

IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE  
AT :: KARIMNAGAR.

PRESENT:- SMT. R.SREE LEKHA,  
PRL. SENIOR CIVIL JUDGE,  
KARIMNAGAR.

Monday, the 7<sup>th</sup> day of April, 2025

H.M.O.P No. 171 of 2022

Between:

Gollapally Bharathi, W/o. Shembaiah, Age 49 years, Occ: Household,  
R/o. H.No.6-97, Thimmapur Village and Mandal of Karimnagar  
District.

.....Petitioner.

And

Gollapally Shembaiah, S/o. Mallaiah, Age 52 years, Occ: Carpenter  
work, R/o. H.No.6-97, Thimmapur Village and Mandal of Karimnagar  
District.

.....Respondent.

This petition is coming before me for final hearing in the  
presence of Sri. K. Venugopal, Advocate for Petitioner and Sri  
V.Anjaiah, Advocate for Respondent and having heard and stood over  
for consideration till to-day, this Court delivered the following:-

**:: O R D E R ::**

1. This petition is filed under Section 13 (1) (ia) of Hindu Marriage Act, 1955 (in short 'the Act') praying the Court to grant decree of divorce on the ground of cruelty by the respondent.
2. The averments of the petition in brief are that the marriage between the parties was performed on 06.01.1983 at Thimmapur

Village, Karimnagar District, their marriage was consummated, that they have no issues. The petitioner submits that after the marriage she joined the conjugal society of the respondent at Kammarkhanpeta village and resided with the respondent along with his family members for a week. The petitioner submits that her father had no sons but only two daughters, that the petitioner is the elder daughter, as such, the respondent after one week of his marriage came to the petitioner's house at Thimmapur as "Illutam Alludu" and resided with the petitioner and her parents at her parental house and visited the respondent's house occasionally on few festivals, that the petitioner and the respondent lived together for about fourteen years. The petitioner submits that after some years of their marriage, the respondent started harassing the petitioner by saying that she is not able to give birth to children, that the petitioner is a barren woman, the petitioner tried to convince the respondent personally and through her parents and elders, but in vain, that the parents of the petitioner conducted several panchayaths by their caste elders, that the respondent admitted his guilt in those panchayaths and promised to look after the petitioner properly and not to harass her, but failed to keep his promise and continued to harass the petitioner.

3. The petitioner submits that her father died on 22.09.1995, thereafter the respondent increased his harassment abusing her in filthy language, beat her, subjecting the petitioner to suffer, the petitioner kept silence as she has no brothers to question the respondent and also had no children, that the petitioner and her mother tried to convince the respondent with a fond hope that the respondent might change his attitude and will look after the petitioner properly, but the respondent did not change his attitude and started threatening the petitioner that he would perform second marriage and throw out the petitioner and her old aged mother from their house, that having no other way the petitioner silently tolerated the harassment of the respondent.

4. The petitioner submits that the respondent got second marriage with another woman namely Jaya in the year 2004 and got two daughters and one son and is leading happy marital life with his second wife and three children by residing in the parental home of the petitioner and left the petitioner and her mother to their fate. The petitioner submits that the respondent threatened the petitioner to leave their home to the respondent, the respondent also threatened to kill the petitioner if she does not go out of the respondent's life, as she is of no use to him.

5. The petitioner submits that her mother also passed away on 27.04.2018, that taking advantage that the respondent had become alone with no family members to support her, the respondent bet the petitioner several times, that the petitioner with the help of her wellwishers got conducted several panchayaths in which three agreements were drafted wherein the respondent admitted his guilt and promised not to harass the petitioner. The petitioner submits that she being a household lady is not able to maintain herself and is thrown into destitution, that the caste elders after seeing the miserable condition of the petitioner got conducted panchayath and passed a resolution dated 24.07.2016 that as the respondent got performed second marriage, the respondent has to pay monthly maintenance to the petitioner, that though the respondent agreed to pay the monthly maintenance to the petitioner, but later failed to obey the said agreement and did not continue to pay the maintenance to the petitioner, that thereafter the caste elders conducted another panchayath and passed a resolution dated 27.07.2021 that the respondent should vacate the parental home standing in the name of the petitioner and go out with his second wife and three children, but the respondent did not vacate the petitioner's house and continued to reside in it along with his second wife and children.

