



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

RESERVED ON : 17.04.2026

PRONOUNCED ON : 15.06.2026

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**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH  
and  
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**C.M.A.(MD).Nos.696 and 697 of 2024**

**and**

**C.R.P(MD).Nos.2029 and 3231 of 2023 & 2086 of 2024**

C.M.A.(MD).No.696 of 2024

S.No. ~~xxxxxxx~~

... Appellant

Vs.

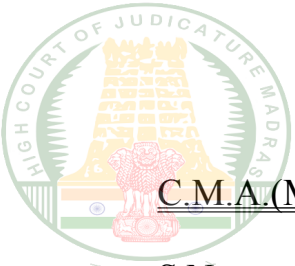
M.No. ~~xxxxxxx~~

...Respondent

**PRAYER:-** Civil Miscellaneous Appeal is filed under Section 19(1) of Family Courts Act, 1984 r/w Section 28 of the Hindu Marriage Act, to set aside the fair and decretal order dated 29.01.2024 made in H.M.O.P.No.136 of 2019 on the file of the Family Court, Thanjavur and allow the same.

For Appellant : Mr.MAjmal Khan  
Senior Advocate for  
: Mr.M.Mohammed Ibram Saibu

For Respondents : Mr.H.Laxmi Shankar for  
Mr.A.Senthil Kumar



C.M.A.(MD).No.697 of 2024

S.N.~~XXXXXX~~

... Appellant

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Vs.

M.N.~~XXXXXX~~

...Respondent

**PRAYER:-** Civil Miscellaneous Appeal is filed under Section 199(1) of Family Courts Act, 1984 to set aside the fair and decretal order dated 29.01.2024 made in H.M.O.P.No.262 of 2023 (Old No: I.A.No.2 of 2022) on the file of the Family Court, Thanjavur and allow the same.

For Appellant : Mr.MAjmal Khan  
Senior Advocate for  
: Mr.M.Mohammed Ibram Saibu

For Respondents : Mr.H.Laxmi Shankar for  
Mr.A.Senthil Kumar

C.R.P.(MD).No.2086 of 2024

S.N.~~XXXXXX~~

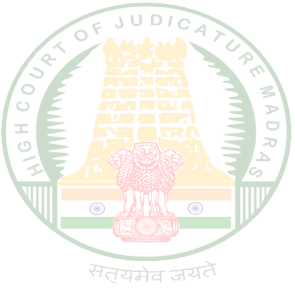
... Appellant

Vs.

M.N.~~XXXXXX~~

...Respondent

**PRAYER:-** Civil Revision Petition has filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 29.01.2024 made in I.A.No.17 of 2024 in H.M.O.P.No.136 of 2019 on the file of the Family Court, Thanjavur.



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C.M.A.(MD).Nos.696 and 697 of 2024 and C.R.P(MD).Nos.2029 and 3231 of 2023 & 2086 c



For Petitioner : Mr.MAJmal Khan  
Senior Advocate for  
: Mr.M.Mohammed Ibram Saibu

For Respondents : Mr.H.Laxmi Shankar for  
Mr.A.Senthil Kumar

C.R.P.(MD).No.2029 of 2024

S.N.~~xxxxxx~~ ... Appellant

Vs.

M.N.~~xxxxxx~~ ...Respondent

**PRAYER:-** Civil Revision Petition has filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 17.05.2023 made in I.A.No.1 of 2022 in H.M.O.P.No.136 of 2019 on the file of the Family Court, Thanjavur.

For Petitioner : Mr.MAJmal Khan  
Senior Advocate for  
: Mr.M.Mohammed Ibram Saibu

For Respondents : Mr.H.Laxmi Shankar for  
Mr.A.Senthil Kumar

C.R.P.(MD).No.3231 of 2023

M.N.~~xxxxxx~~ ... Appellant

Vs.

S.N.~~xxxxxx~~ ...Respondent



**PRAYER:-** Civil Revision Petition has filed under Article 227 of Constitution of India, to set aside the order dated 17.05.2023 passed by the Family Court, Thanjavur in I.A.No.01 of 2022 in H.M.O.P.No.136 of 2019.

For Petitioner : Mr.H.Laxmi Shankar for  
Mr.A.Senthil Kumar

For Respondents : Mr.MAjmal Khan  
Senior Advocate for  
: Mr.M.Mohammed Ibram Saibu

### **COMMON JUDGMENT**

(Judgment of the Court was made by **K.K.RAMAKRISHNAN,J.**)

#### **Prelude:**

Contemporary Indian society is increasingly witnessing the agony of marital discord, intolerance, and the breakdown of matrimonial relationships. The disintegration of concept of the nuclear family, there is considerable constraint in the smooth sailing of matrimonial life in the fast moving competitive world and same would cause unmeasurable stress in the matrimonial life of every spouse. Therefore, there is no way of sublimation of stress in their day to day life of the spouses. In result, every matrimonial life accumulated with mental stress resulting into *psychiatric problem and psychological misunderstanding*.



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1.1. Human affection possesses a therapeutic value beyond ordinary medicine. After marriage, the affectionate embrace, care, kisses, emotional closeness, and intimate relationship shared between husband and wife are natural expressions of human emotion that provide deep mental peace and vitality in life. Within the sacred privacy of matrimony, the tender affection between spouses, the warmth of companionship, the reassuring touch, the loving embrace, and the intimacy shared between them are not acts of mere physicality; they are often the language of emotional healing, the medicine of the mind, and the solace of the human spirit. Such companionship itself becomes life-preserving support for a person struggling with emotional despair or psychological suffering. In most of situations, a caring marital relationship itself becomes an emotional sanctuary for a person suffering from depression, anxiety, emotional trauma, or mental illness. Where ever Marriage Relationships are filled with love and affection reduce mental stress and, in many instances, act as a healing remedy for emotional pain and mental illness and such affection itself becomes a life-saving source of hope and strength. Therefore, in the contemporary understanding of matrimonial relationships, Psychiatric science recognises that the loving embrace between spouses, the reassuring touch, the exchange of affection, and the emotional intimacy shared in married life often function as powerful emotional remedies that reduce anxiety, relieve psychological stress, and restore emotional equilibrium in a



distressed mind. Accordingly, This Court is inclined to view *marriage in the light of modern psychiatric and psychological understanding as* an intimate emotional partnership in which affection, companionship, emotional security, physical closeness, and mutual support constitute the very foundation of mental well-being and emotional stability.

1.2.This court is constrained to discuss the concept of marriage from the point of view of the psychologist. In view of increasing number of matrimonial disputes founded on allegation of mental illness, often without proper understanding of the challenges involved or the measures available to alleviate mental distress in today's highly competitive world.

1.3.The present case is a classic example where the husband levelled allegations that the wife was suffering from schizophrenia. However, such allegations were rejected by the learned principal District Judge in the impugned judgement and decree passed in H.M.O.P.No.136 of 2019 dated 29.01.2024. Aggrieved by the said decision, the present appeal has been preferred .

1.4. The husband, who is the appellant in the connected Civil



Miscellaneous Appeals, has challenged (i) the dismissal of H.M.O.P. No. 136 of 2019 filed by him seeking dissolution of marriage on the ground of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, and (ii) the decree granted in favour of the respondent-wife for restitution of conjugal rights in H.M.O.P.No.262 of 2023.

2.In addition, the husband has filed a Civil Revision Petition assailing the direction of the Family Court for return of jewellery. The respondent-wife, in turn, has also preferred a Civil Revision Petition challenging the same order insofar as it relates to the Mangalsutra, and further questioning the disallowance of a portion of her claim relating to jewellery. All the aforesaid proceedings were, therefore, clubbed together and heard conjointly. Details of the proceedings are follows:

Case	Filed by	For the relief
CMA(MD).No.696 of 2024 arising out of order dated 29.01.2024 in H.M.O.P.No. 136 of 2019	Husband	Dissolution of Marriage
CMA(MD).No.697 of 2024 arising out of order dated 29.01.2024 in H.M.O.P.No. 262 of 2023	Husband	Restitution of Conjugal Rights
C.R.P(MD).No.2029 of 2023 arising out of order dated 17.05.2023 in I.A.No.1 of 2022 in H.M.O.P.No.136 of 2019	Husband	Return of golden articles



C.R.P(MD).No.3231 of 2023 arising out of order dated 17.05.2023 in I.A.No.1 of 2022 in H.M.O.P.No.136 of 2019	Wife	Return of Mangalsutra
C.R.P(MD).No.2086 of 2024 arising out of order dated 29.01.2024 in I.A.No.17 of 2024 in H.M.O.P.No.136 of 2019	Husband	Return of golden articles

3.For the sake of convenience and clarity, the parties are referred to as “husband” and “wife”.

