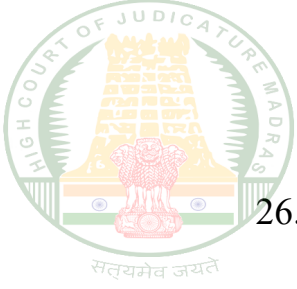
WEB COPY

22. With respect to the petition seeking guardianship, it had been noted that the contention of the respondent was that the petitioner had left the marital house along with the child, but that he had delayed filing the petition seeking custody and guardianship till the petitioner had filed the petition seeking dissolution of marriage.

23. Holding all these circumstances against the respondent, the Trial Court held that the petitioner was entitled to seek dissolution of marriage. With respect to the petition filed seeking custody of the child against which there is no appeal presented, the Trial Court granted custody to the petitioner and granted visitation rights to the respondent.

24. We had not been informed whether the respondent had exercised such rights granted to him to visit his child.

25. Thereafter, the Trial Court took up I.A.No.3826 of 2018 for consideration. This application had been filed by the petitioner seeking return of the articles mentioned in the annexure to the petition. It had been noted that sreedhana remained the exclusive property of the petitioner and cannot be termed as a joint family property. None of the family members of the respondent could claim ownership or possession of such articles.



WEB COPY

26.It had been however observed that the petitioner had admitted in her cross examination that the jewels were never entrusted to her mother-in-law. She had also stated that they were kept only for safe custody with the mother-in-law during the initial days of the marriage. It was therefore held that the jewels were always under the custody of the petitioner herein. It was held that since the articles were in the custody of the petitioner, an order cannot be issued for return of the articles. The Trial Court therefore dismissed the said petition.

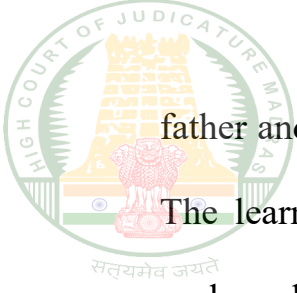
The Appeals:

27.Challenging these orders, both the parties had come on appeal.

28.We would continue the narration by terming the wife as the petitioner and the husband as the respondent.

The Arguments:

29.It is the contention of Mr.Sanjay Pinto the learned counsel for the petitioner that the petitioner / wife had entered into the marital home with hopeful expectations. However, very soon afterwards, she found that the statements held out prior to the marriage about the monthly income of the respondent was not correct, that he was not actually earning any amount, as stated by him, that he was not earning any amount from the business of his



father and that he was only earning a partly sum working in a private company.

The learned counsel contended that the petitioner suffered mental cruelty at each and every stage. He contended that the Trial Court had analyzed the evidence in entirety, particularly with respect to the seclusion of the petitioner in the marital house from the companionship of the respondent or his family members. The instances narrated were also pointed out. The respondent had not challenged or questioned the allegations raised by the petitioner in the counter affidavit or during cross examination. The learned counsel asserted that the Trial Court had correctly assessed the pleadings and the evidence on record to come to a just conclusion that the marriage should be dissolved under the ground of cruelty.

30. With respect to dismissal of I.A.No.3826 of 2018, Mr.Sanjay Pinto contended that a stray statement in the cross examination had been taken out of context and noted by the Trial Court to dismiss the said application.

31. The learned counsel argued that the fact that the list of articles given in the annexure to the petition had been given to the respondent had not been specifically denied or disputed except for the bald statement that those articles were not available. He argued that the petitioner had very specifically stated that immediately after entering the marital house, she was compelled to handover all the jewels and other articles to the custody of the mother-in-law. She did not



WEB COPY

have the benefit of getting them back again. Moreover, not only were jewels and articles given, but a cupboard was also provided. This was also admitted by the respondent. An empty cupboard would not be normally given. The learned counsel contended that the cupboard was given only for safe keeping of the jewels and other items. He also pointed out the wedding photograph produced and marked as a document to show that the petitioner was decked with jewels at the time of marriage. He further pointed out that the father of the respondent was earlier running a pawn shop and is now running a jewellery shop and imputed that the stocks in the jewellery shop were the jewels given as sreedhana to the petitioner herein. The learned counsel finally urged that the Trial Court had misdirected itself in rejecting the application and insisted that this Court should interfere with that order.