6. The petitioner submits that she went to the police station, LMD Colony several times, the police called the respondent and conducted counselling and advised the respondent to look after the petitioner properly, but the respondent kept on harassing the petitioner till today, that though the petitioner is residing in her house along with the respondent, his second wife and three children, the petitioner is preparing her own food for the last several years and facing several hardship to maintain herself. The petitioner submits that the respondent is cruel by nature and his conduct towards the petitioner is always inhuman, that the respondent did not stop harassing the petitioner mentally and physically and kept on harping the issue thus, making the life of the petitioner miserable. The petitioner submits that the attitude of the respondent is causing great mental agony to the petitioner, the petitioner believes that the respondent will not allow her to lead peaceful life, that the petitioner and the respondent are wife and husband for name sake, that their marital life ended long back and there is no chance of reunion between them, that the marriage between them is broken down beyond redemption, hence, the petition for dissolution of their marriage on the ground of cruelty.

7. The averments of the counter filed by the respondent in brief is that of denial. The respondent admits the marriage between them. The respondent submits that the petitioner gave birth to four

children, but they died after their birth for which the respondent incurred huge amount for the medical treatment of the petitioner. The respondent denies that he harassed the petitioner by stating that she is not able to give birth to the children. The respondent submits that he never harassed the petitioner, that he felt it is god's gift that no one can solve the problem for that reason. The respondent submits that the parents of the petitioner never conducted any panchayath in the village and never questioned the respondent, as such, admitting the guilt does not arise, that the petitioner stated several times that she will not give birth to the children due to the death of four children, as such, she will see another woman and perform second marriage with the respondent.

8. The respondent denies that after the death of the father of the petitioner he accelerated the harassment and abused the petitioner in filthy language and beat her indiscriminately. The respondent further denies that after the death of mother of the petitioner, the respondent beat the petitioner several times. The respondent submits that the petitioner started harassing the respondent by threatening the respondent that she will commit suicide and abused him in filthy language in the house. The respondent submits that he is maintaining and seeing the petitioner with love and affection, that he never broke down the marital life of the petitioner, that the petitioner

herself is blaming the respondent in the society and seeing the respondent as an enemy.

9. The respondent submits that the house bearing No.6-97 with open place situated at Thimmapur was in the name of father of the petitioner, but the petitioner did not succeed the said house, that the petitioner and the respondent are residing in the said house. The respondent submits that he was working as carpenter and earning money since the time of their marriage, that due to the dilapidated condition of the said house, the respondent removed the old house and purchased another plot measuring Ac 0-03 guntas adjacent to the old house and constructed another house with tiles in the same place with his earnings, that the respondent is maintaining the parents and their younger daughter since the date of their marriage with his own earnings. The respondent submits that as the children of the petitioner died immediately after their birth, as such, the petitioner searched another woman and performed second marriage to the respondent, that they are blessed with two daughters and one son.

10. The respondent submits that the petitioner executed an agreement partitioning the property which is in her name, in favour of the respondent on 19.05.2005 stating that with her willful and consent of her husband and her family members, she decided to

perform second marriage with one Jaya of Utnur Mandal and the petitioner decided to allot the land to an extent of Ac. 0-10 guntas out of her total extent of Ac. 0-20 guntas situated at Thimmapur in the name of said Jaya, that the petitioner was having one tiled house, out of the said house she gave half share along with open place to an extent of Ac. 0-02 guntas to the said Jaya on 19.05.2005, that further the petitioner stated that the said Jaya will become the owner and possessor of the said house and land, that the said agreement was executed by the petitioner with her own wish and without any coercion or force of the family members and signed on the said deed before eight witnesses. The respondent submits that he looked after the medical treatment of the parents of the petitioner during their life time and also incurred more than Rs.75,000/- for the funeral expenses of both of them.