**4.The brief facts necessary for adjudication are as follows:**

The marriage between the husband and the wife was solemnised on 27.07.2018, according to Hindu rites and customs, and the same was subsequently registered on 17.07.2018 before the Sub-Registrar Office at Vallam. The marriage was an arranged one. At the relevant point of time, the husband was employed in Mumbai, and following the marriage, the couple resided together in Mumbai and initially led a peaceful matrimonial life.

4.1.According to the husband, during the subsistence of the marriage, the wife conceived, and at the time of medical examination, it came to light that she was allegedly suffering from schizophrenia and had been undergoing treatment



for the same for a considerable period prior to the marriage. It is his specific case that this material fact was deliberately suppressed by the wife and her family at the time of marriage, thereby vitiating his consent.

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4.2.The husband would further contend that the wife exhibited abnormal behaviour, particularly during late hours, speaking incoherently and displaying conduct inconsistent with normal matrimonial life. Upon enquiry with the wife's parents, he claims to have been informed that she had taken treatment at a hospital in Thanjavur and had discontinued her studies on account of her mental health condition.

4.3.It is also his case that due to such conduct and the alleged suppression of an incurable mental disorder, he found it impossible to continue the marital relationship. In these circumstances, he issued a legal notice dated 24.09.2019 calling upon the wife to consent for divorce, failing which he informed her that he would initiate proceedings to declare the marriage null and void. Subsequently, he instituted proceedings before the Sub Court, Thanjavur, which came to be returned for presentation before the competent Family Court, whereupon he filed the petition seeking divorce on the ground of cruelty.

4.4.Per contra, the wife filed a detailed counter affidavit denying all



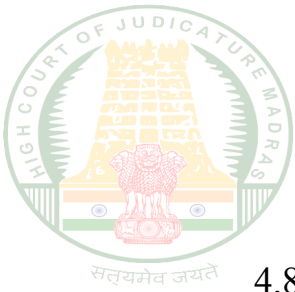
allegations. She specifically refuted the claim that she was suffering from schizophrenia or any incurable mental illness. According to her, the marriage was solemnised after due negotiations, and the husband's family, being fully aware of her background, had willingly agreed to the alliance.

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4.5.The wife further alleged that, notwithstanding an initial representation that no dowry would be demanded, the husband and his family insisted upon substantial dowry, including gold jewellery weighing several sovereigns, a sum of Rs.10 lakhs, and other articles including a car. It is her case that these demands were met by her family.

4.6.She would further state that the couple resided together in Mumbai and even undertook a honeymoon trip to Kodaikanal, and lived together harmoniously for a considerable period. According to her, the matrimonial discord arose only after the husband's parents and sister began residing with them, and their interference led to strained relations.

4.7.The wife has also alleged that she was subjected to both physical and mental cruelty at the hands of the husband and his family members, and that the allegations regarding her mental health condition are false, motivated, and with the sole intention to avoid marital obligations.



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4.8.It is the further case of the wife, as borne out from her counter and evidence, that the medical opinion obtained from the doctor in Mumbai did not attribute any mental illness to her; rather, it indicated that the husband was exhibiting signs of dissatisfaction and emotional detachment towards the marital relationship. According to her, the allegation of schizophrenia is a subsequent invention to evade marital obligations.

4.9.The wife has also made serious allegations that the husband compelled her to undergo abortion, which was initially refused by several doctors. Ultimately, he is stated to have taken her to a private hospital, where, after persistent insistence, termination was undertaken at an advanced stage of pregnancy, when the foetus had crossed seven months. She has described the episode as traumatic and inhuman, asserting that the child was born and died thereafter. Despite such circumstances, she has maintained that she was always willing to continue the matrimonial relationship.

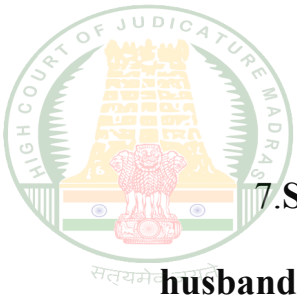
4.10.On these averments, the wife not only resisted the petition for divorce but also sought restitution of conjugal rights, asserting her bona fide intention to resume cohabitation.



4.11. In reply, the husband contended that the counterclaim for restitution of conjugal rights was not maintainable without an independent petition. He denied the allegations relating to dowry demand, cruelty, and forced abortion. It was also contended that certain properties, including the car, stood in the name of the wife's father and not in his name. He further asserted that the claim for restitution lacked bona fides, particularly in view of the irretrievable breakdown of the marriage.

5. On the basis of the pleadings, the learned Family Court framed appropriate issues. During trial, on the side of the husband, P.W.1 to P.W.6 were examined and documents Exs.P1 to P15 were marked. On the side of the wife, R.W.1 to R.W.3 were examined and Exs.R1 to R6 were marked. Court documents were marked as Exs.X1 to X19 and Ex.C1.

6. Upon appreciation of the entire oral and documentary evidence, the learned trial Judge, by judgment dated 29.01.2024, dismissed the petition for divorce filed by the husband, allowed the petition filed by the wife for restitution of conjugal rights, and challenging the same, present Civil Miscellaneous Appeals have been filed.



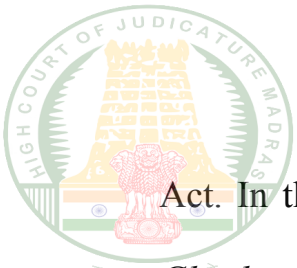
**7.Submission of the learned Senior counsel appearing for the husband:**

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Assailing the said findings, learned senior counsel appearing for the husband submitted that the trial court failed to properly appreciate the medical evidence and the admissions elicited during cross-examination. It was contended that the evidence on record, particularly that of the doctors examined as P.W.3 to P.W.5, clearly established that the wife had been taken treatment for schizophrenia even prior to the marriage, and that such material fact had been suppressed, thereby constituting fraud as well as mental cruelty.

7.1.It was further contended that the medical records, including the prescriptions and supporting documents marked on the side of the husband, corroborated the oral testimony of the medical witnesses. According to the learned senior counsel, the trial court erred in disregarding such evidence and in failing to draw the necessary inference regarding the incurable nature of the alleged mental illness.

7.2.The learned senior counsel also placed reliance on precedents of the Hon'ble Supreme Court to contend that long and continuous separation, coupled with the breakdown of matrimonial harmony, would itself amount to mental cruelty within the meaning of Section 13(1)(i-a) of the Hindu Marriage



Act. In this regard, reliance was placed on the principle laid down in *Samar*

*Ghosh v. Jaya Ghosh*, wherein it was held that prolonged separation and

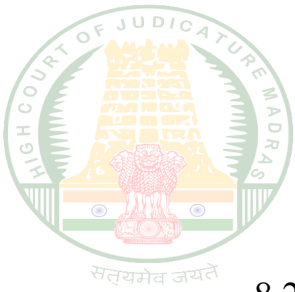
absence of cohabitation may, in appropriate cases, constitute mental cruelty.

7.3. The learned senior counsel also raised a ground of irretrievable breakdown of marriage and prayed to grant divorce on the said ground that they were in the separation of more than 6 years.

#### **8.Submissions of the learned counsel appearing for the wife:**

Per contra, the learned counsel appearing for the wife submitted that the plea of schizophrenia is a belated plea and unsubstantiated allegation. It was argued that the medical evidence relied upon by the husband is unreliable, as the concerned doctor had neither properly identified the prescriptions nor confirmed their authorship. It was further contended that the documents relied upon were only photocopies and lacked evidentiary value.

8.1.It was thus submitted that there is no credible medical evidence to establish that the wife was suffering from any incurable mental disorder, much less that such condition existed prior to the marriage or was suppressed. The learned counsel emphasized that mere allegation of mental illness, without cogent and reliable proof, cannot form the basis for dissolution of marriage.



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8.2.Learned counsel appearing for the wife further submitted that the allegation of mental illness is wholly misconceived and unsupported by credible evidence. It was contended that the wife had entered into the marriage during the pendency of her B.E. degree course and had discontinued her studies only at the instance of the husband and his family members. Subsequently, after matrimonial discord arose, she resumed and successfully completed her M.Tech course also. This, according to the learned counsel, is a strong indicator of her sound mental faculties.

8.3.Emphasis was also placed on the fact that the wife withstood the extensive cross-examination spanning four days, covering more than 30 pages of deposition. It was submitted that her ability to withstand such a prolonged and searching cross-examination, while giving coherent and consistent answers, demonstrates her mental stability and capacity, thereby negating the allegation of schizophrenia or any debilitating disorder affecting matrimonial life.