32.The learned counsel contended that, in the instant case, several instances had been mentioned in the petition which were neither challenged during cross examination nor denied in the counter affidavit and it was therefore, contended that the Trial Court had correctly appreciated the evidence and granted dissolution of marriage.

33.Mr.M.Arvind Kumar, the learned counsel for the respondent/husband, however, denied and disputed the said contentions. He pointed out the

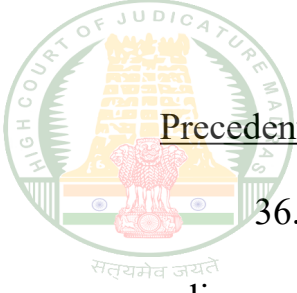


WEB COPY

allegations raised and stated that they were mere scratches in the marriage and should not be considered as grounds affecting the marital life. He stated that they were only allegations raised in the petition and they remained allegations without being sufficiently proved in manner known to law. However, the learned counsel stated that the respondent had not produced any documents on his side to buttress his contentions. It was contended by the learned counsel that the allegations stated in the petition are flimsy and imaginary and should be rejected. He contended that the Trial Court had picked a few instances to grant dissolution of marriage and stated that this Court should examine the evidence in its entirety and dismiss the petition seeking dissolution of marriage, allow the appeal filed by the respondent.

34. With respect to the dismissal of the petition seeking restitution of conjugal rights, the learned counsel contended that the respondent was always ready and willing to live with the petitioner and continue with the marital relationship. He denied all contentions raised about questioning the paternity of the child.

35. With respect to the petition seeking return of the articles, he contended that the Trial Court had correctly applied its mind to the facts and circumstances and had come to a correct conclusion to reject the said application. He contended that the said order did not warrant any interference.



Precedents cited:

36.Mr.M.Arvind Kumar, learned counsel for the respondent placed reliance on a judgment of the Division Bench of this Court in ***C.M.A.No.887 of 2010, A. Sugumar Vs. K.S.Chitra***, wherein it was held that minor instances in the marital life cannot be stated to be grounds to dissolve the marriage. The observations of the Division Bench was based on the fact that no corroboratory evidence had been adduced on behalf of the petitioner / wife. The learned counsel contended that the evidence of the petitioner in the instant case should also be rejected by this Court. He pointed out that reliable oral and documentary evidence should be produced to establish grounds of cruelty.

37.On the other hand, the judgment of the Hon'ble Supreme Court reported in ***2024 SCC OnLine SC 609, Maya Gopinathan Vs. Anoop S.B and Anr.***, had been cited by Mr.Sanjay Pinto on the failure of the respondent to produce documentary evidence relating to the articles which had been stated by the petitioner to have been brought by her as sreedhana articles and kept in the house of the respondent in a separate cupboard, which was also given at the time of marriage.

38.Mr.Sanjay Pinto placed further reliance on the judgment of the Hon'ble Supreme Court in ***SLP (Civil) No.18430 of 2019, Pradeep Bhardwaj V. Priya***, wherein the Hon'ble Supreme Court had observed that the institution

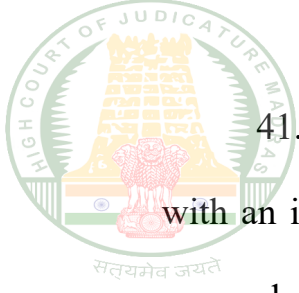


of marriage is rooted in dignity. It had been held that any act which affronted the mental health of the party should be viewed from the view point of the party affected and the Court should understand the agony of the party who had suffered.

