



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE R.NATARAJ

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO. 200680 OF 2019 (FC-DIV)

BETWEEN:

SHRI. RAVINDRA
S/O GUDDANNA GOUDAR,
AGE: 35 YEARS,
OCC: GOVT. SERVANT,
R/O: THE QUARTERS OF GRBC GOKAK,
TQ: GOKAKA. DIST: BELAGUM - 591 218.

...APPELLANT

(BY SRI S.V.DESHMUKH, ADVOCATE)

AND:

SMT. MAMATA
W/O RAVINDRA GOUDAR,
AGE: 32 YEARS,
OCC: PRIVATE JOB,
C/O: JAMBANNA NAYAK,
R/O: H.NO.L-17, SANTOSH NILAY NEAR
CITY BUS STAND VASMANINAGAR,
RAICHUR, DIST: RAICHUR - 584 101.

...RESPONDENT

(BY SRI SANJEEV KUMAR C.PATIL, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 19(1) OF THE FAMILY COURTS ACT, READ WITH ORDER 41 RULE 1 OF CPC, PRAYING TO SETTING ASIDE THE JUDGMENT AND DECREE DATED 14.12.2018 PASSED BY THE PRINCIPAL JUDGE FAMILY COURT, RAICHUR IN M.C.NO.75/2018, AND CONSEQUENTLY ALLOW THE SAID





M.C.NO.75/2018 WITH COSTS THROUGHOUT, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS MFA, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R.NATARAJ
and
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE R.NATARAJ)

The petitioner in M.C.No.75/2018 on the file of the Principal Judge, Family Court at Raichur has filed this appeal challenging the judgment and decree dated 14.12.2018 by which his petition under Section 13(1)(i-a), (i-b) and (v) of the Hindu Marriage Act, 1955 was dismissed.

2. The petition was filed under Section 13(1)(ia), (ib) and (v) of the Hindu Marriage Act, 1955, contending that after the respondent was given in marriage to the appellant on 12.05.2013, she came to the house of the appellant on 27.05.2013 to lead marital life. However, within a month, she started quarreling with the mother and brother of the appellant. It is alleged that the respondent was arrogant and had an attitude of living in a nuclear family and for that she went on



harassing the mother of the appellant and instigated the appellant to leave his mother and reside separately.

3. The appellant neglected the words of the respondent and thought that she would realize things and he tried to convince her to live in the joint family as he owed a responsibility to look after his mother and her medical needs. However, the respondent was disinterested in living with the appellant in the joint family house and was instigating the appellant to make a separate house.

4. It was further alleged that the respondent went to her parents' house on 01.06.2013 under the pretext of taking up her M.A. examination and returned back on 16.06.2013. However, she continued with her attitude and was quarreling with the mother of the appellant as well as with the appellant.

5. The respondent thereafter became pregnant and the appellant took her to Shanta Clinic at Gokak. The appellant telephoned the mother of the respondent, who came and advised the appellant that since the appellant's mother was aged, she would not be able to take care of the respondent and therefore she took the respondent with her to Raichur on



14.07.2013. Despite the advice of the family members that the respondent should not be sent to her parental house until seemant ceremony was performed, yet the appellant heeding to the request of his mother-in-law, allowed the respondent to go to her parental house for 15 days and requested her to return for the seemant ceremony which he would perform at his house.

6. It is further contended that though the appellant assured that the respondent would return to her parental house for delivery, the respondent did not respond. However, she demanded that the appellant to make a separate house and leave his mother. Accordingly, the appellant applied for a government quarters and that a separate government quarters was allotted to him on 03.09.2013. This fact was intimated to the respondent and she assured that she would return after the delivery of the child.

7. The respondent gave birth to a baby girl on 23.02.2014. The appellant after knowing of the same went to visit the baby, but his mother-in-law and the respondent did not allegedly allow him to see the baby. He also alleged that he



was not informed about the naming ceremony of the child. Therefore, looking into the conduct of the respondent and her family members, the appellant approached the elders of the village for an amicable settlement. At that time, the respondent allegedly insisted that the appellant should leave his mother and seek transfer of his job from Gokak to anywhere else near Raichur. For this neither the appellant nor the elders in the family agreed. However, they advised that the appellant and the respondent may live in the government quarters separately. The respondent did not agree to this. In the month of May 2015, the appellant sent a notice to the respondent through his counsel to restore the conjugal relationships. However, the respondent filed a Crl.Misc.No.157/2015 for maintenance. The appellant then again approached the respondent and her parents to convince them to compel the respondent to join the appellant along with the baby. However, the respondent was not interested to join the appellant. The appellant therefore claimed that the respondent's family members had instigated her to leave the appellant. He claimed that the sisters of the respondent are already separately residing with their husbands and relationship with their in-laws



