

BEFORE THE MASTER,
HIGH COURT, MADRAS.

O.P.No.695 of 2022

DATE : 05.08.2025

TIME : 01.05 P.M.

Evidence of Mrs.Nirmala Balasubramanian, R.W.1, aged 35 years,
D/o.Mr.Balasubramanian, W/o.Madhu Thangaraj, residing at R.R.C.702, Rose Dale
Apartment, Padur, Chennai – 603 103.

Cross Examination by

Mr.G.Vairava Subramanian, (Enrl.No.2096/2018), Counsel for the Respondent.

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SOLEMNLY AFFIRMED :

Q: When did you give birth to your son?

A: On 11.04.2014.

Q: Was he born in India or US?

A: At US.

Q: So, he has got the citizenship of US?

A: Yes.

Q: What is the validity of the passport of your son?

A: July 9, 2019.

Q: By that time, were you in US?

A: No. I came back by Feb' 2019.

Q: Whether your son's passport got renewed by that time of April 2019?

A: No. I requested the petitioner to sign the renewal application of the passport. Since he was in US, he denied to sign.

Q: By that time of April 2019, was your husband in US?

A: Yes.

Q: When did he come back to India?

A: I do not know.

Q: When did you request him to sign the renewal application?

A: When he was in US and also when he came back to India.

Q: In spite of knowing that your son's passport will be expiring, you came back to India without renewing the passport. Is it correct?

A: There were about 4 to 5 months gap between the return and passport expiry. So, I requested the petitioner to sign it after coming back to India.

Q: When did you exactly come back to India?

A: I think it was on 9th February 2019.

Q: When was the passport of the child expiring?

A: I do not remember the exact date.

Q: If I say it was on 11.4.2019, could you object it?

A: I am not sure. I have to check.

Q: So, you do not remember the date of expiry of your son's passport. Is it correct?

A: We took passport for my son after few months of his birth. So, I do not remember the exact date of expiry of the passport.

Q: After that you have not gone to US?

A: No.

Q: Whether your son's passport is renewed now?

A: No. I am still waiting for his(the petitioner's) signature.

Q: Is it mandatory to obtain the sign of both the parents to renew the passport application in US?

A: Either I should have the custody of the child or both the parents signature are mandatory in US passport.

Q: Now who has having the custody of the child?

A: Under my custody.

Q: Is it correct to state that from 2019 till today, the child is under your custody?

A: Yes.

Q: In spite of it, you have not taken any steps to renew your son's passport?

A: Yes. Witness Add; For US passport, we need the custody papers. For that purpose, I have filed the petition for the custody in August 2022 in Chengalpet Court.

Q: Is it correct to state that only when the custody of the child is given to you by the court, only then you will be entitled to renew the passport in US Embassy?

A: Yes.

Q: If I say it is not correct, then what is your comment?

A: I do not agree with that and I spoke to the persons regarding this. I have also checked the same in the website of US Embassy.

Q: Have you given any application for hearing emergency and decided the matter on the child custody in Chengalpet court?

A: After we filed the petition for custody in Chengalpet court, the petitioner filed the present petition before this court in November 2022.

Q: I put it to you that you have filed any emergency application in Chengalpet court?

A: I have not filed.

Q: When your son has been brought to India, was he studying there?

A: Yes. Witness adds: We got the Transfer Certificate and came to India

Q: When does the academic year end for the child in US?

A: In June.

Q: So you brought your child in February 2019, during the course of the academic year?

A: Yes.

Q: What compelled you to discontinue and bring him to India?

A: The petitioner informed my parents that he hit me, hold my throat and this caused health issue to my father, he admitted in US itself. So, we had to start to India immediately.

Q: Who booked the flight tickets?

A: The petitioner booked the flight tickets.

Q: Did you claim that the petitioner is a smoker?

A: No. The petitioner's father is a smoker and the petitioner used to take alcohol.

Q: So, In February 2019 was the petitioner's father in US?