Discussion and Determination:

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

40. The petitioner / wife / Sneha Jain had initially filed O.P.No.4009 of 2017 seeking dissolution of marriage solemnized between her and the respondent / Vikas Jain / husband on 07.12.2014. The marriage was an arranged marriage. It was the very specific case of the petitioner that at the time of marriage substantial gold and silver articles had been given not only for her benefit but also for the benefit of the respondent and his family members / his parents. The list of articles had been given in the annexure to I.A.No.3826 of 2018 filed by the petitioner, which petition had been filed seeking return of articles. The fact that these articles had been given and that a cupboard had also been given by her parents had not been specifically denied. It is also to be noted that the marriage photograph had been filed as document and which shows that the petitioner was wearing jewellery. The list had been annexed at the time of filing the petition itself.

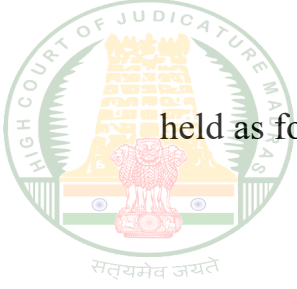


WEB COPY

41. We find no reason to hold that the petitioner would come to Court with an imaginary list of articles. Had that been so, the normal attitude of the respondent would be to raise a strong protest denying the fact that the petitioner had brought jewels, denying the fact that these specific jewels were ever brought by her, denying the fact that they were kept in the house, denying the fact that they were kept in the safe custody of the respondent or his mother and denying the fact that a cupboard was ever given. As a matter of fact, in his evidence, the respondent admitted that a cupboard was given. He had admitted that the jewels were kept inside the cupboard. The only statement made by the respondent was that when the petitioner went to her mother's house for delivery of the child, she had taken away all the jewels. If she had taken away all the jewels at that point of time when the marriage relationship was on the verge of breaking down, the normal attitude of the respondent would have been to raise a protest at the removal of the jewels and record it as a fact.

42. On the other hand, the respondent had lodged a complaint before the jurisdictional police station against the petitioner herein. The copy of the said complaint had not been produced by the respondent.

43. The Hon'ble Supreme Court in **(2013) 5 SCC 226, K.Srinivas Rao Vs. D.A.Deepa** had very specifically stated that lodging of a police complaint itself is an act of mental cruelty. In paragraph No.29, the Hon'ble Supreme Court had



held as follows:

29.*In a given case, while staying away, a spouse can cause mental cruelty to the other spouse by sending vulgar and defamatory letters or notices or **filing complainants containing indecent allegations or by initiating number of judicial proceedings** making the other spouse's life miserable. This is what has happened in this case.*

(Emphasis Supplied)

44.It is to be noted that it is the respondent, Vikas Jain who had lodged the police complaint against the petitioner, Sneha Jain. This fact itself would have disturbed the petitioner.

45.Further, the various instances of cruelty listed by the petitioner had not been specifically denied by the respondent. The alleged acts of cruelty could be reduced as follows:

i).When the petitioner entered the marital home, she was not permitted to move freely along with either the respondent or his family members.

ii).She was not permitted to sit with the respondent or his family members and was asked to remain secluded and was excluded from the family members.

iii).She was not permitted to have food along with the respondent and his family members and was directed to have food after they all had.



iv).She was insulted by stating her that she not a suitable match for the respondent and photographs of other women were shown to her, who according to the respondent and his family members were willing to marry the respondent with additional dowry.

v).She was also body shamed

46.These instances might seem trivial, but when viewed from the view point of a newly married bride, we hold they would have definitely affected her mental health. She had to suffer in isolation. She had nobody to talk in the marital home. She was directed to remain in a secluded place. She had no one to confide her griefs. The only companion of comparable age, probably the sister-in-law who was also residing in the marital home was extremely hostile and joined hands with the respondent / brother and mother and her acts further aggravated the insults raised against the petitioner.

47.We hold that the significant acts of not permitting her to sit along with the family members and not permitting her to eat along with the family members day in and day after, would have caused severe mental agony to any lady who had just entered the marital home with hopes and expectations.