11. The respondent submits that he is maintaining the petitioner by providing all the medical treatment, that he never deserted and never failed to maintain her and never harassed her. The respondent submits that the petitioner is harassing and ill-treating him every day, that daily after reaching the house after completion of his work, the petitioner harassed the respondent mentally without leaving him to take breath and causing damage to his character in the society. The respondent submits that though he is taking care and

maintaining the petitioner, she is threatening him to vacate the house with his children and second wife. The respondent submits that the petitioner is working as tailor and earning lots of money in the village and paying huge amounts to Mahila Mandali Society members. The respondent submits that due to spread of Carona virus he had no work, discontinued payment of maintenance to the petitioner since one year but he did not intentionally avoided the payment. The respondent submits that the petitioner intentionally making false propaganda in the village and demanding to vacate the respondent with his second wife and children from the house by blaming that he is not taking care of her inspite of the respondent providing all the amenities to her. The respondent submits that the petitioner intentionally is preparing food and living in the two rooms of the house, but there is no cruelty against her by the respondent.

12. The respondent submits that the father of the petitioner took him as "Illutam Alludu" at the time of his marriage with the petitioner, as such the resondent left the society of his parents and also left the property of his joint family and joined the society of the petitioner with a hope that he will reside in the society of the petitioner, that the respondent maintained the entire family of the parents of the petitioner including her sister with his own earnings, that the marriage of the sister of the petitioner was performed with

his own earnings. The respondent submits that he spent his entire earnings to the petitioner and her family members, that he has no alternative house or property to him to vacate the house which is given by the father of the petitioner by adopting the respondent as "Illutam son-in-law", as such, the respondent has no intention to vacate the house as he and his second wife are co-owners of the said house along with the petitioner which is given by her father at the time of their marriage and that he was also taken as "Illutam son-in-law", that moreover, the petitioner also executed a partition deed of her property in favour of the respondent and his second wife Jaya. The respondent submits that the petitioner filed the petition with false allegations, that she did not come before the Court with clean hands and prays the Court to dismiss the petition.

13. To prove her case, the petitioner got examined herself as P.W.1 and got exhibited Ex.P1. Ex.P1 is the joint photograph of petitioner with respondent. The petitioner got examined one Samanapally Laxmi as P.W.2 and one Chelpuri Shantha as P.W.3 in support of her case. Ex.R1 is exhibited during the cross-examination of P.W.2. Ex.R1 is the three photographs. On the other hand, the respondent got examined himself as R.W.1 and Ex.R2 is marked on his behalf. Ex.R2 is the agreement dated 19.05.2005. The respondent got examined

one Sriramoju Srinivas as R.W.2 and one Etneni Rajamallu as R.W.3 in support of his case.

14. Heard the learned counsel for the petitioner and the respondent. Perused the record.

15. Now the point for consideration is:

- 1. Whether the respondent subjected the petitioner to cruelty as alleged by the petitioner?**
- 2. Whether the petitioner is entitled for the decree of divorce?**
- 3. To what relief?**

16. The learned counsel for the petitioner submitted that the respondent harassed the petitioner by saying that she is barren woman, that the respondent married another woman and harassed the petitioner physically and mentally without paying any maintenance to her, that the respondent caused cruelty to the petitioner, as such the petitioner is entitled for the decree of divorce on the ground of cruelty. On the other hand, the learned counsel for the respondent submitted that as the petitioner failed to give birth to children, the petitioner herself performed second marriage to the respondent, that the respondent is looking after the maintenance of the petitioner and there is no cruelty against the petitioner by the respondent.

17. To prove her case, the petitioner got examined herself as P.W.1 and reiterated the contents of the petition in her chief examination affidavit. Ex.P1 is marked through her. In her cross-examination, she admitted that after her marriage her husband was brought by her father to her house as a illarikam son-in-law as the petitioner had no brothers. She denied a suggestion that the respondent purchased open plot of Ac. 0-03 guntas adjacent to the house of her father from his own earnings. She volunteered that her father purchased the same. She admitted that her father executed an agreement by transferring the properties on her name. She denied a suggestion that as she did not give birth to the children, she herself agreed to perform second marriage to the respondent, as such the marriage of the respondent was performed with one Jaya. She denied a suggestion that after second marriage she executed an agreement to the respondent by giving Ac. 00-10 guntas of land and half share in the house, that since the date of agreement the respondent and the second wife became the owners. She further denied that the respondent incurred Rs.70,000/- as expenses for her parents. She volunteers that after death of her parents they informed the respondent and then he came to see. Se denied a suggestion that the respondent is taking care of her welfare and providing all needs, but she is deposing false. She further denied

