



C.M.A.No.2914 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 14.11.2025

Pronounced on : 27.11.2025

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.No.2914 of 2024

and

C.M.P.No.24328 of 2024

M.Selvamani@Daisy

... Appellant

Vs

S.Premkumar

... Respondent

This Appeal is filed under Section 19 of the Family Courts Act, praying to set aside the order and decretal order dated 23.04.2024 passed in O.P.No.5216 of 2022 by the learned V Additional Principal Family Court, Chennai and dismiss the above petition in O.P.No.5216 of 2022 by allowing

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this CMA.

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For Appellant : Mr.N.Nagu Sah

For Respondent : Ms.Kavitha Deenadayalan

JUDGMENT

The petition for divorce, on the ground of cruelty, filed by the husband against his wife, allowed by the V Additional Principal Family Court Chennai, in O.P.No.5216 of 2022 vide order dated 23.04.2024. Being aggrieved, the wife has preferred the appeal, which is subject matter of CMA.No.2914 of 2024 under consideration.

2.The petitioner and the respondent in O.P.No.5216 of 2022 have a prior history of broken marriage. They got married carrying their previous history of broken marriage and was living at Kolathur, Chennai,



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after they found incompatibility to be with the parents of the petitioner / husband.

3.In his petition for divorce, the petitioner alleges that since he hails from dalit community, the respondent was making disparaging comments, insulting remarks and abusive imaginary allegations. After a spell of separation, for nearly a year, they again rejoined, on the intervention of police. However, the respondent continued her abusive conduct, created a sense of anxiety and insecurity in the mind of the petitioner. She had given three criminal complaints to the police with false allegations and withdrawn from the marital life wilfully.

4.In the counter, the wife has contended that the allegations in the divorce petition are intentional, imaginary and false. On 15.11.2019, the marriage was solemnized and after short period of stay in Kolathur, the family was shifted to the house of the husband home to have joint family



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with his parents. While so, when she was in the rest room her father-in-law

entered the room and tried to misbehave with her and this was reported to

her husband. He did not care to condemn the act of his father. This has

created shock and mental agony. She felt sick on 04.09.2020 and was

admitted in the hospital by her parents, after treatment, when she went to the

husband's home, she was prevented from entering the matrimonial home.

Therefore, she was forced to go back to her parents home. On 30.11.2022,

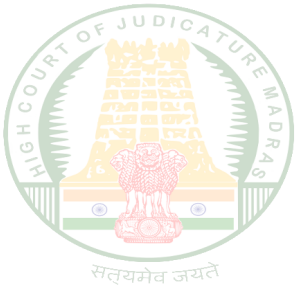
when she again went to her husband's house along with her parents, she

came to know that, they had vacated the house. Only thereafter, she was

forced to give complaint to the Ponneri Police Station against the petitioner

and his family members.

5.The trial Court Chennai, based on the pleadings, framed the following points for consideration:



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“1.Whether the petitioner was cruelly ill-treated by the

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*2.Whether the petitioner is entitled to get a decree of
divorce on the ground of cruelty as prayed for?*

3.What relief the petitioner is entitled to get?

6.To prove the allegations in the petition, the petitioner mounted the witness box and marked Exs.P1 to P11. The respondent gave an oral evidence, but not filed any document. The psychological report was marked as Ex.C1.

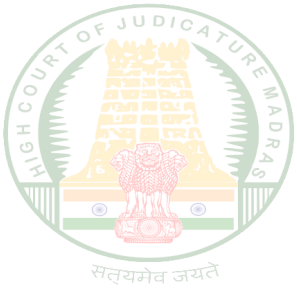
7.The trial Court after considering the mutual allegations made by each other, many of which were not part of the pleadings, held that the unfound allegations against the husband that he is an impotent itself amounts to cruelty. Filing petition for conjugal right, petition for maintenance and



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domestic violence after instituting the divorce petition, exposes the mutual disgust among the spouse. Since the petitioner has established mental cruelty caused to him by her wife, divorce granted.

