

IN THE VI ADDITIONAL FAMILY COURT AT CHENNAI

Present: Tmt.Roslyn Durai, B.Com., M.L.,

VI Additional Principal Judge, Family Court, Chennai

Tuesday, the 26th day of November 2024

O.P. No. 1870 of 2022



Ramesh Kolleboena

... Petitioner

/Vs./

Malleboina Navya

... Respondent

This petition filed on 28.04.2022 came up for final hearing before me on 19.11.2024 in the presence of the petitioner, and the respondent remained exparte, and upon perusing the petition and material records and evidence of the petitioner, and on hearing petitioner, this Court delivered the following:

ORDER

1. The petitioner has come forward with this petition under Section 13 (1) (i-a) of Hindu Marriage Act, 1955, praying for dissolving the marriage between the petitioner and the respondent which was solemnized on 15.10.2021 at Banquet Hall-Perfect Stay Town House, Kovilampakkam, Chennai 117, by granting a decree of divorce on the ground of cruelty, and for cost.

2. THE BRIEF AVERMENTS IN THE PETITION ARE AS FOLLOWS:-

The marriage solemnized between the petitioner and the respondent on 15.10.2021 at Banquet Hall-Perfect Stay Town House, Kovilampakkam, Chennai 117, as per Hindu rites and customs. The marriage expenses of Rs.10 lakhs was borne by the

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petitioner's family, and gifted jewels to respondent worth about Rs.70,000/-. They started matrimonial life at Chennai. From the date of marriage, the respondent has not shown any interest in the matrimonial life and conjugal relationship with the petitioner, and she never ever cooked, and every day, the petitioner bought outside food for them, and the petitioner requested her to mend her way many times, and it became in vain. At the time of marriage, the petitioner worked as a Manager, at Canara Bank Head Office, Bangalore. The respondent forced the petitioner to get transfer to her near town, and not allowed the petitioner to go his peaceful sleep daily. The petitioner has lost his sleep from the date of marriage, due to harassment and torture of the respondent. The respondent requested the petitioner to give divorce in December 2021, and went to her parental home. She came back to the matrimonial home, due to pressure of her parents. The respondent made unnecessary quarrel with the petitioner for silly reasons. The elder members of family, advised her to mend her ways on 06.02.2022. Hence, she left the matrimonial home and stayed at her parental home. On the next day, on 07.02.2022, she demanded the petitioner to give divorce to her. On the calls of her family, the petitioner took her back. While so, the respondent lodged a police complaint at Kanigiri Police Station, Prakasam District, Andhra Pradesh, stating that the petitioner is unfit for the marital life. The Kanigiri Police called the petitioner for counselling on 05.04.2022, and fixed the date for counselling on 09.04.2022. The respondent demanded the entire family expenses and property of the petitioner's parent, as a settlement through intimidation of

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local people, in the guise of a police complaint. The respondent caused mental agony, harassment and hardship to the petitioner and his family members, by way of filing the aforesaid false complaint. The respondent has no interest in the matrimonial life, and she and her family intention, is only to grab money and property of the petitioner. The petitioner is fit person for the matrimonial life, and the same is known to the respondent. However, she has not allowed the petitioner for sexual relationship with her, and made false allegations with intent take away the petitioner's hard-earned money and his properties. The marriage has not been consummated, because of non-cooperation of the respondent. The respondent has given two criminal complaints against me and my family members, which has culminated into two calender cases via CC No.378/2022 for offenses under sec. 420, 498A, of Indian Penal Code, 1860, and section 3 and 4 of the Dowry Prohibition Act, and CC No.245/2023 for offences under sec. 345, 323, 506(i) r/w 34 of the Indian Penal Code, 1860, pending on file of Hon'ble Judicial Magistrate, First Class, Kanigiri Court. These are new facts that have come into light after the filing of this petition. Moreover, the original petition was filed prior to the completion of one year, and the relief under ground of cruelty could not be availed. The respondent has failed false criminal complaints making false allegations, and has admitted that the marriage has not been consummated, the same is an admission of fact, and the allegations have put me to severe mental cruelty. All the efforts taken by the petitioner

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and his family members become in vain. Hence, the petitioner decided to file this petition. Hence the petition.

