



WEB COPY

CMA No. 2567 of 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 No. 2567 of 2018

and

CMP No. 19501 of 2018

and

CRL RC No. 1208 of 2018

CMA No. 2567 of 2018

R.Brinda

..Appellant(s)

Vs

1. S.Johnson

2. S.Radhakrishnan

..Respondent(s)

CRL RC No. 1208 of 2018

R.Brinda

..Petitioner(s)

Vs

S.Johnson

..Respondent(s)

CMA No. 2567 of 2018

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act to set aside the fair and decreetal orders of the Learned III Additional Family Court (III Additional Principal Judge, Chennai) dated 08-08-2018 in OP No.992 of 2012 and allow the above CMA.

**CRL RC No. 1208 of 2018**

PRAYER: Criminal Revision filed under Sections 397 and 401 Cr.P.C. to call for the records relating to the order passed by the learned III Additional Family Court, (III Additional Principal Judge, Chennai) dated 07.08.2018 in MC.No.266 of 2017 and to set aside the same and allow the criminal revision.

In both cases:

For Appellant(s): Mr.M.Vijayakumar
For Respondent(s): Mr.M.Venkatesh for Mr.R.Jayaprakash

COMMON JUDGMENT

(Judgment of the Court was delivered by K.Rajasekar J.)

The Civil Miscellaneous Appeal has been filed challenging the order dated 08.08.2018 passed in OP No.992 of 2012 by the III Additional Principal Judge, Chennai. The Criminal Revision has been filed challenging the order passed by the III Additional Principal Judge, Chennai, dated 07.08.2018 in MC.No.266 of 2017.

2.The appellant herein is the wife. Her husband/first respondent filed a petition for dissolution of marriage by invoking Section 10(1) (i) & (x) of the Indian Divorce Act, seeking dissolution of marriage held on 30.11.2011 as per the Christian Marriage Act.

3.It is the case of the husband that his wife was having a disease called Hypo Thyroidism. This disease was suppressed and marriage was conducted.



After marriage, the wife had shown disrespect to his family members and used filthy language against them, which resulted in difference of opinion between them and she left her matrimonial home and stayed in her parents' home. After several requests made by the husband, she returned home and informed him that she was having relationship with the second respondent even prior to marriage and she is not interested in continuing the matrimonial life with her husband. It is further stated that she continued her relationship with the second respondent, thereby she was in adulterous life. In spite of his best efforts to bring her into matrimonial life, she has not come forward to co-operate and cohabit with the husband, which resulted in filing of the petition to dissolve the marriage.

4. The appellant/wife had contested the petition on the ground that there was no suppression of any facts, more particularly, with regard to the health issue. She has also denied the adultery pleaded against her and she in turn has stated that her husband has not properly maintained her and forced her to go for employment. The family members of the husband have frequently intervened in their matrimonial life, based on the opinion given by an Astrologer, which resulted in rising disputes between the couple. She further stated that there was a frequent demand of money made by her husband's family. Hence, there were frequent quarrels between the couple. Unable to bear the same, she was forced to leave the matrimonial home. Now she is not having any employment and living with the support of her family members, and she has not ill-treated any of



the family members of the husband. She further submitted that she has suffered cruelty from the hands of the petitioner's step sister and other family members.

Hence, opposed the grant of dissolution of the marriage.

5. During the pendency of the original petition, she has also initiated a maintenance case claiming maintenance from her husband. This maintenance proceeding was opposed by the husband on the very same grounds raised in the original petition filed for dissolution of marriage.

6. Before the Trial Court, on the side of the petitioner/husband, PW1 was examined and Exs.P1 to P5 were marked. On the side of the respondent/wife, RW1 & RW2 were examined and Exs.R1 & R2 were marked.

7. The Trial Court after considering the evidence placed on record held that the petitioner/husband has failed to prove adultery. However, accepted the case of the husband that there is suppression of ailment of the wife and also held that there is age difference of four years between the husband and the wife. His wife is four years elder than him and the same is also suppressed which attracts ground for mental cruelty and granted the decree for dissolution of marriage. Similarly, the maintenance case filed in M.C.No.266 of 2017 was also dismissed on the similar grounds. Aggrieved over the same, CMA No.2567 of 2018 and Crl.R.C.No.1208 of 2018 has been filed by the wife/appellant.



8. Since both the Civil Miscellaneous Appeal and Criminal Revision case revolves around the same issue, both matters are taken up together and a common judgment is hereby passed.