A: No. My father and mother were in US at that time. Since the petitioner's VISA got rejected during that time.

TIME : 1.30 PM

TIME: 2.25 PM

Q: What compelled you to come back to India?

A: I went through a lot of physically and mentally abuses and I was unable to inform my parents in this regard until they came to US.

Q: Did your parents accompany you when you returned back to India?

A: Yes. I came along with my parents and son.

Q: How long did your parents stay with you in US until you come back to India?

A: For about 5 months.

Q: Did you not intimate your parents about the abuse when they were in US with you?

A: I informed them only after they came back to US and at that time the petitioner was in India.

Q: Therefore, I put it to you that only you four, yourself, father and mother and your son were in US.

A: Yes.

Q: What made you not to return back to India immediately and why you had to return after 5 months, when your husband was in India as already you were physically and mentally abused?

A: Since ours is a love marriage and my parents are aged and I did not have courage to inform my parents immediately. I only did when I got the information about the petitioner returning back to the US.

Q: I put it to you that till October 2018, your parents did not know about the abuse.

A: They did not know until I told them.

Q: What was the reaction of your parents when you told them about the abuse?

A: It was a shock for them. Initially, I did not tell them everything, later when they came to know about the physical abuse, they were in the state of shock.

Q: What kind of physical abuse was faced by you?

A: He used to take alcohol because of which I raised few concerns and so he verbally abused me, hit me and once he held my throat.

Q: What was the mental abuse faced by you?

A: Even from the beginning of the marriage, I have faced a lot of mental abuse and until he started consuming alcohol, I kept quiet.

Q: When you came back to India, Did your son get admission in any school?

A: He got admitted in Billa Bong School for U.K.G.

Q: What was the entire expenses of the school fees such as van fee, etc in Billa Bong School for UKG.

A: School fee around Rs.1,20,000/- admission fee Rs.50,000/- and he used to go to the school by car.

Q: Who paid the school fees?

A: I paid the school fee and I have been paying it until now.

Q: Are you working?

A: Yes. I am working in COGNIZENT.

Q: What is your income?

A: Rs.19,00,000 per annum as of now.

Q: How long have you been working in COGNIZENT?

A: Right from 2009 for the past 16 years I have been working in COGNIZENT.

Q: Is it correct to state that that means in US also you are working in COGNIZENT?

A: Yes.

Q: When you came back to India in 2019, whether your company allowed you to relieve from US and come back to India?

A: Yes. My management helped me on this and I joined the same project from Chennai.

Q: When did you relieve from US office?

A: In February 2019.

Q: Can you provide the necessary documents to confirm the same to the court?

A: Yes. I can.

Q: When did you give the proposal of coming back to India from the onshore project?

A: I informed them two weeks before I came to India but the clients and the management helped me, since I was the top performer of the company.

Q: Whether you have informed your husband about you coming back to India?

A: Yes. After he informed my parents about the abuse ,I told him that I wanted to come back.

Q: What was the reaction of your husband?

A: He was not ready to leave initially but since I insisted to go back, he allowed.

Q: Are you aware of the visitation order passed by the court to the petitioner?

A: Yes. We brought the kid to the court to see the petitioner and also shown him through video calls but the child was not ready to see.

Q: How many times have you shown the child to the petitioner after the court order?

A: We brought the kid two times to the court and two times through video call as per the order of the court.

Q: After that, why was the child not shown to the petitioner?

A: The child does not want to meet him and cried not to compel him. During that period, he was also sick due to the compulsion.

Q: I put it to you that so the child told you that he was not interested to see the petitioner.

A: Yes. He told me.

Q: What was the exact words used by the child?

A: He told not to compel him and he does not want to see the petitioner.

Q: What was the age of your child at that time?

A: He was around 9 years.

Q: You went to psychologist as per the order of the court?

A: Yes.

Q: Did your son interact with the psychologist independently?

A: Yes. I was asked to wait in the downstairs.

Q: How long the interaction took place?