that though the respondent is taking care of her welfare, she is harassing the respondent by stating that the house belongs to her parents. She denied a suggestion that though the respondent is having love and affection towards her, she is threatening the respondent to vacate the house with his second wife and children. She denied a suggestion that the respondent left his property at his village and came to her village as illarikam son-in-law, as such he is entitled to reside in her parents property. She further denied that the respondent is not interested to give divorce to the petitioner.

18. The petitioner got examined one Samanapally Laxmi as P.W.2 in support of her case who corroborated the contents of the petition in her chief examination affidavit. Ex.R1 is marked during her cross-examination. In her cross-examination she deposed that the petitioner approached her at about 2 years back. She deposed that the respondent performed second marriage with one Jaya at about sixteen years back. She admitted that the respondent is living with his wife and three children and that the petitioner is also residing in the same house. She denied that the petitioner voluntarily performed the second marriage of the respondent with Jaya. She admitted three photographs when confronted to her, as such the three photographs are exhibited as Ex.R1. She denied a suggestion

that as the petitioner thought that she will not give birth to the children in future, as such she voluntarily performed the second marriage to the respondent. She denied another suggestion that even after performing second marriage the respondent used to look after the welfare of the petitioner. She admitted that as per the agreement the respondent agreed to give maintenance to the petitioner. She volunteers that the respondent is not giving maintenance to the petitioner and that the petitioner is living on her own earnings by tailoring. She denied another suggestion that the father of the petitioner agreed to give half share to the respondent while performing second marriage to him. She admitted that at present (as on the date of giving evidence) they all are residing in one house.

19. The petitioner got examined one Chelpuri Shantha as P.W.3 in support of her case who corroborated the pleadings of the petition in her chief examination affidavit. In her cross-examination, she deposed that she know the petitioner as the petitioner is her friend and the petitioner is also doing tailoring work. She admitted that the respondent is the husband of the petitioner and that she know the petitioner and respondent from their marriage. She deposed that she do not know whether the petitioner said with the respondent that as

she will not get pregnant, as such advised and searched for the second marriage to the respondent and performed the second marriage to him. She denied that the respondent took care of the welfare of the petitioner's parents till their death. She further denied that the petitioner executed an agreement to the respondent that the petitioner will give all the rights in the property given by her father, that the petitioner also executed an agreement that the second wife of the respondent will also will get half share along with the petitioner. She further denied that the respondent never harassed the petitioner, as such the petitioner is living with the respondent. She further denied that there are no disputes between the petitioner and respondent but with the instigation of the caste sangam, the petitioner filed this petition.

20. On the other hand, the respondent got examined himself as R.W.1 and reiterated the contents of the counter in his chief examination affidavit. Ex.R2 is marked through him. In his cross-examination he deposed that their marriage was performed in the year 1982, that again he married another lady in the year 2005. He deposed that he did not give divorce to his first wife at the time of second marriage. He volunteered that as he did not begot children with the first wife, he married second time. He further deposed that

he do not know that without obtaining divorce from the first wife, he cannot remarry and that the second marriage is not valid. He further deposed that no resolution was written when he married second time. He denied a suggestion that after the second marriage, he insisted his first wife to reside separately. He denied a suggestion that after his second marriage, his first wife is living separately and that he is not looking after her maintenance. He further denied that he bet his first wife several times. He denied a suggestion that in one compound, there are two houses and that he is staying in one house and his first wife/petitioner is residing in another house. He denied a suggestion that for the past fifteen years, the petitioner is residing separately and cooking her own food. He admitted that his first wife and second wife quarrel some times and in this regard, panchayaths were held. He deposed that the house in which he is living is in the name of the petitioner. He denied that he insisted the petitioner to mutate the said house in his name. He deposed that the petitioner is doing tailoring work. He denied a suggestion that the petitioner is living on the earnings of the tailoring work only. He volunteered that he is also providing maintenance to her. He admitted that the petitioner filed maintenance case against him. He deposed that he did not state in the counter in the maintenance case, that he is ready to provide maintenance to the petitioner. He further denied that as he

is not looking after the well being of the petitioner and also not maintaining her, the petitioner filed the present case.

