

APSR000018612023



IN THE COURT OF THE JUDGE, FAMILY COURT – CUM –
III ADDITIONAL DISTRICT & SESSIONS COURT, SRIKAKULAM.

Present: Sri Ch.Vivek Anand Srinivas,
Judge, Family court-cum-III Additional District & Sessions Judge,
Srikakulam.

**MONDAY, THIS THE THIRTIETH DAY OF JUNE, TWO
THOUSAND AND TWENTY FIVE
(30.06.2025)**

F.C.O.P.NO.92/2022

Between:

Majji Lokanadham, s/o.Laxminarayana, Hindu, aged about 39 years, employee and resident of Plot No.189, Vasthralatha colony, Gollapudi, Vijayawada Rural Mandal, Srikakulam District-521225. Cell No.9440281122, email:lokesh.majji@gmail.com.

..Petitioner.

And :

Majji Sandhya Rani @Jyothi, w/o.Lokanadham, Hindu, aged about 34 years, Hosuewife, resident of Kapu Temburu village, Nandigam mandal, Srikakulam District, Cell No.8333061742.

..Respondent.

This petition is coming on 23.06.2025 for final hearing before me in the presence of Sri **C.Rama Mohan**, Advocate for the Petitioner and of Sri **S.Venkatarao**, Advocate for the Respondent, and having heard both sides and upon consideration, this court made the following:

ORDER

01. This is a petition filed by the Petitioner/Husband against the Respondent/Wife under Section 13(1)(ia)(ib) of the Hindu Marriage Act seeking the relief to grant a decree of divorce against the Respondent by dissolving the marriage held between the Petitioner and Respondent on dt.15.05.2010 on the ground of cruelty and desertion, and for costs of the petition.

02. Briefly stated the averments of the petition are that:

The Petitioner and Respondent are husband and wife and their marriage was performed on 15.05.2010 at the residence of Petitioner in Dimmidijola in Srikakulam District, and immediately after the marriage, the Respondent joined marital life with Petitioner at Hyderabad and immediately he came to know that the Respondent is not attending any household work and had aversion towards the Petitioner and meanwhile the Respondent conceived and in January, 2011 she left him to her parents house and gave birth to a male child on 02.08.2011 and again came to Hyderabad in July, 2012 and again left the Petitioner on 09.05.2013 and stayed there up to 08.07.2014 and the Petitioner along with elders went to the house of Respondent and brought back the Respondent for marital life on 16.07.2014 and on 13.09.2014 when the Petitioner was out of station, the Respondent's parents along with their men attacked the parents of

Petitioner and took away the Respondent and his son from his house and that whenever the Respondent left the Petitioner, he used to raise dispute before elders and bring back her for marital life and as all the efforts of Petitioner failed, he sent a legal notice dated 19.02.2015 calling upon her to join marital life with him and the Respondent received the notice and filed a criminal case under section 498A of I.P.C and the police called him and held counseling in the presence of elders and all the elders went to the house of Respondent on 11.03.2015 and requested her to join marital life with the Petitioner, for which, she refused and again on 13.03.2015 the Respondent again gave false complaint against him and a false case was registered against him and his family members and the Respondent subjected the Petitioner to mental cruelty and the Petitioner filed H.M.O.P.586/2015 on the file of Family Court, Ranga Reddy District for restitution of conjugal rights and the Respondent filed a transfer O.P and got the said petition transferred to Senior Civil Judge's Court, Sompeta and renumbered as O.P.3/2016 and the Petitioner also filed GWOP for custody of his son before the District Court, Srikakulam and later all the matter were compromised and withdrawn before Lok Adalath and the Respondent agreed to withdraw the criminal case under section 498A of I.P.C after completion of observation period, but failed to withdraw the same, but the said case was ended in acquittal after full trial and the Petitioner brought back the

Petitioner as per the compromise terms, but the Respondent did not carry away with conjugal life and again went away to her parents house on 08.12.2018 without any reason and that the Respondent subjected the Petitioner by granting a decree of divorce. Hence, the petition.

03. The Respondent filed her counter denying the petition allegations while admitting her relationship with the Petitioner and contended that the Petitioner and his parents came for Barasala function of their child and the parents of Petitioner demanded Ac.1.00 of land and on the assurance of father of Respondent, took the Respondent to Hyderabad for conjugal life and the Petitioner used to harass her by keeping a kept mistress by name Samantha and used to beat the Respondent and unable bear the harassment, she and her son went to her parents' house in September, 2014 and a mediation was held before elders and it became futile and the Respondent gave complaint to police against the Petitioner and his parents and in the counseling the Petitioner did not heed the words of police and a case was registered against him and it is the Petitioner, who deserted the Respondent and even after compromise before Lok Adalat, the Petitioner failed to take her back for marital life and the Petitioner did not provide any maintenance to her or her child and that she is always willing to join and lead conjugal life with the Petitioner and prayed to dismiss the petition.