8.4.It was further contended that, apart from bald and unsubstantiated pleadings, the husband has not produced any convincing evidence to establish that the wife exhibited abnormal conduct of such a degree as to render



cohabitation impossible. The legal requirement under Section 13(1)(i-a) of the Hindu Marriage Act is not merely the existence of a mental disorder, but that such disorder must be of such a nature and degree that the spouse cannot reasonably be expected to live with the other.

8.5. In this regard, reliance was placed on the judgments of the Hon'ble Supreme Court in *Ram Narain Gupta v. Rameshwari Gupta* reported in **1988 (4) SCC 247** wherein it has been held that mere existence of a mental disorder is insufficient; the degree, impact, and consequences on matrimonial life must be clearly established by cogent evidence.

8.6. It was also submitted that the doctors examined on the side of the husband have not categorically deposed that the wife was suffering from an incurable mental disorder or that she was incapable of discharging matrimonial obligations. The medical evidence, according to the learned counsel, is inconclusive and unreliable, particularly in the absence of proper proof of prescriptions and contemporaneous medical records.

8.7. The learned counsel further argued that the parties had, in fact, lived together happily for a considerable period, including going for a honeymoon



trip, and that the wife had conceived during the subsistence of the marriage.

These circumstances, it was contended, are inconsistent with the allegation of severe disorder existing from prior to the marriage.

8.8.It was thus submitted that the separation was not attributable to any conduct on the part of the wife, but was solely on account of the husband's unilateral withdrawal from the matrimonial relationship based on unfounded apprehensions. Therefore, the principle of "irretrievable breakdown" or prolonged separation, as discussed in *Samar Ghosh v. Jaya Ghosh reported in 2007(4)scc 511* would have no application to the facts of the present case.

8.9.On the question of jewellery, learned counsel for the wife submitted that substantial evidence was adduced to establish that 100 sovereigns of gold were entrusted to the husband and his family at the time of marriage. However, the trial court, without proper appreciation of the oral and documentary evidence, provided the relief only to claim 40 sovereigns. It was contended that the unshaken testimony of P.W.1, corroborated by P.W.2 and P.W.3, clearly establishes entrustment of the entire quantity, and therefore, the wife is entitled to relief of the recovery of the remaining 60 sovereigns.



8.10.It was further argued that the direction of the trial court ordering return of the Mangalsutra, while simultaneously granting restitution of conjugal rights, is legally untenable, as both reliefs are mutually inconsistent.

9.In reply, learned counsel for the husband reiterated that there was no reliable evidence to establish entrustment of 100 sovereigns and that the trial court rightly limited the relief. It was also contended that once the marital relationship has irretrievably broken down, The decree for restitution of conjugal rights is unsustainable.

10.This Court considered the rival submissions made by the learned counsel appearing for the husband and the learned counsel appearing for the wife and perused the materials available on record and the precedents relied upon by them.

### **11.Points for Determination:**

Upon hearing the rival submissions and on perusal of the entire materials on record, the following points arise for consideration:

(i)Whether the dismissal of the husband's petition for divorce under the Hindu Marriage Act, 1955 and the consequential grant of a decree for



restitution of conjugal rights in favour of the wife, without accepting the husband's plea that the wife was suffering from Schizophrenia, are sustainable in law?

(ii) Whether the wife is entitled to the relief of recovery of the remaining 60 sovereigns of gold jewellery?

(iii) Whether the direction for return of the Mangalsutra is legally justified?

## 12. discussion:

***For better appreciation, this court extracts Section 5 and 13(1)(i-a), 13(1)(iii) of Hindu marriage act:***

13.Divorce.—	Section 5
<p><i>Divorce.—(1) Any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party—</i></p> <p><i>(i) has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or</i></p> <p><i>(ia) has, after the solemnization of the marriage, treated the petitioner with cruelty; or</i></p> <p><i>(iii) has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent. Explanation.—In this clause,—</i></p> <p><i>(a) the expression “mental disorder” means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia; (b) the expression “psychopathic disorder” means a persistent disorder or disability of mind (whether or not including sub—normality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the other party, and whether or not it requires or is susceptible to medical treatment; or]</i></p>	<p><i>5. Conditions for a Hindu marriage.—A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:—</i></p> <p><i>(i) neither party has a spouse living at the time of the marriage;</i></p> <p><i>(ii) at the time of the marriage, neither party—</i></p> <p><i>(a) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or</i></p> <p><i>(b) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or</i></p> <p><i>(c) has been subject to recurrent attacks of insanity;</i></p> <p><i>(iii) the bridegroom has completed the age of 2 [twenty-one years] and the bride, the age of 3 [eighteen years] at the time of the marriage;</i></p> <p><i>(iv) the parties are not within the degrees of prohibited relationship unless the custom or usage governing each of them permits of a marriage between the two;</i></p> <p><i>(v) the parties are not sapindas of each other, unless the custom or usage governing each of them permits of a marriage between the two;</i></p>



13. The combined reading of Section 5 and Sections 13(1)(ia) and 13(1)(iii) of the Hindu Marriage Act, 1955 makes it clear that the spouse seeking divorce on the ground of mental unsoundness must establish two essential ingredients.

13.1. First, it must be proved that before marriage, the respondent was suffering from a mental disorder of such a nature and to such an extent as to render the respondent unfit for marriage and procreation of children.

13.2. Secondly, it is the bounden duty of the party alleging such grounds to prove not only the existence of a mental disorder and it must be shown that the respondent is suffering from incurable unsound mind, or has been suffering continuously or intermittently from such mental disorder of such a kind and extent that the petitioner cannot reasonably be expected to live with the respondent "mental disorder" includes mental illness, arrested or incomplete development of mind, psychopathic disorder, or any other disorder or disability of mind, including Schizophrenia. Mere proof of mental illness is insufficient; it must be demonstrated that the condition has reached a degree that makes marital life impossible and impracticable.

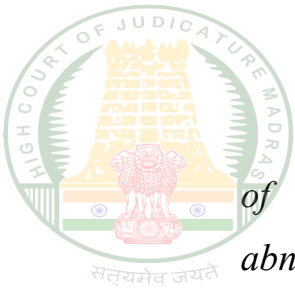
13.3. The medical understanding of schizophrenia has evolved over time. In 1896, Emil Kraepelin first described the condition as *dementia praecox*. Subsequently, in 1911, Eugen Bleuler introduced the term *schizophrenia*,



signifying a disintegration of the mind. With the advancement of psychiatric science, the condition thereafter came to be examined in matrimonial jurisprudence in various courts around the world and the Hon'ble Supreme Court of India.

13.4. The Hon'ble Supreme Court, in the case of ***Ram Narain Gupta v. Rameshwari Gupta***, reported in ***(1988) 4 SCC 247*** after an elaborate consideration of the available medical literature in the year 1988 and provision under Section 13(1)(iii) of the Hindu Marriage Act, 1955 laid down the governing principles on schizophrenia as a ground for divorce by affirming observation of Division bench judgment of Calcutta High Court in the case of ***Rita Roy S v. Sitesh Chandra*** reported in ***[AIR 1982 Cal 138*** "... each case of schizophrenia has to be considered on its own merits and further held that schizophrenia, by itself, is insufficient and that the degree, intensity, and impact of the disorder on matrimonial life must be established and the relevant portions are as follows:

*20. The context in which the ideas of unsoundness of "mind" and "mental disorder" occur in the section as grounds for dissolution of a marriage, require the **assessment of the degree of the "mental disorder"**. Its degree must be such that the spouse seeking relief cannot reasonably be expected to live with the other. All mental abnormalities are not recognised as grounds for grant*



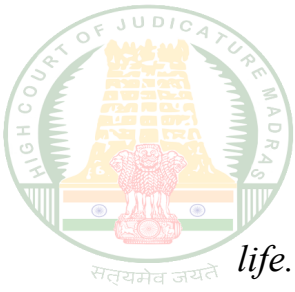
*of decree. If the mere existence of any degree of mental abnormality could justify dissolution of a marriage few marriages would, indeed, survive in law.*

*“ .... The burden of proof of the existence of the requisite degree of mental disorder is on the spouse basing the claim on that state of facts.”*

*33....., the mere branding of a person as schizophrenic will not suffice. For purposes of Section 13(1)(iii) “schizophrenia” is what schizophrenia does.*