A: Around Half an hour.

Q: I put it to you that drinking alcohol and verbally abuse by the petitioner are the key reasons for you to return back to India?

A: Physical abuse was the main reason when I started breaking down and wanted to come back to India.

Q: Prior to your wedding, how long were you in love with the petitioner?

A: It was only three months.

Q: Whether it was in India or US?

A: In India.

Q: I put it to you that because of your ego, you have spoiled your son's life?

A: I deny.

Q: How many times, did your father-in-law come to US?

A: My parents and the parents of the petitioner visited alternatively after my child was born.

Q: I put it to you that out of 5 years from 2014 to 2019, your father-in-law was there in US for two and half years.

A: My in-laws stayed with us for one and half years.

Q: Your father-in-law being a chain smoker and stayed with you in US around one and half year, did this not disturb you and your child?

A: Until July 2017, they were with us and created a lot of problems. When I raised concerns regarding that they scolded me badly. Once my father-in-law tried to hit me.

Q: I put it to you that your misleading this court by giving a false information that your husband was in India in 2018-2019.

A: Around mid of 2018 his VISA got rejected and he had to come back to India.

Q: If I say that the petitioner was in India on 29.12.2018, can you deny the same?

A: No. I agree.

Q: Where was your husband when you decided to come back to India?

A: He was in US.

Q: When was the ticket booked to return India?

A: I do not remember the exact date it is around January.

Q: Whether your husband booked the tickets from India or US?

A: At US.

Q: When you are working and earning good income, why did the petitioner book the tickets?

A: He said that he will book tickets for me and my son, so he booked for me and my son. I booked tickets for my parents.

Q: After knowing that you are going to permanently settle in India, the petitioner booked tickets. Is it correct?

A: There were lot of confusions about the situation and I was very confused whether I am going to permanently settle in India and so was my husband.

Q: Normally. onshore to offshore, the company only used to make all the arrangements.

Is it correct?

A: Since it was on my request, I had to bear all the expenses.

Q: So, the company was not willing to bear the expenses. Is it correct?

A: They agreed for my request, but they were not ready to book my tickets.

Q: In Chengalpet, how many cases have you filed?

A: Only one petition for divorce to my knowledge.

Q: What is the reason you have shown in your petition?

A: Physical and Mental abuses and he is an alcoholic.

Q: Have you ever been admitted in the hospital for the physical abuse in US?

A: No.

Q: Have you ever visited to any hospital for the physical abuse in US?

A: I have not visited any clinic but my Veena teacher helped me emotionally.

Q: It is correct to state that on 11.1.2014, you were in New york?

A: Yes.

Q: I put it to you that you have changed your company also?

A: No. I never changed my company.

Q: Who got the transfer first from PITTS BURGH to New York?

A: The petitioner got the transfer first and my client accepted for my transfer as well.

Q: By that time, were you pregnant?

A: Yes.

Q: In which state your child was born?

A: New Jersey, Jersey City. The distance between New Jersey to New York is only half an hour.

Q: Who paid the charges for the hospital expenses?

A: I had insurance so major part of the expenses was covered under insurance. The remaining amount borne by me and my husband.

Q: How much was the amount?

A: I do not remember.

Q: In which hospital, your father got admitted?

A: At New Jersey.

Q: What was the reason for his admission?

A: When he heard about the news of my abuse he had pain in the chest.

Q: When he got admitted in the hospital and in which year?

A: It might be around December 2018 or January 2019.

Q: I put it to you that whenever your parents were accompanied, your husband was behaved decent and polite with you for about 2 and half years out of 5 years.

A: I do not have much communication with the petitioner during the aforesaid time.

Q: How long you have not been talking with him?

A: It may be after 2015, I reduced my communication with him.

Q: I put it to you that from 2015 onwards, you were not in a normal family life.

A: Yes.

Q: Can I say that the abuse was created by you to the petitioner from 2015 onwards.

A: No. I just accepted what he said and I was doing my duties.