21. In his further cross-examination he admitted that the petitioner got the property under Ex.R2 from her father. He denied a suggestion that Ex.R2 is created by him and that it is not executed by the petitioner. He further denied that Ex.R2 is not legally enforceable document and that Ex.R2 is not concerned with the present case.

22. The respondent got examined one Sriramoju Srinivas as R.W.2 in support of his case who corroborated the pleadings of the counter in his chief examination affidavit. In his cross-examination he deposed that he came to know through the respondent that the respondent was illutam son-in-law. He deposed that the respondent performed second marriage about twenty years back, that there is no agreement to show that the petitioner promised to give Ac. 0-10 guntas of land out of Ac. 0-20 guntas of land to the second wife of the respondent. He further denied that since the second marriage of the respondent, the respondent did not look after the petitioner properly, as such panchayaths were held. He further denied that the petitioner and the respondent are residing separately and that the petitioner and the respondent prepared food separately. He denied that as the respondent is not maintaining the petitioner, as such she

is doing tailoring work. He volunteered that without being idle, the petitioner is doing tailoring work.

23. One Etneni Rajamallu is examined as R.W.3 in support of case of the respondent who corroborated the pleadings of the counter in his chief examination affidavit. In his cross-examination he deposed that he know that the respondent is illutam son-in-law as their houses are adjacent. He further deposed that he do not know whether the respondent purchased Ac. 0-03 guntas of land. He further deposed that he did not file any document to show that the petitioner executed a document by giving Ac. 0-10 guntas of land out of Ac. 0-20 guntas to the second wife of respondent. He further deposed that there were no disputes between the petitioner and the respondent. He denied a suggestion that after performing the second marriage, the respondent did not look after the petitioner properly. He further denied that as the respondent is not maintaining the petitioner, as such she is doing tailoring work. He lastly denied that the respondent is not looking after the petitioner properly.

24. According to the petitioner, the respondent married second time, is not paying any maintenance to her, harassing her physically and mentally, as such she is entitled for divorce on the ground of

cruelty. The burden is on the petitioner to prove that the respondent treated her with cruelty.

25. In her cross-examination, the petitioner as P.W.1 denied that as she did not give birth to the children, she herself agreed to perform second marriage to the respondent, as such the marriage of the respondent was performed with one Jaya. She further denied that after the second marriage, she executed an agreement with the respondent by giving share in her property and that from the date of agreement, the respondent and second wife became owners. She further denied that the respondent is taking care of her welfare and providing all needs, but she is deposing false.

26. P.W.2 deposed in her cross-examination that the respondent performed second marriage with one Jaya at about sixteen years back. She admitted that the respondent is living with his wife and three children and that the petitioner is also residing in the same house. She denied a suggestion that the petitioner voluntarily performed second married to the respondent with one Jaya. She further denied that even after conducting second marriage, the respondent used to look after the welfare of the petitioner. She further deposed that the respondent is not giving any maintenance to

the petitioner as per the agreement and that the petitioner is living on her own earnings by doing tailoring.

27. P.W.3 denied in her cross-examination that the petitioner executed an agreement to the respondent that the petitioner will give all the rights in the property given by her father and that the second wife of the respondent will also get half share along with the petitioner. She further denied that the respondent never harassed the petitioner as such, the petitioner is living with the respondent till that day. She further denied that there are no disputes between the petitioner and the respondent, but at the instigation of caste sangam, the petitioner filed the present petition.

28. On the other hand, according to the respondent he did not give divorce to his first wife at the time of his second marriage. He further deposed that he do not know that without obtaining divorce from the first wife he cannot marry and that the second marriage is not valid. He further deposed that the house in which he is living is in the name of the petitioner. He admitted that the petitioner filed the maintenance case against him, that he did not state in the counter in the said maintenance case that he is ready to provide maintenance to the petitioner.