13.5. The said principle was reiterated in the case of *Sharda v. Dharmpal* reported in **(2003) 4 SCC 493** wherein the Hon’ble Supreme Court recognized that mental disorder under Section 13(1)(iii) must be of such a nature that the spouse cannot reasonably be expected to live with the other and a few strong instances indicating a short temper and somewhat erratic behaviour on the part of the spouse may not amount to his/her suffering continuously or intermittently from mental disorder and relevant portions are extracted hereunder:

*“11. It is trite law that for the purpose of grant of a decree of divorce what is necessary is that the petitioner must establish that unsoundness of mind of the respondent is incurable or his/her mental disorder is of such a kind and to such an extent that he cannot reasonably be expected to live with his/her spouse.*

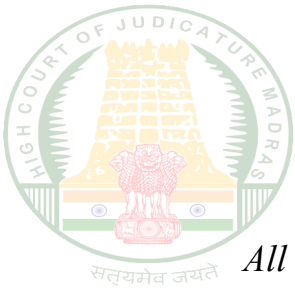


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*12. A sound mind indisputably is a key to a happy married life. A party to the marriage must, thus, have normal and sound mind so as to live a happy marital life. A disorder of thought, behaviour and mind leading to unsoundness of mind may give rise to a cause of action for filing an application under Section 13(1) (iii) of the Hindu Marriage Act. The burden of proof of the existence of requisite degree of mental disorder is on the spouse making the claim on that state of fact.*

*13. The decisions rendered by various courts of this country including this Court lead to a conclusion that a decree for divorce in terms of Section 13(1)(iii) of the Act can be granted in the event the unsoundness of mind is held to be not curable. A party may behave strangely or oddly inappropriate and progressive in deterioration in the level of work may lead to a conclusion that he or she suffers from an illness of slow growing developing over the years. The disease, however, must be of such a kind that the other spouse cannot reasonably be expected to live with him or her. A few strong instances indicating a short temper and somewhat erratic behaviour on the part of the spouse may not amount to his/her suffering continuously or intermittently from mental disorder.”*

13.6. Similarly, in the case of Kollam Chandra Sekhar v. Kollam Padma Latha, reported in (2014) 1 SCC 225 the Hon’ble Supreme Court reiterated that mere allegation of mental illness or occasional abnormal conduct cannot by itself constitute a ground for dissolution of marriage unless the statutory requirements are clearly proved and the relevant paras are as follows:



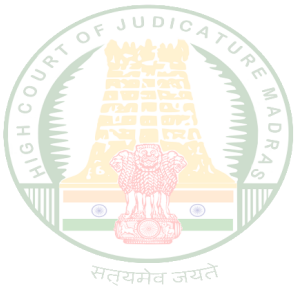
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“ 34. ..In the English case of *Whysall v. Whysall* : (1959) 3 All ER 389] , it was held that a spouse is “incurably of unsound mind” if he or she is of such mental incapacity as to make normal married life impossible and there is no prospect of any improvement in mental health, which would make this possible in future. The High Court of Judicature of Calcutta, in *Pramatha Kumar Maity v. Ashima Maity* [AIR 1991 Cal 123] has held that mental disorder of the wife, even if proved, cannot, by itself, warrant a decree of divorce and it must be further proved that it is of such a nature as the husband could not be expected to live with the wife.

36. *The Allahabad High Court, in Titli v. Alfred Robert Jones* [AIR 1934 All 273] has held that where it has come on record that the wife has improved her educational qualifications and has been looking after her children, the apprehension of the husband that there is danger to his life or to his children is not borne out is the finding recorded in the said case. Inability to manage his or her affairs is an essential attribute of an “incurably unsound mind”. The facts pleaded and the evidence placed on record produced by the appellant in this case does not establish such inability as a ground on which dissolution of marriage was sought for by him before the trial court.

36. .... It was further stated that if there is good compliance with treatment coupled with good social and family support, a schizophrenic patient can continue their marital relationship. ....

1. A pertinent point to be taken into consideration is that the respondent had not only completed MBBS but also did a



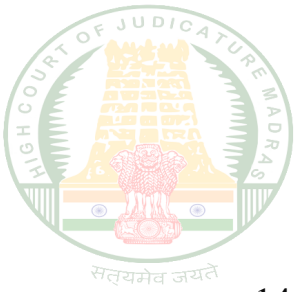
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*postgraduate diploma in Medicine and was continuously working as a Government Medical Officer and had she been suffering from any serious kind of mental disorder, particularly, acute type of schizophrenia, it would have been impossible for her to work in the said post. The appellant husband cannot simply abandon his wife because she is suffering from sickness. ...*

*39. It is thus clear that the respondent, even if she did suffer from schizophrenia, is in a much better health condition at present. Therefore, this Court cannot grant the dissolution of marriage on the basis of one spouse's illness. ....”*

13.7. The consistent principle emerging from the aforesaid precedents is that mere diagnosis of schizophrenia or mental illness, by itself, is not a ground for dissolution of marriage. In cases alleging schizophrenia as a ground, the burden lies on the party seeking divorce to establish, by acceptable medical and legal evidence, and the disorder must be shown to be of continuous or recurrent nature and of such intensity that the parties are unable to lead a normal and peaceful matrimonial life, and the spouse seeking relief cannot reasonably be expected to live with the other spouse. Mere abnormal conduct, eccentricity, or isolated symptoms, without further aggravating circumstances affecting matrimonial life, would not constitute a valid ground for divorce under Section 13(1)(iii) of the Hindu Marriage Act.



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14.To determine the core issue whether the respondent-wife was suffering from schizophrenia at the time of marriage and whether her subsequent and continuous conduct was of such a nature and degree that the petitioner-husband could not reasonably be expected to live with her, this court extracts the following portion of the evidence of husband:

14.1.From the records, it is evident that both spouses belong to the same community and are distantly related. The marriage was arranged through one Veerachamy, an EX- LIC employee, who acted as the mediator between the families. Prior to the marriage, the husband visited the residence of the wife's family on two more occasions. The families also conducted a formal marriage arrangement function on 30.03.2018, following which the marriage was solemnized on 2.07.2018. These circumstances clearly indicate that there was free interaction and communication between the families before the marriage.

14.2.After the marriage, the parties initially resided at the wife's parental home at Thanjavur. Thereafter, they stayed for some time at the husband's parental home in Chennai. Subsequently, they proceeded on a honeymoon trip to Kodaikanal for four days. After returning from Kodaikanal, they again stayed at Thanjavur and Chennai before relocating to Mumbai. Where the husband was



working as a manager in a Nationalized bank .Following the customary “Aadi”

visit by the wife to her parental home, both spouses returned to Mumbai and

established their matrimonial home there.

14.3.As per the relevant portion of the evidence of the husband, it is clear that during their stay at Chennai and Mumbai, the wife actively participated in his family functions, including the birthday celebration of the husband’s sister. The parties also visited several temples and tourist places together.

14.4.Significantly, no abnormal conduct or behavioural issues were either pleaded or proved during this period. The first indication of alleged mental health issue arose only after the wife’s pregnancy was confirmed on 02.02.2019. According to the husband’s case, upon confirmation of the pregnancy, the consulting gynaecologist referred the wife to a psychiatrist, examined as P.W.3. It is the husband’s contention that the psychiatrist informed him that the wife was suffering from schizophrenia and that such condition might adversely affect their future life. The evidence on record shows that the matrimonial discord commenced only thereafter. Until then, there had been no allegation of abnormal behaviour on the part of the wife. Even according to the



husband, the disputes between the parties arose only after the said medical consultation and the relevant portion of evidence is as follows:

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நான் ஆரம்ப காலம் தொட்டே சேர்ந்து வாழ தயாராக இல்லை என்றால் அப்படி கிடையாது. அவரது வியாதியின் வெளிப்பாடு தெரிய வந்த பின்பு தான் சேர்ந்து வாழ முடியவில்லை.

14.5.Though several doctors were examined on behalf of the husband and various medical records were marked, all the doctors admitted that they had not furnished any final diagnosis conclusively establishing schizophrenia. Significantly, the documents produced are only photocopies of prescriptions and treatment records. No final medical opinion, diagnostic report, or expert conclusion establishing schizophrenia was produced before the Court.

14.6.Apart from the husband, his father was examined. However, neither the husband nor his father spoke about any specific instance of abnormal conduct on the part of the wife that would indicate the existence of schizophrenia or any serious mental disorder. Veerachamy, an EX- LIC employee, who acted as the mediator also was not examined.

14.7.On the side of the wife, she examined herself and her mother. The mother categorically deposed that her daughter had never suffered from any mental illness, including schizophrenia. During cross-examination, it was only



elicited that during her final year of college the wife had experienced occasional giddiness on the account of fourth year examination fear and had taken certain medicines for the relief of stress. Except that isolated circumstance, there is absolutely no material available on record to infer that she was suffering from schizophrenia before and after marriage.