3. Counter averments:

All the averments are denied except those specifically admitted. The marriage solemnized between the petitioner and the respondent on 15.10.2021 at Banquet Hall-Perfect Stay Town House, Kovilampakkam, Chennai 117, as per Hindu rites and customs, with the blessings of elders of both the families. The respondent's family had given Rs.16,00,000/- as dowry, and in that dowry alone, they had spent for marriage, and the petitioner's family had given only Rs.70,000/- to the respondent, for purchasing wedding saree. The petitioner is a selfish and a peculiar person. The petitioner is money minded and penny pinching person. The petitioner right from day one of marriage, put the respondent to untold miseries. The petitioner rebuked the respondent, even for trivial expenses like oil for the lamp, buying milk packets for brewing coffee. The petitioner will buy food and eat by himself, without offering the respondent. On several occasions, the respondent had consumed only black coffee for whole day in the house. Such were the tortures meted out by the petitioner towards the respondent. The respondent never compelled or forced the petitioner to get transfer from Bangalore, Karnataka to Andhra, in fact, at the time of marriage, the respondent is an Government employee, worked at agriculture department at Andhra, and the petitioner only had compelled and forced the respondent to resign the job, only due to the adamant attitude of the petitioner, she had

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left the job and eager to live with the petitioner. On the other hand, the petitioner had tortured and assaulted and caused all the humiliation against the respondent. She started her matrimonial life at Chennai, and subsequently petitioner had got placement at Bangalore, hence they shifted to Bangalore, Karnataka, even now the petitioner was working in Bangalore. The petitioner's attitude right from inception of marriage was cruel. The petitioner never took care of her needs, till date, the petitioner has not made any adjustments to make their matrimonial life cordial. She was constantly tortured and bullied to get more and more money from her paternal home for no reason. The petitioner is a sadist. It is denied the respondent wanted to divorce the petitioner. It is the petitioner who has filed for divorce. It is the petitioner who has tortured her for dowry, and the harassment she was meted out by the petitioner, both physically and mentally, cannot be expressed in words. The main allegation was marriage was not consummated. The respondent on several occasions requested the petitioner to come for medical checkup, but the petitioner evaded to come to the hospital, and without any medical evidence we can't come to fair conclusion. The FIR lodged by the police for cruelty and other aspects is separate, the petitioner can't club the above complaint before this court, only in order to mingle and confuse this court, and in order to get divorce. The MOU was entered in front of the police station, before the elders of both the family, and convened a meeting and in the said meeting, it was resolved that the petitioner and parents categorically said that they are ready and willing to settle Rs.13,00,000/- even in

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the MOU, the respondent had signed half-heartedly. Whether the petitioner is fully fit in respect of conjugal rights, to be proved only by the competent doctor, but the petitioner never come forward for medical test. On the other hand, the respondent even now ready to check up and willing to take all medical test. The respondent's matrimonial life became more miserable. The respondent was driven away by the petitioner to her parental home to get money for the petitioner. The petitioner is a selfish and self centered person, always money minded, and his greed led to destroy the respondent's matrimonial life. She never ever quarreled with the petitioner. On the other hand, it was the petitioner who abuses and uses un-parliamentary words such as "Thevidiaya, porambokku, mudhavei" etc., in demeaning manner, and character assassinating that she is street loafer. The petitioner is never resumed his conjugal rights since February 2022. The respondent had requested the petitioner and his parents to come for an medical check-up, and she also ready to diagnose herself, to know who is having the fault, and whether they can cure the same, but he adamantly refused for the same, and refused to come for the medical treatment. Several Panchayats are held for reunion, even the petitioner's parents adamantly and with an ulterior motive, did not permit him to join and live with the respondent, all her efforts ended in vain. Now she had rejoined in the Government job at Andhra. In order to escape from the clutches of pain and ill-treatment from the petitioner, she did not go back to the matrimonial home, as she feared abuse and physical violence in the hands of the petitioner. Even now the respondent is ready

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and willing to live with the petitioner, but all efforts taken by the respondent is being rebutted by the petitioner. Hence, seeks for dismissal.

4. The petitioner filed his proof affidavit and examined himself as PW1, and Ex.P.1 to Ex.P.4 were marked. The respondent failed to appear for the cross-examination of the PW1, and was set exparte on 06.03.2024. Thereafter, the petitioner filed for amendment, and even in that petition, the respondent failed to appear, and it was allowed. Thereafter, the earlier proof affidavit of the PW1 was eschewed, and fresh proof affidavit was filed on 22.10.2024, and Ex.P.1 to Ex.P.4 were marked. Heard petitioner.

5. Point for determination:

Now the point for consideration is that whether the petitioner is entitled for divorce on the ground of cruelty, as sought for ?

6. Point:-

The petition was originally filed under section 12(2)(b)(iii) of Hindu Marriage Act, to declare the marriage as null and void for non-consummation. Thereafter, the petition was filed for amendment in IA No.3/2024 to seek divorce under sec.13(1)(i-a) of the Hindu Marriage Act. The amendment for the ground under sec.13(1)(i-a) of the Hindu Marriage Act, has been allowed, and takes effect from the date of the amendment petition, which is after more than a year of the marriage. The petitioner contends that the marriage between the petitioner and respondent taken place on 15.10.2021 at Banquet