is not cordial. He claimed that the respondent wanted the appellant to follow suit and go to her parents' house after seeking a transfer of his job to the nearest place in Raichur District. The appellant claimed that he being a responsible son owes a duty to look after his mother. Therefore, he was not willing to heed to the request of the respondent to settle down at his in-laws' house. The appellant therefore tried to convince the respondent several times to return back and live in the separate quarters allotted to him by the State Government. Despite this, the respondent did not show any response and therefore the appellant was advised to seek for dissolution of the marriage.

8. The petition was opposed by the respondent who claimed that she is ready and willing to have the company of the appellant and that she and her family members had made all efforts to advise and request the appellant to take the respondent and lead a marital life. However she claimed that he has intention to marry for the second time, committed acts of demand of dowry and sent the respondent to her parental house to bring the same. As a result of this, the respondent claimed that she filed CrI.Misc.No.157/2015 under Section 125



Cr.P.C before the Family Court, Raichur which was allowed and a sum of Rs.7,000/- per month was ordered as maintenance to the respondent under law. She claimed that the respondent again was pregnant and the appellant forced her to abort and his mother, sister and brother-in-law also supported the appellant. However, the respondent did not heed to their demands and the appellant therefore left the respondent in her parental house and did not turn up thereafter. He also did not come over to see her and as well as the newly born daughter and did not attend the cradle function - naming ceremony etc. of the daughter. She claimed that she and her parents had made several efforts to compel the appellant to take the respondent and her daughter. However, it was the appellant who postponed the same on one or the other pretext. She claimed that she was always ready and willing to go back with the appellant and reside with him. She claimed that the appellant has a brother who is also married and he and his wife also have equal responsibility to look after his mother. She claimed that she did not force the appellant to live separately and get a transfer from Gokak to any other place near to Raichur. She also denied that the appellant had applied for a



separate quarter. She claimed that despite all efforts, requests and advises, the appellant did not take any step to accept the respondent and her daughter. She alleged that the appellant did all this only with an intention to get into a second marriage after obtaining divorce from her. She further contended that she never compelled the appellant to leave his mother and live separately. She claimed that the mother of the appellant was hale and healthy and not suffering from any ailments and that she was getting pension and owned a multi-storied building which was let out on rent. She alleged that the appellant never approached her requesting her to join him. With these and other similar contentions, she submitted that the petition for divorce is not maintainable and therefore prayed that the same be dismissed.

9. In support of the contentions urged in the petition, the appellant was examined as PW-1 and he marked Exs.P-1 to P5. The respondent was examined as RW-1 and she did not mark any documents. Based on the oral and documentary evidence, the trial Court held that the respondent was willing to join the appellant and therefore when she is ready to join the appellant, it is for the appellant to take back the respondent



and live a happy married life in the interest of the family and future of his daughter. Therefore, the trial Court dismissed the petition filed by the appellant. Being aggrieved by the said order, the appellant is before this Court.

10. The learned counsel for the appellant contended that there are no serious disputes between the appellant and the respondent. However, the respondent is not willing to join the appellant at the house where he is living with his mother and brother. He contends that in order to accommodate the respondent, the appellant applied for a government quarters and accordingly, a quarter's was allotted. He contends that even when the appellant offered to the respondent to live separately in the quarters, the respondent did not join the appellant. He contends that the respondent has not mentioned the reason for staying away from the appellant in the statement of objections. Thus, he contends that the respondent is staying away from the appellant without just cause and this has denied the appellant conjugal bliss. He therefore contends that the appellant has made out a case for dissolution of the marriage under Section 13(1)(i-a) and (i-b) of the Hindu Marriage Act, 1955. He contends that from the year 2015, the



appellant and the respondent are staying apart and the respondent has deliberately deserted the appellant without just cause. He contends that though the respondent has claimed in a statement that she is willing to join the appellant, she had not taken any positive steps in that regard and every attempt made by the appellant to compel the respondent to join him are spurned. Therefore, he contends that the respondent is unwilling to cohabit with the appellant and therefore no useful purpose would be served in keeping a dead marriage alive. Thus, he prays that the impugned judgment passed by the Family Court be set aside and the appellant may be granted a decree of divorce.