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14.8.From the above sequence of events and the evidence available on record, it is clear that the entire documentary and oral evidence fails to establish that the wife was suffering from schizophrenia. Consequently, the allegation that the wife or her family suppressed any material fact relating to her mental health before the marriage also remains unproved. None of the medical records produced before the Court disclose any diagnosis of schizophrenia prior to or at the time of marriage.

14.9.In such circumstances, this Court is constrained to hold that the husband has miserably failed to prove that the wife was suffering from schizophrenia or that any material fact relating thereto was fraudulently suppressed by her family. Consequently, the allegation of mental cruelty founded upon such unproved assertion cannot be sustained.



15. The husband had not even pleaded any specific abnormal conduct on the part of the wife. The only allegation made by him was that the wife used to attend to household duties during midnight hours and also stated about the following statement nature of hallucination in para 10 of petition:

*“10. From the moment when the petitioner acquired knowledge about her disease, the attitude and actions of the respondent have brought fear in the mind of the petitioner. The respondent used to shout in high tone அவன் அந்த டிவைஸை வெச்சுகிட்டு என்னை ரொம்ப டார்ச்சர் பன்றான். அதை வெச்ச குளிக்கும்போது படம் புடிக்கிறான். பாம்பே ஏற்போர்டே என்னை பத்திதான் பேசுது அவன் மேல எப் ஐ ஆர் போட்டா சரியாகிவிடும். The petitioner was unable to understand whom the respondent was referring to....”*

Except the said vague allegation, there is absolutely no pleading or evidence to establish that the conduct of the wife was so abnormal or grave as to make matrimonial life impossible. The husband examined himself as P.W.1 and also examined doctors on his side to prove that the wife was suffering from schizophrenia.

16. Though three doctors were examined on the side of the husband, they had not produced any original medical records in the form of collective opinion to conclusively establish that the wife was suffering from schizophrenia. Admittedly, no case sheet, scan report, diagnostic report, psychological



assessment, discharge summary, or any other contemporaneous medical record was produced before the Court to substantiate the alleged mental illness. Even the doctors, in their evidence, had merely stated that prescriptions were issued to the wife.

17.A mere production of prescriptions, without supporting clinical records or diagnostic materials, cannot by itself establish schizophrenia. Significantly, the prescriptions themselves disclose that several medicines prescribed therein were not exclusively meant for schizophrenia. While assessing evidence, this Court finds that these documents do not arise from a natural course of events. On the contrary, they appear to be products of a premeditated attempt to dissolve the marriage. Had there been a genuine medical condition, there would have been consistent medical records, credible testimony from treating doctors, and clear evidence demonstrating the impact of such illness. These essential elements are conspicuously absent in the present case. Therefore, the prescriptions alone cannot lead to an inference that the wife was suffering from schizophrenia.

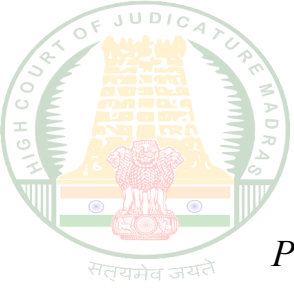
18.No evidence has been adduced to establish that the wife exhibited abnormal conduct of the kind ordinarily associated with a disorder such as



violent behavior, destruction of household articles, or abusive conduct in public. The husband has failed to prove any specific instances of such behaviors conclusively to demonstrate any abnormal conduct on her part to such an extent that the spouse cannot reasonably be expected to live with the other and such severity as to render matrimonial life impossible or unworkable and prove the existence of an incurable or aggravated mental disorder both before and after entering marriage. From reading of entire evidence placed before this court and more particularly, the following portions of evidence of husband, nothing is available to establish that the wife was suffering from any mental illness of such a nature and extent as to render her incapable of attending to her routine affairs or unfit for marriage and procreation of children.

“எனது பெற்றோர் வீட்டில் எனது மனைவியை விட்டு விட்டு பாம்பே சென்றேனா என்றால் சென்னையில் மூன்று நாட்கள் எனது பெற்றோர் வீட்டிலிருந்து விட்டு ஹனிமூன் சென்று நான்கு நாட்கள் இருந்துவிட்டு தஞ்சாவூருக்கு வந்தோம், அதன் பின்பு 22.07.2018 அன்று எனது மனைவியையும் அழைத்துக்கொண்டு மும்பைக்கு சென்றேன்

சென்னையில் நாங்கள் இருந்தபோது, நானும் எனது மனைவியும் இணைந்து எனது சகோதரரின் குழந்தையின் பிறந்தநாள் விழாவிற்கு சென்றோம் என்றால், ஆமாம். மும்பைக்கு சென்ற பிறகு, நானும் எனது மனைவியும் கோயில் போன்ற வெளியிடங்களுக்குச் சென்றிருக்கிறோம் என்றால், ஆமாம்.”



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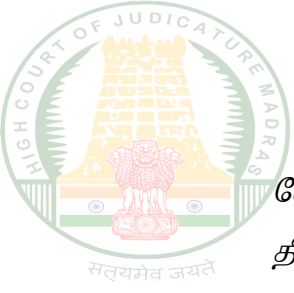
நான் பார்த்து பெண் பிடித்திருக்கிறது என்று சொன்னதன் பேரில் பெண் வீட்டார் எங்கள் வீட்டிற்கு வந்தார்கள் என்றால் ஆமாம். எதிர்மனுதாரர் திருமணத்தின் போது என்ன செய்து கொண்டிருந்தார்கள் என்றால் கல்லூரி படிப்பை முடித்து வேலைக்கு முயற்சி செய்து கொண்டிருந்தார்கள்.

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எனது மனைவி மனநலத்தால் பாதிக்கப்பட்டுள்ளார் என்று முதன் முதலாக எனக்கு எந்த டாக்டர் சொன்னார் என்றால் மும்பை *paramount* மருத்துவமனையைச் சேர்ந்த டாக்டர் பிரசன்னா டெண்டுல்கர் என்பவர் சொன்னார். அவர் எனது மனைவிக்கு எவ்வளவு நாட்கள் மருத்துவ சிகிச்சை செய்தார் என்றால் ஒரு நாள் மட்டும் செய்தார். அந்த மருத்துவர் அது குறித்து எனது மனைவிக்கு சான்றிதழ் எதுவும் வழங்கியிருக்கிறாரா என்றால் இல்லை. அவரைத் தவிர வேறு எந்த மருத்துவரும் எனது மனைவியின் மனநலம் குறைபாடு குறித்து சொல்லியிருக்கிறார்களா என்றால் வேறு யாரும் சொல்லவில்லை.

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நிதர்சனி தான் நல்ல மனநல உடையவர் என்பதை நிரூபிப்பதற்கு எந்த மருத்துவரிடமும் பரிசோதனைக்கு உட்பட தயாராக இருக்கிறார் என்றாலும், அவர் அவ்வாறு மனநல தகுதியுடையவர் என்று உறுதி செய்யப்பட்டால் நான் அவரை ஏற்றுக்கொள்ளத் தயாராக இருக்கிறேனா என்றால் இல்லை. நிதர்சனியின் பட்டப்படிப்பையும் பொய் சொல்லி தான் என்னை திருமணம் செய்திருக்கிறார். நிதர்சனியை திருமணத்திற்கு பின்பு



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வேலைக்கு அனுப்புவது எனது நோக்கமா என்றால் இல்லை. திருமணத்தின் போது நிதர்சரி பட்டப்படிப்பை முடித்துவிட்டார் என்றால் ஆமாம். திருமணத்திற்கு பிறகு அவர் கல்லூரிக்கு போகவில்லை என்றால் ஆமாம்.

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மருத்துவர் வெங்கடேசன் இவ்வழக்கில் ம.சா.6 ஆக விசாரித்திருக்கிறோம் என்றால் ஆமாம். அவ்வாறு பெற்ற மருத்துவ கருத்துரை (Doctor's Opinion) என்னிடம் இருக்கிறதா என்றால் இல்லை.

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நான் ஆரம்ப காலம் தொட்டே சேர்ந்து வாழ தயாராக இல்லை என்றால் அப்படி கிடையாது. அவரது வியாதியின் வெளிப்பாடு தெரிய வந்த பின்பு தான் சேர்ந்து வாழ முடியவில்லை.