04. To prove their respective contentions, on behalf of Petitioner, P.Ws.1 to 3 were examined and Exs.A1 to A7 were marked and on behalf of Respondent, R.Ws.1 to 3 were examined and no documents were marked on her behalf.

05. Heard the learned counsels for the Petitioner and Respondent. Both the parties filed their written arguments.

06. Basing on the rival contentions, the following points are framed for determination:

- 1). Whether the Petitioner is entitled for the relief of divorce against the Respondent on the ground of cruelty?**
- 2). Whether the Petitioner is entitled for the relief of divorce against the Respondent on the ground of desertion?**
- 3). Whether the Petitioner is entitled for the relief of divorce against the Respondent by dissolving the marriage held between them on dated 15.05.2010, as prayed for?**
- 4). To what relief?**

POINTS 1& 2:

- 1). Whether the Petitioner is entitled for the relief of divorce against the Respondent on the ground of cruelty?**

2). Whether the Petitioner is entitled for the relief of divorce against the Respondent on the ground of desertion?

07. At the outset, this is a petition filed by the Petitioner under section 13(1)(ia)(ib) of Hindu Marriage Act to dissolve the marriage held between the Petitioner and Respondent on 15.05.2010 on the grounds of cruelty and desertion. To prove their respective contentions, on behalf of Petitioner P.Ws.1 to 3 were examined and Exs.A1 to A7 were marked. On behalf of Respondent, R.Ws.1 to 3 were examined and no documents were marked. P.W.1 is the Petitioner, P.Ws. 2 and 3 are the elders on behalf of Petitioner. Ex.A1 is the marriage photograph, Ex.A2 is the wedding card, Ex.A3 is the Photostat copy of identity card of Petitioner, Ex.A4 is the Photostat copy of Aadhar card of Petitioner, Ex.A5 is the certified copy of Lok Adalat award in HMOP.3/2016, Ex.A6 is the certified copy of Lok Adalat in GWOP.334/2017 and Ex.A7 is the certified copy of Calendar and Judgment in CC.235/2015. R.W.1 is the Respondent, R.W.2 is the father of Respondent and R.W.3 is the witness on behalf of Respondent.

08. Now, it is to be seen whether the Petitioner is able to establish that he is entitled for divorce from the Respondent on the ground of cruelty. The cruelty under section 13(1)(ia) of Hindu Marriage Act is having wide scope

and cruelty can be inferred from the facts and matrimonial relation of parties and interaction in their daily life disclosed by evidence. When there is proof of deliberate course of conduct on the part of one party, intending to hurt and humiliate the other spouse and such conduct is persistent and cruelty can be inferred. Now, as can be seen from the entire evidence of P.Ws.1 to 3 and the Petition contents except making a vague allegation that the Respondent subjected the Petitioner to physical and mental cruelty, no specific acts were stated by the Petitioner nor in the evidence of P.Ws.1 to 3 to show that the Respondent has subjected the Petitioner to physical cruelty. There is also no categorical evidence let in by the Petitioner to show in what way the Respondent subjected him to mental cruelty. Whatever evidence was deposed by P.W.1 against the Respondent shows that it is a normal wear and tear incidents which normally take place in every family. The Petitioner failed to prove that the conduct of the Respondent was intended to hurt and humiliate the Petitioner and that she persisted with the said conduct so as to infer cruelty by the Respondent towards the Petitioner. So, when there is no such evidence let in by the Petitioner, it cannot be said that the Respondent subjected the Petitioner to cruelty so as to grant divorce on the ground of cruelty. Hence, it is held that the Petitioner failed to establish that he is entitled for the relief of divorce against the Respondent on the ground of cruelty.

09. Now, it is to be seen whether the Respondent deserted the Petitioner and whether the Petitioner is entitled for the relief of divorce against the Respondent on the ground of desertion. It is an admitted fact that the Respondent is the legally wedded wife of Respondent, as both the Petitioner and Respondent are admitted in their pleadings. So, it is held that the Respondent is the legally wedded wife of Petitioner. Now, the Petitioner is claiming the relief of divorce against the Respondent on the ground of desertion under section 13(1)(ib) of Hindu Marriage Act. The necessary ingredients to be proved to claim the relief of divorce on the ground of desertion or the Petitioner must prove the factum of separation and intention to bring the cohabitation permanently to an end. These essential ingredients are to be proved by the Petitioner in view of the legal position laid down in a decision reported in 2010(5) ALT at page 199 between K.S.V.V.L.Narasimharao vs. Kandiseti Suguna. It is also to be established by the Petitioner that the Respondent has deserted him for a continuous period of not less than two years immediately preceding the presentation of the present petition.