48.A duty was cast on the respondent and his family members to provide a friendly and conducive atmosphere when a young lady comes to their house



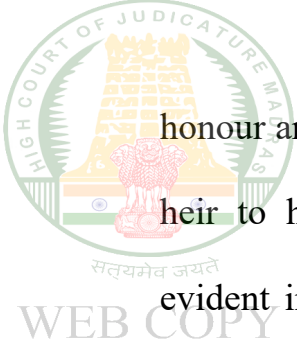
with rights accustomed to marriage of the son of the family and welcome her and not to exclude her from the family.

WEB COPY

49. We hold that these are acts of cruelty, which when viewed cumulatively had affected the mental health of the petitioner. She had no one to go to. She had no place to go to. She had no one to express her grievance. She had to suffer in isolation. We hold that a line must be drawn to limit the sufferings of the petitioner.

50. The petitioner conceived. This did not bring joy to the family of the respondent. She had to go back to her mother's house. It is alleged by the respondent that nobody informed him about the birth of the child. This allegation is extremely childish. A duty was also cast on the father of a child to continuously enquire not just about the birth of the child but also about the health of his wife during the months of pregnancy. Nobody can give birth in secrecy. A baby is not delivered overnight. Any birth is around about ten months of pregnancy. The complaint made by the respondent in this regard is rejected by us.

51. More shockingly, when the petitioner entered the marital home with her baby in her arms, she was questioned by the respondent who the father was. This must have shocked her to the extreme. This question directly affected her



honour and self respect. The pride of any woman is the fact that she had borne a heir to her husband's family. The extreme perversity of the respondent is evident in this attitude itself. She had very specifically stated this fact in her petition. She had very specifically stated this fact in her evidence in chief.

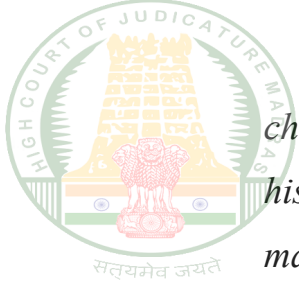
52. She had further stated that she was directed to undergo DNA test of the child. In the proof affidavit, the petitioner had stated as follows:

“16.h.I further state that the respondent even went to the extent of telling me to go for DNA test of the newly born child.

This direct allegation had neither been specifically denied in the counter nor challenged during cross examination.

53. The Petitioner then narrated the further ordeals suffered by her:

17.I further state that after the birth of the child the respondent and his family members have not performed any rituals including the rituals to take back me and the newly born child to the matrimonial house and initially when I and my family members were asking to fix the date for me and the newly born child to go back to the matrimonial house the respondent and his family members used to avoid it for some or other ground after sometimes the respondent and his family members have started demanding money and jewels to enable me and the newly born

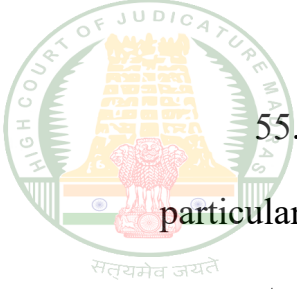


WEB COPY

child to go back to the matrimonial house. The respondent and his family members asked me not to come back to the matrimonial house and if at all I want to join the matrimonial house the respondent and his parents said that I should bring cash rupees Ten Lakhs and 25 sovereigns of gold for child and all costly toys, Video games and many more items list was said by the respondents parents, if I bring all this things along with me then they will think over it whether the child and I can join the matrimonial house and virtually they closed the doors for me in the matrimonial house and deserted me from the matrimonial house.”

It is thus seen that the respondent held the petitioner more as a chattel than as a wife and young mother to be treated with dignity.

54. During cross examination no specific questions were put denying and disputing these statements. These allegations by the respondent in conjunction with the fact that the respondent had taken years before filing GWOP No.2136 of 2018 seeking guardianship of the child, and when guardianship had been denied and only visitation rights had been granted, he had not challenged the said denial of his relief before this Court would show that the respondent still harbors animosity against the petitioner and has practically rejected the child. The mental torture continues till this date.



55. We hold that the respondent had committed continuous act of cruelty, particularly in challenging the paternity of the child born to him and we find no reason to differ with the findings of the Trial Court in this regard.