19. Prior to the marriage and for about eight months thereafter particularly until the wife conceived there were no indications or behavioral manifestations suggestive of Schizophrenia. It is seen that, for the first time, when the wife was taken to a doctor PW3 in Mumbai, a diagnosis was purportedly made that she was suffering from schizophrenia and that marital life would not be possible. He had seen her only once. However, such an opinion is not supported by cogent medical records and was not corroborated by any independent and was not followed by any consistent or bona fide course of treatment. This circumstance materially undermines the subsequent



allegation that the wife was suffering from a pre-existing mental disorder. On the contrary, the spouses lived together in a normal, affectionate, and harmonious marital relationship. the parties had, in fact, lived together happily for a considerable period, including going for a honeymoon trip, and that the wife had conceived during the subsistence of the marriage. These circumstances, are inconsistent with the allegation of severe disorder existing from prior to the marriage. The doctors examined on the side of the husband have not categorically deposed that the wife was suffering from an incurable mental disorder or that she was incapable of discharging matrimonial obligations.

19.1. On the contrary, the evidence on record probabilises the case of the wife that she never suffer from schizophrenia and her husband and her in laws with predetermined notion filed this divorce proceeding. Infact ,there were evidence abundantly available in this case that wife did not show any significant abnormalities and she had normal acquaintance and social relationship with relatives and she had managed her affairs and also discharged her matrimonial duties as a normal wife and her activities never caused any endanger to the life of husband .she is also capable of procreation. The medical evidence,is inconclusive and unreliable, Subsequently, after



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matrimonial discord arose, she resumed and successfully completed her M.Tech course also. The wife also withstood extensive cross-examination spanning four days, covering more than 30 pages of deposition. Therefore, her ability to withstand such a prolonged and searching cross-examination, while giving coherent and consistent answers, demonstrates her mental stability and capacity. Therefore this court has no hesitation to accept the submission of the learned counsel that above factors are a strong indicator of her sound mental faculties and consequentially this court negates husband's allegation of schizophrenia or any debilitating disorder affecting matrimonial life.

19.2. Further, the conduct of the husband and his family failed to secure appropriate medical care for the wife during her pregnancy and themselves aimed to undergoing abortion and subjected her to cruelty on the premise of an unsubstantiated diagnosis by subjecting her to various psychiatric assessment in more than four hospitals and more gravely, are alleged to have been responsible for the termination of the pregnancy, resulting in the loss of 8 months old foetus.

19.3. Furthermore, the only circumstance relied upon by the husband is the various prescriptions to infer that wife had taken some medical treatment



and was taking medicines. However, wife categorically denied the allegations and taking of medicines. Therefore, in the absence of clear medical evidence

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as to the incurable nature and severity of the alleged illness and acceptable evidence to prove her conduct was so aggravated that the husband could not reasonably be expected to lead a normal matrimonial life with her, this court declines to infer schizophrenia of such a degree as to render cohabitation impossible.

19.4. Further, in the course of married life whether at its initial, intermediate, or later stages if either the husband or the wife suffers from any natural physical ailment, it is the solemn duty of the spouse to accept it with tolerance and address it with compassion. The family members connected to the marriage are equally expected to act in the same manner. This is matrimonial tolerance and the Hon'ble SC has held in the case of ***A. Jayachandra v. Aneel Kaur reported in (2005) 2 SCC 22***

*“14. The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance to each other's fault to a certain bearable extent has to be inherent in every marriage.”*

20. After marriage, it is a legitimate and bona fide expectation within the



Indian family system that a daughter-in-law should be treated with the same affection, care, dignity and respect as a daughter. This expectation is founded upon deeply rooted moral, cultural and societal values that have long guided family relationships in India. Treating the daughter-in-law as one's own daughter implies that, just as a family would care for a daughter in times of illness, they must equally protect and support the daughter-in-law. The absence of this basic humane approach, And entertaining an intention to somehow secure a divorce by any means, clearly reflects the conduct of the husband and his family members in the present case.

21. More importantly, portraying the wife as mentally unsound and disseminating defamatory allegations has the effect of impairing her dignity. Unfounded allegations, particularly relating to mental health, not only amount to cruelty but also constitute an unwarranted intrusion into the privacy and personal autonomy of the spouse. the wife, despite such imputations affecting her privacy and dignity, expressed her willingness to continue the matrimonial relationship. This conduct reflects her bona fides and commitment to the institution of marriage as utmost Tolerance and mutual trust form the bedrock of matrimonial life. Therefore, to cast reckless, unfounded, or humiliating allegations upon one's spouse, particularly allegations touching upon mental



illness or emotional instability, instead of extending emotional support, understanding, and compassionate companionship, may deeply wound the dignity, self-worth, and emotional well-being of the other spouse. Therefore, when emotional difficulties arise within marriage, understanding and empathy are regarded as more conducive to emotional healing than humiliation, suspicion, or accusation.

22. The true foundation of married life is not accusation, but compassion, patience, understanding, and mutual respect. Making unfounded allegations of mental illness against the spouse, without any supporting material, on mere assumptions and suspicions, and thereafter searching for evidence to somehow substantiate such allegations before a Court of law, without taking even a single bona fide step to ascertain the correct medical diagnosis, and without extending the ordinary emotional remedies of matrimonial life such as affection, emotional closeness, companionship, intimate understanding, loving embrace, and the warmth of a caring marital relationship capable of alleviating mental stress and emotional pain, would itself amount to neglect of the marriage forsaking the fundamental obligations of love, care, emotional support, and companionship, and result in committing offence under matrimonial jurisprudence and resultantly he cannot be permitted to seek matrimonial relief



by taking advantage of his own matrimonial wrong within the meaning of Section 23 of the Hindu Marriage Act, 1955.

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23. Accordingly, this Court is constrained to hold that the attempts made by the husband's side to depict the wife as mentally ill are not bona fide efforts to establish truth, but rather constitute a calculated exercise to fabricate evidence for the purpose of breaking the matrimonial bond. Such conduct, in itself, amounts to mental cruelty. Therefore, the allegations advanced by the husband lack credibility and remain unsubstantiated by acceptable evidence, and hence cannot be sustained. In view of the foregoing analysis, this Court finds no merit in the submissions advanced on behalf of the appellant. The appeal, therefore, deserves to be dismissed.

#### **24. Discussion on mental cruelty:**

The Hon'ble Supreme Court in the cases of *Shobha Rani v. Madhukar Reddi* reported in (1988) 1 SCC 105, *A. Jayachandra v. Aneel Kaur* reported in (2005) 2 SCC 22, *Vinita Saxena v. Pankaj Pandit* reported in (2006) 3 SCC 778, *Samar Ghosh v. Jaya Ghosh, Naveen Kohli v. Neelu Kohli* reported in (2006) 4 SCC 558 and *Nirmal Singh Panesar v. Paramjit Kaur Panesar* reported in (2025) 3 SCC 790, categorically held that matrimonial



relief on mental cruelty must depend upon the cumulative effect of the conduct and the surrounding circumstances of married life of each case.

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24.1. The Honb'le Supreme Court in the case of ***Nirmal Singh Panesar v. Paramjit Kaur Panesar***, reported in **(2025) 3 SCC 790** has held as follows:

*It is well-accepted proposition that “cruelty” is a course or conduct of one party which adversely affects the other. The “cruelty” may be mental or physical, intentional, or unintentional.....*

*11. The crux of the various decisions of this Court on the interpretation of the word “cruelty” is that it has to be construed and interpreted considering the type of life the parties are accustomed to; or their economic and social conditions and their culture and human values to which they attach importance. Each case has to be decided on its own merits.*

24.2. The Honb'le Supreme Court in the case of ***A. Jayachandra v. Aneel Kaur***, reported in **(2005) 2 SCC 22** has held as follows:

*Cruelty which is a ground for dissolution of marriage may be defined as wilful and unjustifiable conduct of such character as*

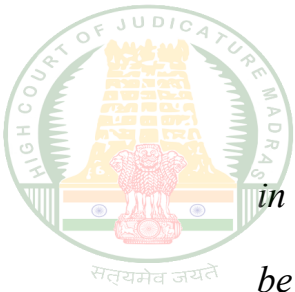


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*to cause danger to life, limb or health, bodily or mental, or as to give rise to a reasonable apprehension of such a danger. . First, the enquiry must begin as to the nature of cruel treatment, second the impact of such treatment in the mind of the spouse, whether it caused reasonable apprehension that it would be harmful or injurious to live with the other. Ultimately, it is a matter of inference to be drawn by taking into account the nature of the conduct and its effect on the complaining spouse. However, there may be a case where the conduct complained of itself is bad enough and per se unlawful or illegal. Then the impact or injurious effect on the other spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted.*