29. R.W.2 also deposed in his cross-examination that the respondent performed second marriage about twenty years back. He denied a suggestion that as the respondent is not maintaining the petitioner, as such she is doing tailoring work. R.W.3 who is examined on behalf of the respondent deposed in his cross-examination that there were no disputes between the petitioner and the respondent, that the disputes are in between the petitioner and the second wife of the respondent.

30. Thus, according to the petitioner after performing second marriage, the respondent harassed her, not looking after her properly as such, she is entitled for divorce. On the other hand, according to the respondent the petitioner herself performed his second marriage with another woman, that he is looking after the petitioner properly, that the petitioner is only harassing him.

31. Admittedly, the respondent herein contacted second marriage during the subsistence of his first marriage with the petitioner. Performing the second marriage without obtaining a valid divorce from the first spouse is illegal and amounts to an act of cruelty. In the present case, the respondent performed the marriage for the second time without the consent of the petitioner. Though it is the plea of the respondent that the petitioner herself performed his

second marriage, but he failed to prove the same. The cruelty can be either mental or physical. The cruelty to one person may not amount to cruelty to another person. The concept of cruelty differs from person to person depending upon his upbringing, level of social activities, education, family, cultural background etc. In India performing second marriage without obtaining a valid divorce from the first wife is illegal and also can constitute an act of cruelty. The performing of second marriage without obtaining divorce from the first wife will cause significant, emotional distress and psychological trauma to the first wife. Mental cruelty is far more damaging than the physical cruelty. Being the husband, the respondent has to stay with the petitioner to lead marital life. But in the present case, the respondent contacted second marriage. It shows that the respondent is having no marital life with the petitioner which causes marital disturbance to the petitioner, which certainly amounts to cruelty.

32. In the present case also admittedly, the respondent performed second marriage without the consent of the petitioner which amounts to cruelty. Though it is the plea of the respondent that the petitioner is harassing him, but he failed to prove the same. Though suggestions were given to P.W's 1 to 3 with regard to the agreement under Ex.R1 and also with regard to property disputes, but this

petition being filed for divorce, this is not the proper forum to decide about the property disputes pending between the parties.

33. Thus, according to the petitioner, the respondent is guilty of cruelty towards her. Marrying again for the second time during the subsistence of first marriage with the petitioner definitely causes mental cruelty to the petitioner. Therefore, in view of the above discussion, coupled with oral evidence on record, this Court holds that there is cogent and sufficient evidence to prove the contentions of the petitioner on the ground of cruelty. In view of the above discussion, this Court holds that the petitioner succeeded in proving her ground of cruelty as against the respondent satisfactorily. Thus, the point is answered accordingly and in favour of the petitioner.

**POINT NO.2:-**

34. In point No.1, it was held that the petitioner proved the ground of cruelty against the respondent. Therefore, this Court holds that the petitioner is entitled for the decree of divorce. The point is answered accordingly.

**POINT NO.3:-**

35. **In the result**, the petition is allowed without costs granting decree of divorce dissolving the marriage of the petitioner performed

with the respondent on 06.01.1983 at Thimmapur Village of Karimnagar.

Dictated to the Stenographer, transcribed by him, corrected and pronounced by me in the open Court on this the 7<sup>th</sup> day of April, 2025.

Sd/-  
**PRL. SENIOR CIVIL JUDGE,  
KARIMNAGAR.**

**APPENDIX OF EVIDENCE**  
**WITNESSES EXAMINED**

For Petitioner:

PW1: Gollapally Bharathi.  
PW2: Samanapally Laxmi.  
PW3: Chelpuri Shantha.

For Respondent:

RW1: Gollapally Shembaiah.  
RW2: Sriramoju Srinivas.  
RW3: Etneni Rajamallu.

**EXHIBITS MARKED**

For Petitioner:

Ex.P1 Joint photograph of petitioner with respondent.

For Respondent:

Ex.R1 Three photographs.  
Ex.R2 Agreement dated 19.05.2005.

Sd/-  
**PRL. SENIOR CIVIL JUDGE,  
KARIMNAGAR.**