WEB COPY

56. In her proof affidavit, she had further stated as follows:

“17.Despite of all this still I had hope that after seeing the baby everything will go fine with such hope I along with the new born child went to the matrimonial house but my luck that the respondent and his family members did not even open the main door and when I requested to allow me to come inside the house as it was very hot and the child was also suffering but the respondents parents had no curtesy instead they started shouting from the balcony and spoke vulgarly in a filthy language and insulted me and strictly said that they would not open the door, nor will they allow me and the child in the matrimonial home as they have already seen some other girl for the respondent. Even though I and my father requested they did not show any mercy.”

57. This evidence would show that scant, if not, no respect was bestowed on the petitioner when she came to her marital house with her new born baby. She was prevented from even entering into the house. The main door was not even opened. The respondent and his family members shouted from the balcony. They did not have the courtesy to come down to see the child or the



petitioner. The contention of the respondent that the petitioner had taken away the jewels with her is rejected by us.

WEB COPY

58.It is also significant to note that the respondent had not let in any positive evidence to state that he had taken steps to bring back the petitioner to the marital house or atleast seek custody of the child or bring the child to the marital house at the earliest point of time. The neglect of the petitioner is one aspect. The neglect of the petitioner and her child is yet another aspect. The neglect of the child is a third aspect. All these acts cumulatively would show that severe mental cruelty had been inflicted on the petitioner by the respondents.

59.We hold that the Trial Court had properly analysed the evidence while granting dissolution of marriage and we are not inclined to interfere with the said finding.

60.We hold that the respondent had filed petition in O.P.No.1472 of 2018 seeking restitution of conjugal rights more as a formality than with any real intention. We hold that the Trial Court had correctly dismissed the said petition. We hold that there is no bonafide in the appeal presented before us against that order. Having indulged in continuous acts of cruelty, it hardly lies in the mouth



of the respondent to seek restitution of conjugal rights. He had neglected his wife prior to the birth of the child. He had neglected his wife subsequent to the birth of the child. He had neglected his wife and the child also after the birth of the child. There cannot be restitution in such circumstances. There cannot be exercised of conjugal right under such circumstances. The petitioner has had enough. The Court can never trust the respondent and grant restitution of conjugal rights.

61. During his cross examination, when specific questions were put about his conduct during the pregnancy and at the time of the birth of the child, he had answered as follows:

“Q. Do You remember in which month of pregnancy did your wife go to her parents house?”

A. Exactly can't remember

Q. During the period of pregnancy when your wife was in her parents house. Did you talking to her?

A. Yes

Q. The delivery of the child was whether cesarean or ordinary?

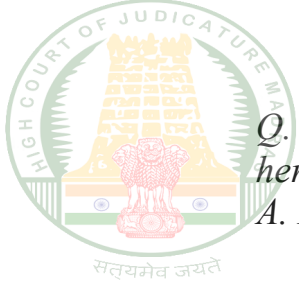
A. Normal Delivery

Q. Your wife give birth to child in hospital?

A. Yes

Q. You were informed when she was taken to hospital?

A. No



Q. Before your wife was taken to hospital when did you speak to her last?

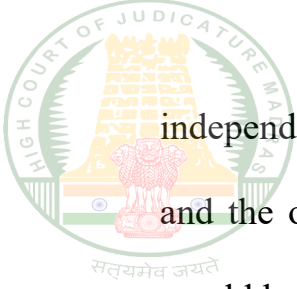
A. Exactly can't remember."

WEB COPY

The answers are of a person who is just not interested either in his wife or in his new born child.

62. We hold that it would be an exercise in futility and an extension of torture if restitution of conjugal rights are granted and we therefore confirm the dismissal of O.P.No.1472 of 2018.