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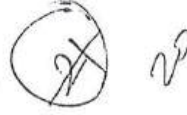
Hall-Perfect Stay Town House, Kovilampakkam, Chennai 117, as per Hindu rites and customs, is supported by the Ex.P-1 marriage invitation. The petitioner contends that the respondent did not co-operate for consummation of the marriage, and she also not ready to co-operate for the marital life in all other matters, to the extent that she even refused to prepare food, and left the matrimonial home in December 2021, and came back and again left in February 2022, and then given false complaint against him that he is impotent, and the respondent and her family demanding money and property to settle the case, and hence he sought for declaring the marriage as null and void, thereafter amended to seek for divorce on the ground of cruelty. The respondent in her counter claimed that the petitioner was miser, and had compelled her to resign her job and was cruel, and sought for money from her paternal home, and was sadist, and refused to go for medical checkup and had undertaken to pay Rs.13 lakhs in the meeting between the parents, and whether he is fit for conjugal relationship has to be determined by medical checkup and she is ready to go for medical checkup to know who is at fault, and she left the matrimonial home only to escape the abuse, and she is willing to live with him.

7. Cruelty is defined as conduct that causes such mental suffering or physical pain that it endangers the life, limb or health of the petitioner or makes it impossible for the petitioner to carry on living with the respondent. In Samar Ghosh Vs. Jaya Ghosh (2007) 4 SCC 511, the Apex Court, has been held that there is no uniform standard for guidance as to what constitutes cruelty, but it include, sustained course of abusive and

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humiliating treatment calculated to torture, discommode or render miserable the life of the spouse. It was held that feelings of deep anguish, disappointment, frustration in one spouse caused by the conduct of the other, for a long time, may lead to mental cruelty. In this case, the respondent in her counter claimed that both have to be sent for medical checkup to ascertain on whom the fault lies for the non-consummation, shows that the respondent admits non-consummation of marriage. The respondent has not chosen to contest and establish that, she is not the cause for the non-consummation. The petitioner relied on the decision in Sukhendu Das Vs. Rita Mukherjee, reported in (2017) 9 SCC 632, to contend that refusal to participate in divorce proceedings, and forcing the party to stay in dead marriage would constitute mental cruelty. The same applies to this case, where the respondent originally appeared, and then failed to appear in this case. The non-consummation must be held to have been established, and the same also constitute cruelty can be accepted. The respondent admits that she left the matrimonial home, but claims it was due to the abuse by the petitioner, however, she failed to contest this case to establish the same. Further, the petitioner contentions show that the respondent is prosecuting criminal cases against the petitioner at Kanigiri Magistrate Court, however failed to contest this case, leads to accept the case of the petitioner. There is no contra evidence to disprove the case of the petitioner. Thus the respondent has treated the petitioner with cruelty is concluded. The petitioner is entitled to divorce on the ground of cruelty.

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In the result, this petition is allowed for divorce. The marriage between the petitioner and respondent, solemnized on 15.10.2021 at Banquet Hall-Perfect Stay Town House, Kovilampakkam, Chennai 117, is dissolved on the ground of cruelty, under sec 13 (1) (i-a) of the Hindu Marriage Act, 1955: No costs.

Directly dictated to my steno typist and typed by her in the computer directly to my dictation, corrected and pronounced by me in the Open Court, on 26th day of November 2024.


VI ADDITIONAL PRINCIPAL JUDGE
VI ADDITIONAL FAMILY COURT

List of Witnesses examined on the side of the petitioner:

PW1 Ramesh Kolleboena

List of Exhibits marked on the side of the petitioner:

Ex.P.1 Marriage invitation
Ex.P.2 Marriage photo
Ex.P.3 Copy of Aadhaar Card of the petitioner
Ex.P.4 Copy of Aadhaar Card of the respondent

List of Witnesses examined on the side of the respondent: Nil

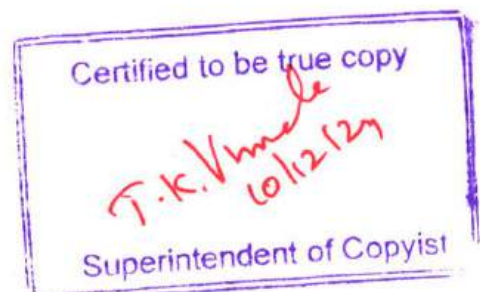

VI ADDITIONAL PRINCIPAL JUDGE
VI ADDITIONAL FAMILY COURT

Draft/Fair in

O.P.No.1870/2022

Date: 26.11.2024

VI Additional Family Court



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FAMILY COURT CHENNAI	
C.A. No.	13217/2024 20
O.P. No.	1870/2022 20
Application made on	28.11.24 20
Stamps called for on	2/12/24 20
Stamp deposited on	7/12/24 20
Addl. stamp called for on	20
Addl. stamp deposited on	20
Copy made Ready on	10/12/24 20
Copy Delivered on	20/12/24 20
 20/12/24 Superintendent	

Ramesh Kolleboena