10. As can be seen from the petition averments, it is the case of Petitioner that the Respondent deserted him completely from 08.12.2018.

The present petition was filed by the Petitioner on 11.01.2021. So, it shows that the Petitioner and Respondent are living separately for continuous period of not less than two years immediately preceding the petition. The Respondent as R.W.1 did not deny the same. Now, it is to be seen whether the acts of the Respondent proved the factum of separation and intention to bring cohabitation to an end. The Petitioner examined himself as P.W.1 and reiterated his petition pleadings and testified with specific dates on which the Respondent left his house and when he went along with elders and brought the Respondent along with him to his house. Now, as can be seen from the cross-examination of R.W.1, she testified that she went to her in-laws house one years after she gave birth to a child after her husband raised dispute before her elders. She also admitted that she never raised any dispute before elders that the Petitioner harassed her. R.W.2, who is the father of Respondent testified that the Petitioner and Respondent lived together only for 3 months and that Respondent came away from the Petitioner in June, 2011 and again after the birth of her son, she joined with her husband after 9 months and again the Respondent came away to his house in the year 2014 and that after the cases filed by the Petitioner and Respondent before the courts were compromised, the Petitioner took the Respondent for conjugal life in 2018 and again after six months, the Respondent came back to his house stating that the Petitioner is refused

not to live with her. R.W.3, who was examined as elder on behalf of the Respondent testified that he is her relative and that he does not personally about disputes between Petitioner and Respondent at Hyderabad and that he only came to know about the same through the Respondent. He testified that the Respondent joined the Petitioner after one to two years after the birth of her son and resided with him only for two months. Though he testified that a dispute was raised before elders, but he testified that he is not an elder to the said dispute. So, the evidence of R.Ws.1 to 3 shows that it is the Respondent who is going away to her parents house from the Petitioner and that the Petitioner is bringing back the Respondent for marital life. Though the Respondent contended that the Petitioner used to harass her, but no evidence was let in by the Respondent to prove the same. R.W1. also admitted that she did not raise any dispute before the elders that Petitioner is harassing her. So, the contention of the Respondent is that the Petitioner used to harass her is without any basis.

11. On the other hand, it is the contention of the Petitioner that the Respondent used to go away without any cause and he used to bring her back for marital life by raising dispute before elders. The said fact was admitted by R.Ws.1 and 2. It is also an admitted fact that the Petitioner filed HMOP.3/2016 against the Respondent for restitution of conjugal rights

along with the petition in GWOP.334/2017 for custody of his child. So, they show that the petitioner had made efforts to bring back the Respondent to join him for marital life and even during pendency of the said petitions, he compromised with the Respondent and took her for marital life. Exs.A5 and A6 show that the Respondent admitted to withdraw the criminal case filed by her against the Petitioner, but Ex.A7 shows that she did not withdraw the said case and the said criminal case was ended in acquittal after full dressed trial. So, the Respondent did not act in accordance with the compromise effected before the Lok Adalat under Exs.A6 and A7. Further, R.Ws.1 and 2 admitted that it is only after the Petitioner issued legal notices to Respondent under section 9 of Hindu Marriage Act calling upon the Respondent to join marital life with him, the Respondent gave police complaint to police. If really the Respondent had intention to join marital life with the Petitioner, she would not have given police report and she would have join the Petitioner for marital life. So, her conduct shows that she had no intention to join marital life with the Petitioner and filed a criminal case against him. R.W.1 admitted that she did not take steps to join marital life with the Petitioner. So, if really the evidence of R.W.1 that she is still ready to join marital life with Petitioner, she would have taken steps to join marital life with Petitioner, which she failed to do. Moreover, even after the petitions filed by the Petitioner were compromised before the Lok Adalat as per

Exs.A6 and A7 and the Petitioner took the Respondent along with him, she did not stay with the Petitioner and again came back to her parents house. No reasonable explanation was offered by the Respondent as to why she came away from the Petitioner except contending that the Petitioner did not change his attitude. But what are the acts of the Respondent, which made her to leave her matrimonial house, are not explained by the Respondent.