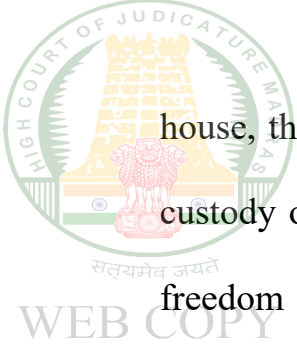
63. The petitioner had filed CMA.No.2609 of 2025 questioning the order dismissing I.A.No.3826 of 2018. The said application in I.A.No.3826 of 2018 can never be viewed in isolation or as a standalone application. It had been filed as the culmination of a series of cruelty suffered at the hands of the respondent by the petitioner to finally push her to seek return of the articles, only because, according to her, the marriage had come an end. She had sought dissolution of marriage. Naturally, she requires protection in her life. One protection which she would expect is for the articles given by her father to be returned to her. The Trial Court had very correctly stated that sreedhana property can never be stated to be the property of the joint family or the family to which a lady enters on marriage. It still remains her exclusive property. She should have autonomy to decide how to deal with the said property, with her jewels. It is not just



WEB COPY

independence but autonomy to take a decision as to the holding of the jewels and the other articles. For every lady, any small article given by her parents, would be of immense value. It not only has the value attached to it as an article, but has a sentimental value. It is the only reminder of her life in her parents' house, which memories she had taken to her marital house. Once the marital relationship suffers, naturally she would expects the articles to be given back to her. They do not remind her of the marriage, but remind her of the love and affection bestowed on her by her parents. She has to retain custody out of her respect for her parents. The articles cannot be just frittered away by her to her husband, who has rejected her, and the relatives of her husband who had neglected her and who had even questioned the paternity of their own heir.

64.A list of articles had been annexed to the petition. When a list is given, in a counter affidavit, specific denial must be given with respect to each item of the list. There cannot be a blanket denial. It would not be possible to understand whether the denial is for Sl.No.1 or Sl.No.10 or Sl.No.20 or to all the items in the annexure. Each item has its own value. Specifications had been given. The assertion by the respondent that the mother-in-law had only temporary custody would not mean that thereafter, the petitioner had exclusive custody of the same without the respondent qualifying what he meant by temporary custody. At the time when the petitioner entered into the marital



house, the very fact that the mother-in-law demanded that she should be given custody of the jewels would show that the petitioner had been deprived of the freedom to use the jewels as and when she wanted. Once she was denied the freedom to use the jewels it has to be held that there was restriction on her to take the jewels away from the family or from the marital house.

65. In the counter affidavit, the respondent had stated as follows:

“Unfortunately, the Petitioner at the instigation of her mother had left the matrimonial home and while leaving the matrimonial home, the jewels and other valuables which were always in the custody of the Petitioner was taken back by her when she had left the matrimonial home during pregnancy. Though I had a suspicion at that time, this fact had been confirmed and had come to my knowledge only after few months when the Petitioner started creating troubles for not returning to the matrimonial home As such I do not have any of the jewels or valuables referred to in Annexure attached to the petition. ”

66. A perusal of the aforementioned extract would show that the respondent had a suspicion that the jewels and valuables were taken back by her and this was confirmed after few months when she started creating troubles for not returning to the martial house. The two aspects have to be delinked. The



first is about the mental agony suffered by the petitioner necessitating her to leave the marital house, but according to him, at the instigation of her mother.

The second is that the petitioner left the marital house with the jewels. We hold that the normal conduct of the respondent would have been to raise a protest immediately or atleast put it on record that the petitioner had left the home with the jewels. Failure to do so leads to the only conclusion that the jewels and other articles were left behind by the petitioner. There was no possibility of her going back with the mother without all jewels.

67. In the cross examination, however, a different stand had been taken by the respondent:

Q. Normally when the daughter in law goes to her parents house for pregnancy good day and good time will be seen and only on that day and time the daughter-in-law will be sent to parents house?

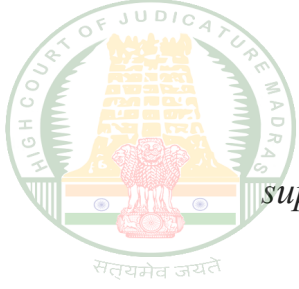
A. Yes.