8.Appeal filed by the wife on the ground that, the trial Court failed to note that she had been always willing to join with her husband after condoning the misbehavior of her father-in-law. This has been misunderstood by the trial Court and had cited this incident and subsequent complaints amounts to cruelty. Further, ignoring the petition filed for restitution of conjugal right in HMOP No.355 of 2023, the trial Court had concluded that, she had not taken any steps for reunion. This finding is perverse on the face of the record. She was forced to stay with her parents and not allowed to enter the matrimonial home. This fact though pleaded and proved through evidence, the trial Court miserably failed to appreciate the same.



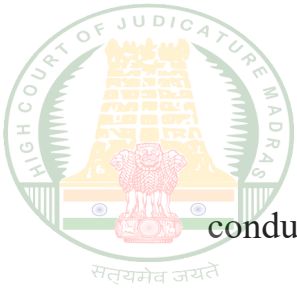
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9.On behalf of the husband, who is the respondent in the appeal

filed a detailed counter affidavit refuting all the allegations raised in the grounds of appeal and further submitted that, case of mental cruelty, there may not be any direct evidence. The conduct of the parties will speak for the intention to cause cruelty.

10.In this case, her continuous harassment by lodging frivolous complaints make wilful withdrawal from the matrimonial home and without staying with her parents without any justification or conduct sufficient to infer wilful desertion coupled with cruelty. Filing of restitution of conjugal right perse will not lead to an inference that the petitioner is ready to resume the conjugal relationship. After filing restitution of conjugal right petition, the appellant has also filed application before the Judicial Magistrate under the Domestic Violence Act and another complaint under IPC. While so, her

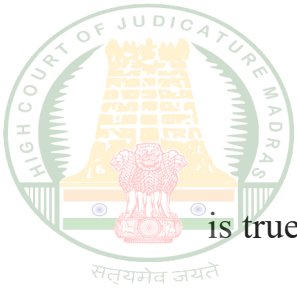


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conduct proved to be diagonally opposite to her petition for restitution of conjugal right.

11.This Court at the advantage of perusing the records along with the testimony of the parties, the appellant in her cross examination admits about the complaints given against her husband and his family members. The trial Court, pending the proceedings, had requested the parties to consult a psychologist and the report of the psychologist is also available, which indicates that the parties did not cooperate for therapy and therefore, the same was aborted. It is the case of desertion alleging cruelty and misbehavior by the in-law. The said allegation is strongly denied by the husband, who is the petitioner.

12.From the evidence, we find that attempt to have a nuclear family away from the parents also failed due to the attitude of the parties. It



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is true that desertion alleged in the petition is attempted to be proved through

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oral evidence and no documentary evidence to prove the wilful desertion. It

is an oath against oath and no documentary evidence available. But the

complaints under the Domestic Violence Act as well as petition for conjugal

right in HMOP No.355 of 2023 initiated after the institution of the petition

for divorce would show that, the appellant wife had no intention of reuniting

with her husband, but was interested in prosecuting him and getting

maintenance.

13.The complaints alleging sexual harassment against the father-in-law, domestic violence against the husband, father-in-law and mother-in-law and the maintenance petition against the husband filed one after another with improvement and embellishment indicates that the appellant who had finally left the matrimonial home under the guise of taking medical treatment had not returned back to the matrimonial home and



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after receipt of the notice from her husband, she had started inventing one or other reason to put the respondent and his family member at constant fear of litigation.

14.The trial Court on taking note of these facts and the attitude of the appellant, who had no animus to rejoin husband has rightly dissolved the marriage on the ground of desertion. This Court finds no reason to justify any interference in the well considered order of the V Additional Family Court Chennai in O.P.No.5216 of 2022 dated 23.04.2024. Hence, the appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

(G.J.J) (M.S.K.J)

27.11.2025

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Index: Yes/No

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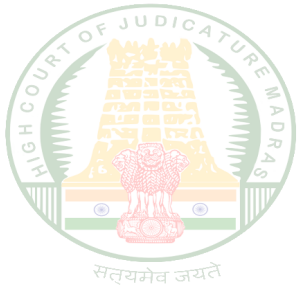
Speaking order: Yes/No

Neutral Citation: Yes/No

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To

The V Additional Family Court Chennai.



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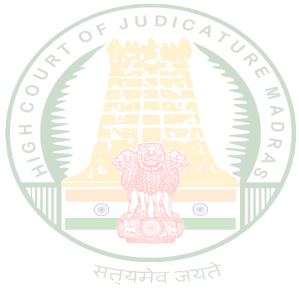
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