**24.3.** The Honb'le Supreme Court in the case of **Vinita Saxena v. Pankaj Pandit**, reported in **(2006) 3 SCC 778** has held as follows:

*...it must be proved that one partner in the marriage however mindless of the consequences has behaved in a way which the other spouse could not in the circumstances be called upon to endure, and that misconduct has caused injury to health or a reasonable apprehension of such injury. There are two sides to be considered*



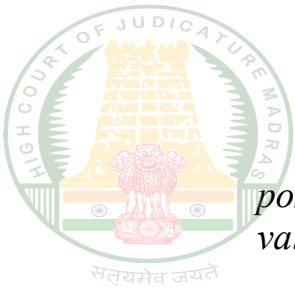
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*in case of cruelty. From the appellant's side, ought this appellant to be called on to endure the conduct? From the respondent's side, was this conduct excusable? The court has then to decide whether the sum total of the reprehensible conduct was cruel. That depends on whether the cumulative conduct was sufficiently serious to say that from a reasonable person's point of view after a consideration of any excuse which the respondent might have in the circumstances, the conduct is such that the petitioner ought not be called upon to endure.*

24.4. The Honb'le Supreme Court in the case of **Samar Ghosh v. Jaya Ghosh**, reported in (2007) 4 SCC 511 98 has held as follows:

*On proper analysis and scrutiny of the judgments of this Court and other courts, we have come to the definite conclusion that there cannot be any comprehensive definition of the concept of "mental cruelty" within which all kinds of cases of mental cruelty can be covered. No court in our considered view should even attempt to give a comprehensive definition of mental cruelty.*

**99.***Human mind is extremely complex and human behaviour is equally complicated. Similarly human ingenuity has no bound, therefore, to assimilate the entire human behaviour in one definition is almost impossible. What is cruelty in one case may not amount to cruelty in other case. The concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial*



position, social status, customs, traditions, religious beliefs, human values and their value system.

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**100....** *There can never be any straitjacket formula or fixed parameters for determining mental cruelty in matrimonial matters. The prudent and appropriate way to adjudicate the case would be to evaluate it on its peculiar facts and circumstances while taking aforementioned factors in consideration.*

**101.** *No uniform standard can ever be laid down for guidance, yet we deem it appropriate to enumerate some instances of human behaviour which may be relevant in dealing with the cases of “mental cruelty”. The instances indicated in the succeeding paragraphs are only illustrative and not exhaustive:*

- (i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.*
- (ii) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party.*
- (iii) Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable.*
- (iv) Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of other for a long time may lead to mental cruelty.*
- (v) A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse.*
- (vi) Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty.*
- (vii) Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty.*



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(viii) *The conduct must be much more than jealousy, selfishness, possessiveness, which causes unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty.*

(ix) *Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day-to-day life would not be adequate for grant of divorce on the ground of mental cruelty.*

(x) *The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill conduct must be persistent for a fairly lengthy period, where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty.*

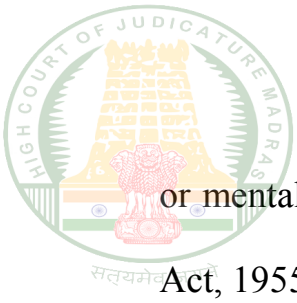
(xi) *If a husband submits himself for an operation of sterilisation without medical reasons and without the consent or knowledge of his wife and similarly, if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty.*

(xii) *Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty.*

(xiii) *Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.*

(xiv) *Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.*

25. In this case, the husband did not make any pleading about her conduct that could have caused him either physical cruelty or mental cruelty and there is total lacking of oral or documentary evidentiary proof . This court also does not find any material circumstances either to presume physical cruelty



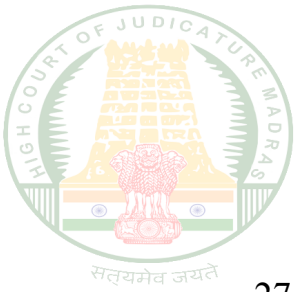
or mental cruelty to grant divorce under Section 13(1) (i-a) of Hindu Marriage Act, 1955 from the available records.

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26. Only argument placed by the learned senior counsel appearing for husband on the basis of following paragraph of the Hon'ble SUPREMECOURT in the case of ***Samar Ghosh v. Jaya Ghosh, reported in (2007) 4 SCC 511 is that separation of six year amounts to*** mental cruelty:

*(xiv) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.*

*The submission of the learned Senior Counsel that prolonged separation by itself constitutes mental cruelty warranting a decree of divorce, relying upon the decision of the Hon'ble Supreme Court in Samar Ghosh v. Jaya Ghosh, (2007) 4 SCC 511, is misconceived and cannot be accepted in the facts of the present case.*



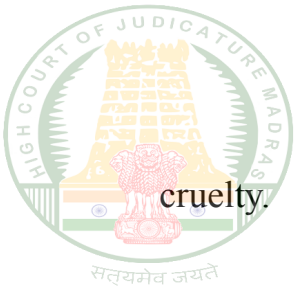
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27. Firstly, the learned Senior Counsel has selectively relied upon certain observations in *Samar Ghosh* without appreciating the judgment as a whole.

The Hon'ble Supreme Court, after an exhaustive survey of the law relating to mental cruelty, categorically held that mental cruelty cannot be defined by any uniform standard and must necessarily be determined on a case-to-case basis, having regard to the facts and circumstances of each case.

27.1. Secondly, the Supreme Court expressly observed that it was neither possible nor desirable to formulate any exhaustive or uniform guidelines capable of universal application. The illustrative instances mentioned in the judgment were not intended to operate as inflexible rules

28. A holistic reading of the judgment makes it clear that mere passage of time or long separation, by itself, does not automatically amount to mental cruelty. The principle underlying the observations relating to prolonged separation is that the conduct of one spouse must be such as to result in the breakdown of matrimonial cohabitation, leading to a long and continuous period of separation. Such separation, coupled with the resulting mental agony, frustration, deprivation of matrimonial companionship, and the impossibility of resuming normal marital life, may in appropriate cases constitute mental



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29. Therefore, the observations regarding long separation cannot be isolated from their factual and legal context and applied mechanically to every case. In the present case, having regard to the peculiar facts and circumstances on record, the reliance placed by the learned Senior Counsel upon a selective portion of the guidelines enumerated in *Samar Ghosh* is wholly misplaced and does not advance the case of the appellant.

30. Further, In this case ,the separation was not attributable to any conduct on the part of the wife, but was solely on account of the husband's unilateral withdrawal from the matrimonial relationship based on unfounded apprehensions. A litigant cannot be allowed to create circumstances leading to the breakdown of the relationship and then rely upon those very circumstances as a ground for seeking dissolution of the marriage. The distinction between pre-litigation separation on the ground of matrimonial misconduct on part of offending party and continuation of the said conduct during separation of the pendency of proceedings is well recognized. Only in cases where parties have, over a considerable period owing to matrimonial misconduct , allowed the marital bond to wither into a mere legal fiction prior to approaching the court,



can such circumstance be considered. The period of separation occasioned by ongoing litigation cannot, by itself, be elevated to a ground of mental cruelty .

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The argument that prolonged separation constitutes cruelty must fail for yet another reason namely it is a plea without pleading and proof. Further, the clock of separation cannot be artificially lengthened by including the years consumed in litigation. The law distinguishes between a marriage long dead before the lis and one strained during its pendency. this is not a case of a marriage that has died a natural death, but one where one party seeks to abandon responsibility and sanctify that abandonment through judicial decree. The law does not support such convenience. The marriage here was consummated in 2018–2019, and within nearly 6 months, it was the husband who chose estrangement. One who engineers the rupture cannot later plead the debris as justification. *The law cannot encourage a spouse to make unsubstantiated allegations and thereafter derive advantage from the very consequences of such allegations and the ensuing litigation. To do so would amount to permitting a party to take advantage of his own wrong, a course expressly prohibited by Section 23(1)(a) of the Hindu Marriage Act, 1955. Accepting such a contention would, in effect, permit a party to level unproven allegations of mental disorder, prolong the litigation, and thereafter seek dissolution of the marriage on the ground that the relationship has become unworkable. Such an approach would reduce the institution of*



*marriage to a mere plaything, capable of being taken up at will and discarded at convenience. Marriage is not a toy to be played with and thrown away when difficulties arise; it is a solemn human relationship founded upon mutual commitment, trust, companionship, dignity, and responsibility.*

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### **31. Discussion on long separation and irretrievable broking down of marriage :**