12. It is another contention of Respondent that the Petitioner had illegal relationship with one woman by name Samantha and used to harass her. But no evidence was placed before the court by the Respondent to prove the said allegation. So, it is only a bare allegation made by the Respondent in her counter without any proof or evidence. The making of false allegations without any evidence placed before the court with respect to the character of the Petitioner shows that the Respondent is making false allegations against the Petitioner by injuring his character. The Petitioner also examined P.Ws.2 and 3, who are the elders on his behalf and they testified that the Petitioner raised dispute before them and the Respondent did not heed their words and refused to join marital life with the Petitioner. Though the Petitioners 2 and 3 were cross-examined, nothing material was elicited to discredit their evidence that the Petitioner raised dispute before them against the Respondent. Though P.W.1 was cross-examined, nothing

material was elicited from his cross-examination to show that the Petitioner himself sent away the Respondent from his house. So, the evidence of P.Ws.1 to 3 prove that the Respondent used to leave the house of Petitioner and go away to her parents without any reason and that the Petitioner used to bring her back for marital life by raising dispute before elders.

13. It is the further contention of the Petitioner in spite of his repeated efforts, the Respondent going away to her parents' house without any reason, he filed petition for restitution of conjugal rights against her. The Respondent as R.W.1 has also admitted the same. It is also admitted by the Respondent that after the Petitioner gave legal notice calling her to join marital life with him, she filed a criminal case against him under section 498A of I.P.C. This conduct of the Respondent shows that she has no intention to lead marital life with the Petitioner. But still during the pendency of the said petition, the Petitioner compromised with the Respondent and took her for marital life and again within short time, the Respondent left the company of Petitioner in the year 2018 and failed to join marital life with him since then and she also did not make any efforts to join marital life with the Petitioner or raised any dispute before elders, which shows the intention of the Respondent to live separately from the Petitioner and also infers her

intention to bring cohabitation permanently to an end. So, when considering all the circumstances and evidence on record, it shows that the Respondent deserted the Petitioner continuously for a period of more than two years immediately preceding the present petition and that the Respondent is intentionally living separately from the Petitioner and her intention shows that it is her intention to bring the cohabitation permanently to an end.

14. Hence, in view of the above discussion, it is held that the Petitioner established the necessary ingredients to seek divorce against the Respondent on the ground of desertion and accordingly, it is held that the Petitioner is entitled for the relief of divorce against the Respondent on the ground of desertion. Accordingly the points 1 and 2 are answered.

POINT NO.3:

3). Whether the Petitioner is entitled for the relief of divorce against the Respondent by dissolving the marriage held between them on dated 15.05.2010, as prayed for?

15. In view of the discussion made supra and the findings arrived at while answering points 1 and 2, wherein it is held that the Petitioner is entitled for the relief of divorce on the ground of desertion and that he is not entitled for

the relief of divorce on the ground of cruelty. Accordingly, the point is answered.

POINT NO.4:

4). To what relief?

16. In view of the discussion made supra while answering points 1 to 3, wherein it is held that the Petitioner is entitled for the relief of divorce on the ground of desertion and that he is not entitled for the relief of desertion on the ground of cruelty, it is held that the petition filed by the Petitioner seeking divorce against the Respondent is entitled to be partly allowed and that the Petitioner is entitled for the relief of divorce against the Respondent on the ground of desertion and that he is not entitled for the relief of divorce on the ground of cruelty. Accordingly, the point is answered.

17. In the result, the petition is partly allowed, in favour of the Petitioner and against the Respondent, granting a decree of divorce in favour of the Petitioner and against the Respondent, dissolving the marriage held between Petitioner and Respondent on dt.15.05.2010 on the ground of desertion. The relief in so far as the claiming divorce on

the ground of cruelty is dismissed. In the circumstances of the case, both the parties do bear their own costs.

Dictated to the Stenographer Gr.I, corrected and pronounced by me in Open Court, this the 30th day of June, 2025.

Sd/-Ch.Vivek Anand Srinivas,
Judge, Family Court – cum – III Addl. District &
Sessions Judge, Srikakulam.

**Appendix of Evidence
Witnesses Examined**

For Petitioner:

PW1: Majji Lokanadham.

PW2: Kolli Sriramulu.

PW3: G.Shankararao.

For Respondent

RW1: Majji Sandyarani.

RW2: Polaki Apparao.

RW3: Polaki Dharmarao

DOCUMENTS MARKED

For Petitioner:

Ex.A1: Marriage photograph.

Ex.A2: Wedding card.

Ex.A3: Photostat copy of identify card regarding his service.

Ex.A4: Photostat copy of Aadhar card of Petitioner.

Ex.A5: Certified copy of Lok Adalat award in HMOP.3/2016.

Ex.A6: Certified copy of Lok Adalat in GWOP.334/2017.

Ex.A7: Certified copy of Calendar and Judgment in CC.235/2015.

For Respondent: -Nil-.

Sd/-Ch.Vivek Anand Srinivas,
Judge, Family Court – cum – III Addl. District &
Sessions Judge, Srikakulam.