Q. You were aware that on which day and what time the petitioner go to her parents house for pregnancy?

A. Yes.

Q. Before that day, the petitioner left to the parents house for pregnancy, you would have made all arrangements for her?

A. Yes.



Q. When you have made all arrangements you have supposed to know what all things she has taken with her?

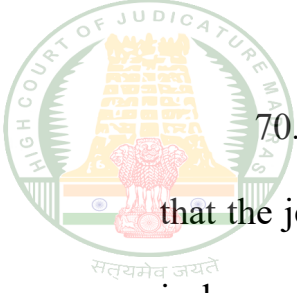
A. No. ”

WEB COPY

The last answer is strange and false to the knowledge of the respondent.

68. The respondent was aware that the petitioner had gone to her parents' house only for the delivery of the child. There was no reason to take the jewels away. She had not vacated the marital house once and for all. The statement by the respondent is rejected by us.

69. We again note that there was no specific denial about the correctness of the list of articles. The petitioner was not permitted to enter the marital house when she came back with the baby. She had gone for birth of the child. When she came back with the new born baby, the paternity was questioned. There was no occasion for her to take back all her jewels. The cupboard still remained in the house of the respondent. If she wanted to take back the jewels, she would have taken back them in the cupboard which was given to her. It is also admitted in evidence by the respondent that the cupboard is still used by him and his family member.



WEB COPY

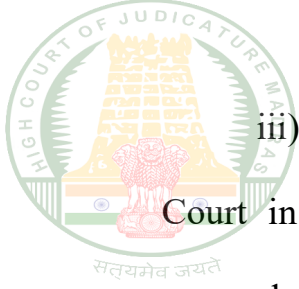
70. We hold that the Trial Court had misdirected itself on a stray statement that the jewels had been temporarily handed over to the custody of the mother-in-law and not permanently. We hold that the jewels had been retained in the house of the respondent and there was no occasion for the petitioner to take them away.

71. We hold under the factual circumstances that the petitioner was forced to go out of the marital house. There was no possibility of her taking the jewels with her. She left a frustrated lady. We hold that the jewels still remain in the marital house. The surrounding circumstances point only to this conclusion and to none other. We therefore set aside the order in I.A.No.3826 of 2018 in O.P.No.4009 of 2017 and allow I.A.No.3826 of 2018 filed by the petitioner in O.P.No.4009 of 2017.

72. In the result,

i). C.M.A.No.68 of 2024 stands dismissed confirming the dismissal order dated 20.09.2023 of O.P.No.1472 of 2018 seeking restitution of conjugal rights. No costs.

ii). C.M.A.No.114 of 2024 stands dismissed confirming the order in O.P.No.4009 of 2017 dated 20.09.2023 granting dissolution of marriage solemnized between the petitioner and the respondent on 07.12.2014. No costs.



iii). CMA No.2609 of 2025 stands allowed. The order passed by the Trial Court in I.A.No.3826 of 2018 in O.P.No.4009 of 2017 is set aside. The respondent / Vikas Jain is directed to return back the jewels and other articles as listed out in the annexure to I.A.No.3826 of 2018 in O.P.No.4009 of 2017 within a period of four weeks, failing which the petitioner / wife is entitled to seek payment of the value of the jewels and the articles as on date, 19.06.2006 along with the interest at 7.5% per annum from the date of the marriage, 07.12.2014 till date of payment. No costs.

73.Consequently, connected Civil Miscellaneous Petition is closed.

(C.V.K.,J.) (K.R.S.,J.)

19-06-2026

smv

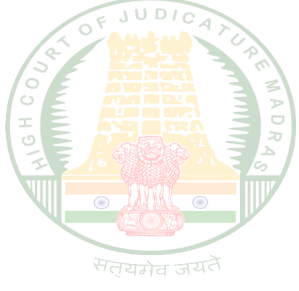
Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

To

The VI Additional Principal Family Court, Chennai.



WEB COPY



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

smv

**CMA Nos. 68 & 114 of 2024
and CMA.No.2609 of 2025**

19-06-2026