The contention of the appellant that the marriage has irretrievably broken down owing to a period of separation of six years cannot be accepted. The factual matrix reveals that the marriage was consummated around the years 2018–2019, and within a short span of approximately nine months, the husband voluntarily withdrew from the company of the wife. A party who himself is responsible for the separation cannot be permitted to take advantage of his own wrong and plead breakdown of marriage." Injuria propria non cadet in beneficium facientis" No benefit shall accrue to a person from his own wrong doing. At this juncture, it is apposite to reiterate the settled legal position that the doctrine of "irretrievable breakdown of marriage" is not a statutory ground under the Hindu Marriage Act, 1955. The power to dissolve a marriage on this ground is vested exclusively in the Supreme Court of India in exercise of its extraordinary jurisdiction under Article 142 of the Constitution of India, and that too in exceptional circumstances and *the issue with regard to irretrievable*



*breakdown of marriage and passing of decree of divorce under Article 142 of*

*the Constitution has been adumbrated by the Hon'ble Constitution Bench of*

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*supremecourt in the case of Shilpa Sailesh v. Varun Sreenivasan reported in*

*(2023) 14 SCC 231 and the same has been followed and reiterated by the*

Hon'ble Supreme Court of India in the case of ***Nirmal Singh Panesar v.***

***Paramjit Kaur Panesar***, reported in (2025) 3 SCC 790 also applied and

**declined to grant divorce on the ground of irretrievable breakdown of**

**marriage and relevant paragraphs are as follows:**

*18. ....In view of the aforestated decision [Shilpa Sailesh v. Varun Sreenivasan, (2023) 14 SCC 231] of the Constitution Bench, there remains no shadow of doubt that this Court can depart from the procedure as well as the substantive laws, and exercise its discretion under Article 142 for dissolving the marriage between the parties by balancing out the equities between the conflicting claims of the parties, however, such discretion should be exercised with great care and caution. It has also laid down that this discretionary power could be exercised for dissolving the marriage on the ground of its irretrievable breakdown to do “complete justice”, though one of the spouses opposes the prayer for dissolution of marriage.*

32. In the present case, the contention of the appellant that the marriage



has become a dead marriage merely on account of prolonged separation during the pendency of the litigation cannot be accepted. In contemporary society, the status of a divorcee may not carry the same degree of social stigma as in the past. However, the present case concerns a decree of divorce sought on the basis of serious allegations of mental illness that remain unproved and unsubstantiated. Such allegations have far-reaching consequences for the dignity, reputation, privacy, social acceptance, and fundamental rights of the spouse throughout her life. Therefore, this Court is not inclined to accept the submission that the long period of separation, by itself, has rendered the marriage a deadwood relationship warranting dissolution. The doctrine of irretrievable breakdown of marriage or prolonged separation cannot be invoked in a manner that rewards a spouse who has failed to establish grave allegations of mental illness against the other spouse.

### **33. Conclusion: In C.M.A(MD).Nos.696 and 697 of 2024:**

This Court, upon an independent re-appreciation of the oral and documentary evidence, finds that there is no material on record to substantiate the allegation that the wife was suffering from schizophrenia of such a nature and degree as to constitute a ground for divorce and accordingly the husband has failed to establish, by cogent and convincing evidence, that the wife was



suffering from schizophrenia of such a nature and degree as to attract the provisions of Section 13(1)(i-a) of the Hindu Marriage Act. Accordingly, this Court holds that the husband has failed to establish cruelty and mental illness or any other ground warranting dissolution of marriage. The dismissal of the divorce petition by the trial court is, therefore, entitled to be confirmed.

### **34.Jewellery Claim**

With regard to the claim of 100 sovereigns of gold jewellery, this Court finds that there is no reliable and satisfactory evidence to establish entrustment of the entire quantity as alleged. The learned trial Judge has, on proper appreciation of evidence, granted relief to the extent of 40 sovereigns. This finding does not warrant interference and is accordingly confirmed.

### **35.Mangalsutra**

Insofar as the direction for return of the Mangalsutra is concerned, this Court finds merit in the contention of the wife. When the wife has made a bona fide offer for reunion and has succeeded in obtaining a decree for restitution of conjugal rights, the direction to return the Mangalsutra is incongruous and legally unsustainable. Such a direction runs contrary to the subsistence of the marital tie and the intent to preserve the matrimonial relationship. Therefore,



the order directing return of the Mangalsutra is liable to be set aside.

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**36.Result:**

36.1. CMA(MD).No.696 of 2024 is hereby dismissed by confirming the dismissal of the husband's petition for divorce in H.M.O.P.No.136 of 2019 dated 29.01.2024 .

36.2.CMA(MD).No.697 of 2024 is hereby dismissed by confirming the decree dated 29.01.2024 for restitution of conjugal rights in favour of the wife in H.M.O.P.No.262 of 2023.

36.3.The direction for return of 40 sovereigns of jewelry in C.R.P(MD).No.2029 of 2024 arising out of order dated 17.05.2023 in I.A.No.1 of 2022 in H.M.O.P.No.136 of 2019 is confirmed.

36.4.The order directing return of the Mangalsutra in C.R.P(MD).No. 3231 of 2023 arising out of order dated 17.05.2023 in I.A.No.1 of 2022 in H.M.O.P.No.136 of 2019 is set aside.

Accordingly:

(i) The Civil Miscellaneous Appeals in CMA(MD).Nos.696 and 697 of 2024 are dismissed.



(ii) The Civil Revision Petition(s) filed by the husband in CRP(MD).Nos. 2029 and 2086 of 2024 are dismissed.

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(iii) The Civil Revision Petition filed by the wife in CRP(MD).No.3231 of 2023, insofar as it challenges the direction for return of the Mangalsutra, is allowed.

(iv) No costs.

**37.Direction:** Duty of this Court does not end with the disposal of this case. In view of the increase the Matrimonial Litigations with serious allegation of mental illness the identity of the party in the litigation process would cause serious repercussion to the remaining part of their life, this Court delves into further discussion.

38. Matrimonial litigation involving allegations of schizophrenia or any other serious mental disorder, whether ultimately proved or disproved, casts a long shadow upon their dignity, privacy, reputation, and the social acceptance .The public disclosure of identity of the persons against whom such allegations are made will be a curse in the society The law cannot remain silent for the psychological injury, social ostracism, enduring emotional trauma, and the perpetuation of stigma associated with mental illness in their day-to-day lives till their lifetime. Such humiliation can be legitimately avoided. The



constitutional values of privacy, dignity, and individual autonomy require the courts to adopt measures that protect litigants from unnecessary exposure and humiliation. Preservation of anonymity in such proceedings serves not only in the interests of the parties but also advances a humane and sensitive approach towards issues relating to mental health.

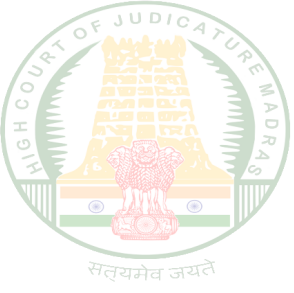
39. Accordingly, as a measure to safeguard the privacy and dignity of the parties, their names and other identifying particulars shall not be disclosed in judgments, orders, pleadings, or court records made available to the public. The parties shall be described as "X" and "Y", or by such other anonymised nomenclature as the circumstances of the case may warrant. Therefore, this Court directs all courts exercising jurisdiction over matrimonial causes that, in cases involving allegations of mental illness, including schizophrenia and other serious psychiatric disorders, the parties shall throughout the proceedings be referred to as "X" and "Y" or by such anonymised descriptions as may be appropriate, without disclosing their names, caste titles, addresses or any other particulars capable of revealing their identity.

**[N.A.V.,J.] & [K.K.R.K.,J.]**  
**15.06.2026**

NCC :Yes/No  
Index :Yes/No  
Internet :Yes/No

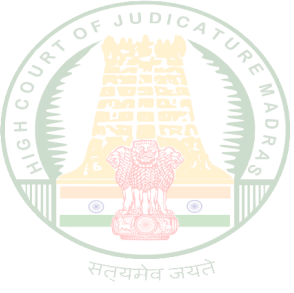
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WEB **To** PY

- 1.The Family Court,  
Thanjavur.
- 2.The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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C.M.A.(MD).Nos.696 and 697 of 2024 and C.R.P(MD).Nos.2029 and 3231 of 2023 & 2086 c



**N.ANAND VENKATESH,J.**  
**and**  
**K.K.RAMAKRISHNAN,J.**

*sbn*

**C.M.A.(MD).Nos.696 and 697 of 2024**  
**and**  
**C.R.P(MD).Nos.2029 and 3231 of 2023 & 2086 of 2024**

**15.06.2026**