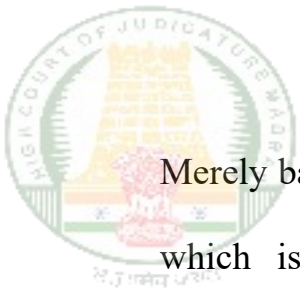
9. The learned counsel for the appellant submitted that though it is stated that there is an ailment of Hypo Thyroidism, it is not contagious nor it will spread to any other person. This ailment will not be a hindrance to the matrimonial life of the couple for leading a normal life. One of the main contentions raised by the husband is that her ailment would pass on to the children born to them. However, there is no medical evidence filed before the Court to substantiate the same. Similarly, the couple know the age of each other and it is an arranged marriage and after exchanging of family particulars and other information only, the marriage was held. Hence, there is no suppression of facts between the families. He further submitted that a serious allegation of adultery has been made by the husband and the same has been held to be false. This itself has caused severe mental agony to the wife. Further, it is the specific case of the wife that she is not having any income and for the purpose of maintaining herself, she has claimed maintenance and the same has been dismissed without any valid ground. Hence, he prays to set aside both orders passed in O.P.No.992 of 2012 and M.C.No.266 of 2017.



10. The learned counsel for the husband/first respondent submitted that there is ample evidence produced before the Trial Court that the wife was suffering from Hypo Thyroidism for the past seven years and that there is also age difference between the husband and wife and these facts have been suppressed and the same was properly appreciated by the Trial Court and decree for dissolution of marriage has been granted. There is no perversity in the orders passed by the Trial Court and prays to confirm the same.

11. We have considered the submissions made on either side and perused the material records.

12. Before the Trial Court though two grounds were raised for dissolution of marriage i.e., cruelty and adultery. The Trial Court had rejected the ground of adultery and accepted the ground of cruelty for granting dissolution of marriage. The Trial Court had held that there is cruelty committed by wife, by suppressing the facts regarding ailment and age of the wife. Admittedly, the ailment suffered by the wife is not contagious or there is no evidence produced to show that it would spread to the husband and it would hamper the matrimonial life. Though exhibits were marked to show that the wife was suffering from Hypo Thyroidism and she was under medication for treating the same. There is no medical evidence to substantiate the claim of the husband that it would further reach to the next generation or to the child born to them.



Merely based on the ailment and considering the non disclosure of this ailment, which is not malignant or contagious and which is curable by proper medication, the finding of the trial Court that there is mental agony to the husband is not proper. In the absence of any material or medical evidence to show that the disease suffered by the wife is hindrance to lead a regular matrimonial life, this ailment could not be considered as a ground for granting the relief of dissolution of marriage. There is also no evidence produced that it was suppressed by the wife.

13. Similarly, though there is difference in age has also been admitted, by the wife, there is no evidence produced by the husband that the same is also suppressed prior to the marriage except marking certain documents alleging that these facts were not stated or suppressed or not informed to the husband. Unless this suppression leads to any mental agony or any hindrance to lead the matrimonial life, the same could not be considered as cause for the mental agony. We are of the view that the reasons stated for establishing the allegations of cruelty is not sufficient enough to hold that it leads to disturb the matrimonial life. Hence, we are of the view that the reasons stated by the Trial Court for granting dissolution of marriage is not based on sound reasons. Though the Trial Court has relied on certain judgments of the Apex Court, those judgments are related to suppression of malignant and other serious types of diseases. We are of the view that applying those judgments with respect to the



facts of this case is not proper and accordingly, we are inclined to set aside the order of the Trial Court granting dissolution of marriage.

WEB COPY

14.As far as maintenance is concerned, it is the further case of wife that she had stopped working as Guest Lecturer and even prior to leaving the matrimonial home. Admittedly, the burden is on the husband to prove that the wife is having sufficient income to maintain herself. However, in this case, there is no evidence to show that she is having income. The Trial Court had accepted the case of the husband that she was Guest Lecturer and having qualification to eke out her livelihood. This reason is not proper and the same is liable to be set aside. Apart from that, the other grounds raised by the husband to deny maintenance is that the wife is leading an adulterous life but the same is also not proved in both proceedings. Hence, we are of the view that the husband is liable to pay maintenance and in Ex.R1 marked in the maintenance proceedings reveal that he is receiving gross pay of Rs.1,47,636/- and net pay of Rs.1,17,370/-. Further, the gross pay includes house rent allowance, conveyance allowance and special allowance which are attributable to the extent of 60%.

15.In view of the above, the husband/first respondent is directed to pay a sum of Rs.20,000/- per month towards maintenance to the wife/appellant. The first respondent shall deposit the entire arrears of maintenance from the date of



petition till the date of this judgment within a period of six months from the date of receipt of a copy of this order. Thereafter, the first respondent shall continue to pay the maintenance amount fixed by this Court regularly. The first respondent is at liberty to file an appropriate modification petition, if any required, for quantum of maintenance.

16. Accordingly, both the Civil Miscellaneous Appeal and the Criminal Revision are allowed. No costs. Consequently, connected miscellaneous petition is also closed.

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

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

sli

The III Additional Family Court,
Chennai.



WEB COPY

CMA No. 2567 of 2



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

sli

**CMA No. 2567 of 2018
AND
CRL RC No. 1208 of 2018**

09-04-2026