Q: Is it correct to state that you were very polite, decent and calm person?

A: Yes.

Q:(2nd page of the counter affidavit is shown to the witness) Who told the sentence mentioned in para No.4 of your counter which is mentioned in Tamil.

A: My father-in-law.

Q: When did this happen?

A: Either in the end of 2014 or early of 2015.

Q: What was the age of your child at that time?

A: It was around 10 or 11 months.

Q: Why did he tell that?

A: I raised my concern when my father-in-law carried the baby after his smoke that to in a winter season.

Q: He was a chain smoker. Is it correct? So he used to smoke continuously from morning to night except the bed time.

A: Not 24 hours. But I have seen him smoking a lot in the balcony.

Q: (counter affidavit is shown to the witness) Whether you father-in-law smoke inside the house?

A: Yes.

Q: Where was your child at that time?

A: He was at the crawling stage, so he might be in hall or bed room.

Q: In para No.4 of the counter affidavit, you have stated when your father-in-law tried to kiss the child. Whether the child is in the bedroom of your in-laws or your father-in-law was in the hall?

A: It is not an one time incident. It happened several times.

Q: When was the last visit of your father-in-law to US?

A: Around July 2017.

Q: When you decided to return back to India. Where you wanted to settle in India?

A: I wanted to settle in Chennai and there is no other decision.

Q: In para No.8 of the counter, you have informed to the petitioner that you are planning to move Mayavaram. Is it correct?

A: The petitioner suddenly came back to India without informing me and during that time we were heading to Mayavaram for a marriage.

Q: In para No.8 of the counter, you have stated that the petitioner informed that in two hours he will arrive to Chennai. How that communication reached you?

A: He came to Abu Dhabi and called me.

Q: I put it to you that you are trying to fabricate the character of the petitioner as if he will always not take care of anything.

A: That is a true fact since he did not inform me when he started from New York which is the major part of travel.

Q: On which day, he called you through whatsapp from Abu Dhabi ?

A: I do not remember the exact date but it may be after a week from my arrival.

Q: I put it to you that it would be in the end of February 2019?

A: I do not remember.

Q: The petitioner came back to India on 28.12.2018 and started his return within two months. Is it correct?

A: Yes.

Q: Why he has to comeback to India after a week of your departure?

A: He wanted to talk to me and my family regarding the issue.

Q: I put it to you that you denied the proposal given by him and you informed him that you were going to Mayavaram.

A: I deny. When he called me, we have already travelled to Mayavaram and I was able to talk to him only after returning back.

Q: How long you have been in Mayavaram?

A: Around a week.

Q: Did you meet the petitioner after your return from Mayavaram?

A: No.

Q: I put it to you that you have been influenced by your family to separate from your husband?

A: I deny. It was my decision after the abuse.

Q: When did you decide to file the divorce petition?

A: Around 2020.

Q: When did you file the petition?

A: Around 2021.

Q: I put it to you that from 2019 to 2021, you were unable to take any decision?

A: I decided that I do not want to go back but it was hard to come to that stage to file a divorce petition.

Q: I put it to you that you are aware that a father also has equal right to see the child and engage with the child.

A: I do not want to answer this question.

Q: I put it to you that you intentionally poisoned the child's mind not to see his father.

A: I have never talked ill about his father in front of my child.

Q: I put it to you that you intentionally depriving the opportunity of the father to see the child.

A: After we came back from US, I always made opportunity for the kid to see his father. But after seeing all these issues, created by the petitioner at one point of time, the child asked me to disconnect the call and not to compel him.

Q: I put it to you that your intention of filing an application for divorce caused the reason for your son to not to interact with the petitioner.

A: Right from we came back to India, the child is not much interested to interact with his father because his father was not really affectionate with the child and he has threatened the child sometimes.

TIME: 03.25 P.M.

Taken down in open court, read and explained to the witness in Tamil and the same is admitted by the witness to be correct and signed before me.