11. The learned counsel for the respondent on the other hand contended that the respondent is an educated lady and she has completed M.A., B.Ed. He therefore contends that the respondent is entitled to be treated with respect, love and affection. He contends that the respondent was not treated well in the house of the appellant and therefore there were skirmishes between the respondent and the appellant. He contends that the respondent was always willing to join the appellant and it was the appellant who was unwilling to accept



the respondent. He also submits that the respondent has throughout the petition contended that she is ever ready and willing to join the appellant. But the appellant did not take any steps in that regard. He therefore submits that the appellant cannot be granted the benefit of a dissolution for the mistake committed by him and therefore prays that the appeal be dismissed and the judgment passed by the Family Court be confirmed.

12. We have considered the submissions made by the learned counsel for the appellant and the learned counsel for the respondent.

13. The only point for consideration in this appeal is whether the respondent was cruel and whether the respondent had deserted the appellant without just cause.

14. The appellant and the respondent are bound by a sacred relationship called 'marriage' and both of them are bound to contribute to the success of the 'marriage'. In the instant case, it is not in dispute that after the marriage of the respondent with the appellant, they lived for a few days at the matrimonial home and thereafter the respondent went to her



mother's place for taking up the MA examinations on 01.06.2013. Thereafter, she returned back on 14.06.2013 and went back to her mother's place on 14.07.2013. Therefore, the respondent lived with the appellant for two months during which time, she was pregnant and she delivered a child on 23.02.2014. In the meanwhile, the appellant had applied for a government quarters which was allotted to him as per Ex.P.5 on 03.09.2013. When the appellant had offered the respondent to relocate to the government quarters, the respondent was not justified in not joining the appellant. When there was no serious issue between the appellant and the respondent, we see no reason why the respondent could have avoided joining the appellant. There is not even a whisper in the statement of objections that the respondent tried to join the appellant at the government quarters. A perusal of the statement of objections filed by the respondent shows that except claiming that she is ready to join the appellant, she has not mentioned the reason for staying away from the appellant from the year 2015 till date.

15. The appellant is entitled to expect conjugal rights from the marriage. The respondent is entitled to stay away



from the appellant for just cause. However, we do not see any cause mentioned by the respondent in staying away from the appellant. It is now well settled that refusal to cohabit with the appellant, tantamounts to an act of cruelty. The appellant is a government servant and the allegation of the respondent that the appellant has driven her out of the house with intent to enter into second marriage, is palpably false as doing so would be inviting further problems for the appellant himself.

16. Having regard to the fact that the respondent has stayed away from the appellant without just cause from the year 2013 till date, we are satisfied that the appellant has made out a case for dissolution of the marriage under Section 13(1)(i-a) and 13(1)(i-b) of the Hindu Marriage Act, 1955.

17. The Family Court instead of considering the case from this standpoint has rubbished the case of the appellant on the ground that the respondent was willing to join the appellant and that it was the appellant who was not willing to accept her. The Family Court lost sight of the fact that it is bound to resolve the dispute between the parties and not to compel the parties to go on a warring path.



18. During the course of hearing the appeal, we summoned the appellant and the respondent before the Court and called upon the respondent to join the appellant. However, the respondent had her own reservations and claimed that the appellant should go to her parents' house and establish confidence and that thereafter she would consider joining the appellant. Therefore, the state of mind of the respondent gives an impression that the respondent is not unconditionally willing to join the appellant. This only makes the case of the respondent worse and aids the case of the appellant for dissolution of the marriage.

19. In that view of the matter, we are of the opinion that the Family Court committed an error in not entertaining the petition filed by the appellant for dissolution of the marriage. Consequently, we allow this appeal and dissolve the marriage of the respondent with the appellant, solemnized on 12.05.2013 at Basaveshwara Sabha Bhavan, Ghataprabha road, Prabha Sugar Cross, Gokak. Accordingly, we pass the following :



ORDER

- i) Appeal is ***allowed***.
- ii) The impugned judgment and decree dated 14.12.2018 passed in M.C.No.75/2018 by the Principal Judge, Family Court, Raichur is set-aside.
- iii) The petition filed under Section 13(1)(i-a), (i-b) and (v) of the Hindu Marriage Act, 1955 is allowed.
- iv) The marriage of the respondent with the appellant, solemnized on 12.05.2013 at Basaveshwara Sabha Bhavan, Ghataprabha road, Prabha Sugar Cross, Gokak is dissolved by decree of divorce.

**Sd/-
(R.NATARAJ)
JUDGE**

**Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE**