

C.M.A.(MD).No.671 of 2

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.06.2026

Pronounced on : 28.07.2026

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

C.M.A.(MD).No.671 of 2020
and
C.M.P(MD).No.3598 of 2026

... Petitioner / Appellant

Vs.

... Respondent / Respondent

PRAYER:- Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, 1988, to set aside the fair and decretal order passed in H.M.O.P. No. 9 of 2015 on the file of the learned Family Court, Trichy by allowing this appeal.

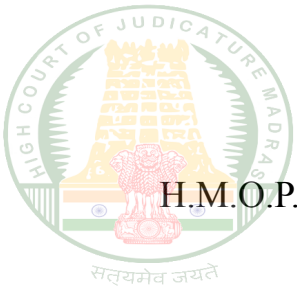
For Appellant : Mr.R.Venkatesan,
M/s.Right Law Associates

For Respondent : Mr.G.S.Asok Adhithyan

J U D G M E N T

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

The appellant/husband has preferred the present Civil Miscellaneous Appeal challenging the fair and decretal order dated 15.09.2020 passed in



H.M.O.P. No.9 of 2015 on the file of the learned Family Court, Tiruchirappalli.

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2. Facts of the Case:

2.1. The petitioner/husband and the respondent/wife were married on 24.06.2010 in accordance with Hindu rites and customs. The petitioner is an MBA graduate, and the respondent is a MCA graduate. According to the petitioner, prior to the marriage, the respondent had sustained serious injuries in a road accident, resulting in permanent physical disability. It is alleged that this material fact was deliberately suppressed by the respondent and her family before the marriage. The petitioner would further contend that, owing to the injuries sustained in the accident, the respondent suffered from depression and was undergoing psychiatric treatment, which was not disclosed prior to the marriage. According to the petitioner, the suppression of these material facts led to serious matrimonial discord between the parties.

2.2. It is the further case of the petitioner that the respondent failed to discharge her household responsibilities, frequently picked up quarrels, and repeatedly threatened to commit suicide, thereby causing him severe mental agony amounting to mental cruelty. Despite the intervention of the petitioner's parents and other relatives, there was no improvement in her conduct. According to the petitioner, the parties were unable to lead a peaceful

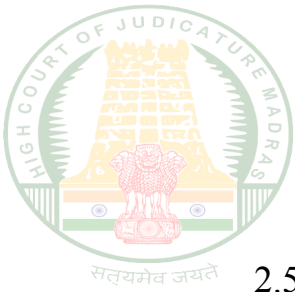


matrimonial life.

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2.3. The petitioner would further state that a complaint was lodged before the Inspector of Police, Kolathur Police Station, Chennai, on 25.08.2013, upon which the police advised both parties to amicably resolve their matrimonial disputes. However, according to the petitioner, on 26.08.2013, the respondent voluntarily left the matrimonial home and started residing with her parents. Thereafter, a legal notice dated 30.08.2013 was issued by the petitioner, followed by the filing of H.M.O.P.No.4033 of 2013 before the III Additional Family Court, Chennai, seeking dissolution of marriage on the ground of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act, 1955. Subsequently, on the application of the respondent, the said petition was transferred to the Family Court, Tiruchirappalli, where it was renumbered as H.M.O.P.No.9 of 2015.

2.4. The respondent/wife filed a detailed counter statement denying all the allegations made in the divorce petition. She specifically denied having suppressed any material fact relating to her health before the marriage. According to her, the petitioner was fully aware of the injuries sustained by her prior to the marriage, and only thereafter the marriage was solemnised and consummated.



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2.5. The respondent further contended that it was not she, but the petitioner's parents, who were responsible for causing matrimonial discord by constantly interfering in their marital life. She alleged that she tolerated the harassment only for the welfare of their child. She also averred that the petitioner himself was suffering from liver and heart-related ailments and that she had undergone an abortion of the second pregnancy owing to medical complications. According to the respondent, she was subjected to both mental and physical cruelty by the petitioner and his parents.

2.6. The respondent further stated that on 25.08.2013, she was physically assaulted by the petitioner, compelling her to contact the police by calling the emergency number. The police arrived at the matrimonial home, conducted an enquiry and advised both parties to amicably resolve their disputes. However, according to the respondent, on the following day, i.e., 26.08.2013, she was forcibly driven out of the matrimonial home. She contended that without making any sincere effort to reconstitute conjugal relationship, the petitioner hastily filed the divorce petition by making false and baseless allegations against her.



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2.7. The respondent categorically asserted that she was always willing and ready to resume cohabitation with the petitioner and continue the matrimonial relationship. She, therefore, prayed for dismissal of the divorce petition.

2.8. During the course of trial, the petitioner examined himself as P.W.1 and marked Exs. P1 to P6. On the side of the respondent, The respondent examined herself as R.W.1, and no documentary evidence was adduced.

3. Upon consideration of the pleadings, oral evidence and documentary evidence available on record, the learned Trial Judge framed the necessary issues and, by judgment and decree dated 15.09.2020, dismissed the divorce petition holding that the petitioner had failed to establish the ground of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act, 1955. Aggrieved by the said judgment and decree, the petitioner/husband has preferred the present Civil Miscellaneous Appeal before this Court.

4. Submission of the learned counsel for the appellant:

4.1. The learned counsel appearing for the appellant/husband would submit that the respondent had suppressed a material fact prior to the marriage, namely, that she had sustained grievous injuries in a road accident, resulting in



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permanent physical disability. According to the learned counsel, the said disability, coupled with the respondent's alleged depression for which she was undergoing treatment, constituted suppression of material facts that ought to have been disclosed before the marriage. The suppression of these facts, according to the appellant, adversely affected the matrimonial relationship and itself amounted to mental cruelty. It is contended that the learned Trial Judge failed to properly appreciate this aspect and erroneously dismissed the divorce petition.

4.2. The learned counsel would further contend that the respondent's conduct throughout the matrimonial life caused severe mental agony to the appellant. According to him, the respondent frequently picked up quarrels, failed to discharge her matrimonial obligations, repeatedly threatened to commit suicide, and created an atmosphere of constant fear and anxiety in the matrimonial home. Such conduct, it is submitted, clearly constituted mental cruelty within the meaning of Section 13(1)(i-a) of the Hindu Marriage Act.

4.3. It is further submitted that complaints had been lodged before the police, which itself demonstrates the matrimonial discord between the parties. According to the learned counsel, the initiation of complaint to police and the continuous disputes arising therefrom caused serious mental agony not only to



the appellant but also to his family members. The learned Trial Judge, however, failed to appreciate the evidentiary value of these circumstances in proper perspective.

4.4. The learned counsel would also submit that the repeated threats allegedly made by the respondent to commit suicide have not been properly considered by the Trial Court. Such conduct, viewed cumulatively, constituted grave mental cruelty and rendered it impossible for the appellant to continue the matrimonial relationship.

4.5. The learned counsel further contended that the learned Trial Judge failed to distinguish between ordinary spousal tension in matrimonial life and acts amounting to legal cruelty. According to him, the evidence adduced by the appellant established continuous mental cruelty, but the Trial Court failed to analyse the oral and documentary evidence in its proper perspective.

4.6. Lastly, it was submitted that the parties have been living separately since 26.08.2013 and that the marriage has irretrievably been broken down. According to the learned counsel, the matrimonial bond has become a mere legal fiction or "dead wood," serving no useful purpose. Though irretrievable breakdown is not, by itself, a statutory ground for divorce, the prolonged



separation is a relevant circumstance while assessing the existence of mental cruelty. On these grounds, the learned counsel prayed that the judgment and decree of the Trial Court be set aside and the decree of divorce be granted.

5. Submission of the learned counsel for the respondent:

5.1. *Per contra*, the learned counsel appearing for the respondent/wife submitted that the allegation of suppression of material facts is wholly unfounded. According to the respondent, the appellant was fully aware, even prior to the marriage, of the injuries sustained by her in the accident. The marriage was solemnised only after such disclosure, and the parties thereafter consummated the marriage and were blessed with a child. The respondent also became pregnant again and suffered abortion due to medical reasons. These admitted facts, according to the learned counsel, clearly establish that the alleged disability did not constitute any impediment to normal matrimonial life.

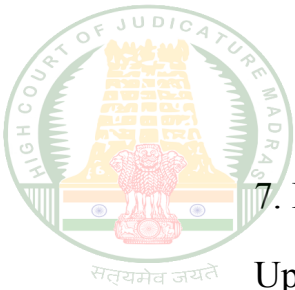
5.2. The learned counsel further submitted that the respondent never subjected the appellant to either physical or mental cruelty. On the contrary, it was the respondent who suffered both physical and mental cruelty at the hands of the appellant and his family members. The allegations levelled against the respondent are false, exaggerated and intended solely to secure a decree of divorce. It was further submitted that, despite the alleged acts of cruelty, the



respondent consistently expressed her willingness to continue the matrimonial relationship and, in her counter statement, made a bona fide offer to resume cohabitation with the appellant. This conduct, according to the learned counsel, completely belies the appellant's allegation that the respondent intended to disrupt the matrimonial relationship.

5.3. The learned counsel also pointed out that the proceedings initiated by the respondent were for maintenance. Even in those proceedings, the appellant has failed to comply with the orders passed by the competent court by paying the maintenance amount. It was submitted that the appellant is employed as a Regional Manager in a private company and is earning more than Rs.1,50,000 per month. Despite possessing sufficient financial means, he has neglected to maintain the respondent and the minor child, thereby forcing them to live without adequate financial support. On the above submissions, the learned counsel prayed for dismissal of the appeal and for confirmation of the well-considered judgment and decree passed by the learned Trial Judge.

6. This Court has carefully considered the rival submissions advanced by the learned counsel on either side, perused the materials available on record, and examined the precedents relied upon by them.



7. Points for consideration:

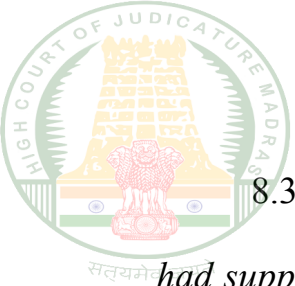
Upon consideration of the rival submissions and on a careful perusal of the pleadings, oral and documentary evidence available on record, the following points arise for consideration:

(i) Whether the appellant/husband has established that the respondent/wife subjected him to mental cruelty within the meaning of Section 13(1)(i-a) of the Hindu Marriage Act, 1955?

8. Discussions:

8.1. The respondent/husband is an MBA graduate. At the time of the marriage, the respondent/wife had completed the MCA course and was waiting to submit her project. Thus, both parties are highly educated and possess postgraduate qualifications.

8.2. The marriage between the parties was an arranged marriage solemnized on 24.06.2010. The marriage was duly consummated. during the wedlock, a male child was born on 26.07.2011. The records further disclose that the wife conceived a second time; however, the pregnancy was subsequently terminated due to medical reasons.



8.3. The principal allegation advanced by the husband is that *the wife*

had suppressed the fact that she had sustained a hip fracture in a motor vehicle accident prior to the marriage and that she was suffering from mental depression. More significantly, during his evidence, the husband candidly admitted that the principal reason for filing the petition for divorce was the wife's hip fracture and the alleged Partial disability. The relevant portion of his evidence reads as follows:

“ எனக்கும் என் மனைவிக்கும் இடையே ஏற்பட்ட பிரச்சினைக்கு என் மனைவி காலில் உள்ள ஊனமும் ஒரு காரணம். திருமணம் முடிந்தவுடனேயே என் மனைவி காலில் உள்ள பிரச்சினை எங்களுக்கு தெரிந்துவிட்டது. அந்த காரணத்திற்காக திருமணத்தை ரத்து செய்ய நான் உடனடியாக மனு போடவில்லை. என் மனைவியின் காலில் உள்ள ஊனம் சரிசெய்யவே முடியாது என்றும் அதை என்னிடம் மறைத்து திருமணம் நடத்திவிட்டார்கள் என்று எனது வழக்கறிஞர் அறிவிப்பு ம.சா.ஆ.5ல் சொல்லியிருக்கிறேன். என் மனைவியின் காலில் ஏற்பட்ட ஊனம் அன்றாட நடவடிக்கைகளில் எந்தவித பாதிப்பையும் ஏற்படுத்தாது என்றும் திருமணம் ஆன சமயம் நான் அதை பெரிது படுத்தவில்லை என்றும் தற்போது இந்த வழக்கிற்காக அந்த ஊனத்தை மினைப்படுத்தி சொல்கிறேன் என்று சொன்னால் சரியல்ல.

8.4.The stand taken by the husband that the wife was unfit for matrimonial life merely because she had sustained a hip fracture prior to the marriage reflects an unfortunate and insensitive attitude and hard heartedness towards persons who have some health issues and the insistence of the husband on seeking dissolution of marriage solely on account of the wife's physical disability also shows lack of empathy and compassion towards a spouse who



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became the victim of an unfortunate accident. Such an approach is inconsistent with the humane values of matrimonial relationship. Such a contention is not only legally unsustainable but also contrary to the constitutional values of dignity, equality and inclusiveness. A person who has suffered accidental injuries cannot, by that reason alone, be branded as unfit for married life. To hold otherwise would amount to endorsing a discriminatory and inhuman approach towards persons who have health issues which this Court cannot countenance. It reflects a complete lack of empathy and humanity towards a spouse who had suffered accidental injuries before marriage. Such an attitude is unbecoming of human being and cannot receive judicial approval. . Physical disability or the consequences of an accidental injury do not render a person incapable of leading a happy and fulfilling matrimonial life. Across society, countless persons with disabilities discharge their marital and family responsibilities with dignity and mutual affection. Humanity demands that a spouse extends compassion, support and adjustment to a partner who has suffered a physical disability, rather than treating such disability with contempt.

8.5. Life is not governed by statistics or mathematical certainty. Every individual is susceptible to unforeseen misfortunes and accidents. Matrimonial life necessarily demands mutual tolerance, compassion, adjustment and support, particularly when one spouse is confronted with unforeseen adversities. If



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accidental injuries sustained by a spouse either before or after marriage are accepted as sufficient grounds for dissolution of marriage, the very institution of marriage and the principles underlying matrimonial jurisprudence would stand seriously undermined. Disability can not be seen as a crime or sin and cannot, by itself, diminish the dignity or worth of an individual. The true disability in this case is the inability of the husband to acknowledge the positive side of the wife. To ostracize or discriminate a person merely on account of disability is contrary to the constitutional values of equality, dignity, and non-discrimination. It is for this reason that nations across the world have enacted legislative and policy measures to safeguard the rights of persons with disabilities and to ensure they also participate in the mainstream of society. The United Nations has also adopted various international instruments recognizing and protecting the rights of persons with disabilities. India has, in furtherance of its constitutional obligations and international commitments, enacted comprehensive legislation to secure and protect the rights, dignity, and equal opportunities to persons with disabilities.

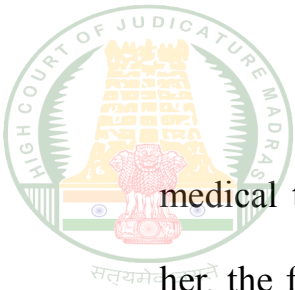
8.6. Section 5 of the Hindu Marriage Act does not contemplate that suppression of a past accidental injury or physical disability constitutes a ground affecting the validity of a marriage. The statute specifically mentions about the grounds on which dissolution of marriage can sought particularly



about the unsoundness of mind etc. The Legislature has nowhere provided that non-disclosure of an accidental injury or a physical disability amounts to suppression warranting dissolution of marriage.

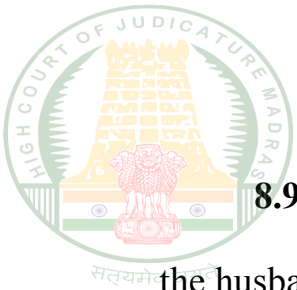
8.7.To recognize disability, by itself, as a ground for divorce in the facts of the present case would amount to legitimizing discrimination against persons with disabilities and would undermine the very object sought to be achieved by the constitutional guarantees and the statutory protections afforded to them. Such an approach deserves to be deprecated unequivocally. Viewed in the aforesaid legal and constitutional perspective, the conduct of the petitioner-husband in seeking dissolution of the marriage solely on the ground that the respondent-wife suffered a disability due to an accident is wholly unjustified. Such a plea is not only legally unsustainable but also deeply inconsistent with the constitutional ethos of compassion, equality, and respect for human dignity. It causes profound concern to the conscience of this Court.

8.8.The allegation that the wife's pre-marital accidental injury amounted to suppression of a material fact is wholly misconceived. The evidence of the wife and the circumstances further establish that the injuries sustained by her had, in fact, been disclosed to the husband and his family members prior to the marriage. The evidence on record establishes that the wife underwent proper



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medical treatment for the injuries sustained in the accident and, according to her, the fact of such injuries had been disclosed to the husband and his family members. The subsequent conduct of the parties also demonstrates that the wife continued to discharge her matrimonial obligations and led a normal marital life without any serious impediment. The marriage was consummated, they lived together as husband and wife, and were blessed with a child in the year 2011. The wife conceived second time. The evidence on record clearly establishes that the parties continued their matrimonial life after the marriage and were blessed with a child. There is absolutely no evidence to demonstrate that the disability suffered by the respondent-wife has, in any way, affected the marital relationship or rendered her incapable of performing her matrimonial obligations. In the absence of any such evidence, the alleged disability suffered by the respondent-wife cannot, by any stretch of legal reasoning, constitute a valid ground for dissolution of marriage. Therefore, the contention of the husband that the alleged physical deformity rendered her unfit for matrimonial life is wholly devoid of legal and factual foundation. In such circumstances, his plea that the wife was incapable of leading a normal matrimonial life because of the earlier hip fracture is wholly devoid of merit.



8.9.The materials on record further indicate that, owing to the nature of the husband's employment, he was frequently away from the matrimonial home.

During such periods, the wife was constrained to reside with her parents-in-law and was subjected to persistent harassment at the hands of her mother-in-law and father-in-law, thereby making her matrimonial life difficult and unpleasant. Hence,the conduct of the husband, viewed in its entirety, lends considerable support to the wife's consistent plea that she was subjected to ill-treatment and discrimination by the husband and his family members because of the physical infirmity resulting from the accident.

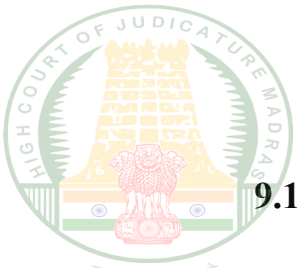
8.10.The further allegation that the wife was suffering from mental depression is equally unsupported by any acceptable evidence. There is no iota of medical or independent evidence on record to substantiate such a serious allegation. On the contrary, the conduct of the parties shows that they happily lived together after marriage and were blessed with a child within a year, and continued their matrimonial relationship thereafter. The evidence does not indicate any conduct attributable to mental illness or depression that rendered the continuation of marital life impossible. The inevitable conclusion, therefore, is that the allegation of mental depression has been invented solely to create a ground for dissolution of marriage.



8.11.Likewise, the allegation that the wife frequently attempted to commit suicide also remains a mere statement without proof. Except for the interested testimony of the husband, no independent evidence has been produced to establish any suicide attempt or any conduct making out mental cruelty.

8.12.It is well settled that a spouse seeking dissolution of marriage on the ground of mental cruelty must specifically plead the material facts constituting cruelty and prove those facts by reliable evidence.

9. The husband, however, has neither pleaded nor proved any specific acts of cruelty committed by the wife during the said period. On the contrary, he sought to attribute the matrimonial discord to the injuries sustained by the wife prior to the marriage and made unfounded allegation that she was suffering from mental depression. As already discussed, those allegations remain wholly unsubstantiated. Mere allegations, however serious, cannot take the place of proof. It is well settled principle that the matrimonial relief on mental cruelty must depend upon the cumulative effect of the conduct and the surrounding circumstances of married life of each case.



9.1. 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:

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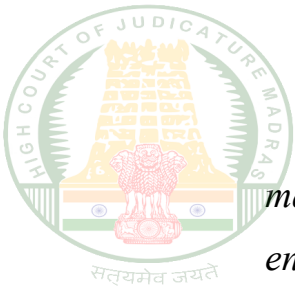
It is well-accepted proposition that “cruelty” is a course or conduct of one party which adversely affects the other. The “cruelty” may be mental or physical, intentional, or unintentional.....

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.

9.2. 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 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



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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.

9.3. The Honb'le Supreme Court in the case of *Vinita Saxena v. Pankaj*

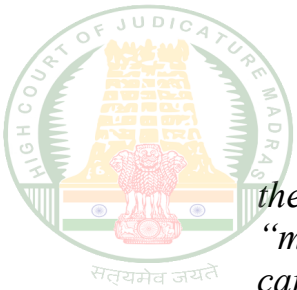
Pandit, reported in (2006) 3 SCC 778 has held as follows:

...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 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.

9.4. 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



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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.

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.*



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(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.*

(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*



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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.

9.5. Applying the above principles governing mental cruelty laid down by the Hon'ble Supreme Court, this Court finds no material whatsoever to infer that the wife treated the husband with such cruelty as would entitle him to a decree of divorce. Further more, 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.

9.6. Even from the documentary evidence on record, it is evident that the first legal notice was issued by the husband on 21.01.2013. Significantly, notwithstanding the issuance of the said notice, the wife resumed and continued her matrimonial life in the matrimonial home along with the husband and his parents. Therefore, once the parties resumed cohabitation and matrimonial life after the issuance of the notice dated 21.01.2013, all the alleged incidents that had occurred prior thereto *stood condoned in the eye of matrimonial law*. The doctrine of condonation is well settled. As per the reiterated the principle of



The Hon'ble supreme court in **Ravi Kumar v. Julmi Devi** reported in [(2010) 2 SCC 289] and **Dastane v. Dastane** reported in (AIR 1975 SC 1534)

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Condonation implies forgiveness of a matrimonial offence, reinstating the offending spouse to the original marital status. When there is satisfactory evidence of reinstatement and normal conjugal relations resumes, the condonation is held to be proved as per the various precedents and thereafter the earlier acts cannot ordinarily be relied upon as independent grounds for dissolution of marriage unless there is a subsequent repetition by fresh acts of cruelty.

9.7. In the present case, the only subsequent incident relied upon by the parties pertains to 25.08.2013. The parties have also relied upon an incident dated 25.08.2013, regarding which two rival versions have been projected. According to the wife, she contacted the police by calling the emergency number complaining harassment meted out to her by the husband and his family members. According to the husband, he himself lodged the complaint against the wife. Except for the rival allegations concerning that incident and the wife's assertion that she was subjected to harassment by her parents-in-law, there are no pleadings or evidence disclosing any subsequent acts of cruelty committed by the wife. No material has been placed before this Court to establish that, after the alleged condonation, the wife committed any conduct



amounting to mental cruelty. Irrespective of these rival versions, this Court is of the view that the incident appears to be the outcome of ordinary squabble in matrimonial life, aggravated by interference from family members, Which does not amount to legal cruelty.

9.8. On the contrary, the evidence probalises the wife's consistent stand that she discharged her matrimonial obligations as a dutiful spouse and continued to lead the matrimonial life despite the hip injury sustained in the earlier accident. There is nothing on record to disbelieve or discard her evidence. Despite the allegation affecting her personal dignity, the wife neither initiated any offending proceedings nor persisted with those allegations. She made genuine and sincere desire to restore the matrimonial relationship. In the said circumstances, the plea of the husband that the marriage become deadwood and he is entitled to get decree for divorce on the ground of the break down of the marriage irretrievably is misconceived. 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 with the Hon'ble 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 supreme court 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** in which divorce was declined 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.

9.9. The Hon'ble Supreme Court has repeatedly reiterated that marriage is not a relationship that can be dissolved at the instance of either spouse merely because incompatibility has arisen out of petty issues in matrimonial life. Minor misunderstandings, differences of opinion, and the spousal bickering in married



life do not, by themselves, constitute legal cruelty warranting dissolution of marriage. The allegation made by the husband looking from any angle is in the nature of usual trivial issues occurring in marital life. In this aspect , it is relevant to extract the following paragraph of Hon'ble Supreme Court in ***Achin Gupta Vs. State of Haryana and another*** reported in **2024 SCC Online SC 759** where it is observed as follows:

“Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty. 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. Petty quibbles, trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is said to have been made in the heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case, always keeping in view the physical and mental conditions of the parties, their character and social status. A very technical and hyper sensitive approach would prove to be disastrous for the very institution of the marriage”

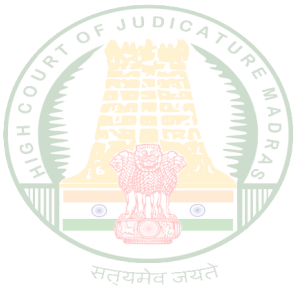
9.10. The Hon'ble Supreme Court has further emphasized that children are not chattels or property to be treated as incidental casualties of matrimonial



disputes. They are the most affected victims of a broken marriage. Therefore, while considering a petition for divorce, the Court is required to bear in mind not only the rights of the spouses but also the welfare and future of the child. Unless there is cogent and convincing evidence establishing grave and sustained mental cruelty or any other statutory ground for divorce, the Court cannot dissolve a marriage merely because one of the spouses seeks such dissolution.

9.11.This Court is also bound to consider the welfare of the child and may decline to grant a decree of divorce where the disputes between the spouses are neither serious nor grave. In the present case, this Court finds that the disputes between the spouses are not of such an irreconcilable nature but appear to have arisen out of intolerance on the part of husband. The parties have also been blessed with a beautiful child from the wedlock, whose welfare remains a paramount consideration. In this context, it is appropriate to extract the relevant observations of the Hon'ble Supreme Court in the case of ***Achin Gupta Vs. State of Haryana and another*** reported in ***2024 SCC Online SC 759*** has reads as follows:

“In matrimonial disputes the main sufferers are the children. The spouses fight with such venom in their heart that they do not think even for a second that if the marriage would come to an end, then what will be the effect on their children. Divorce

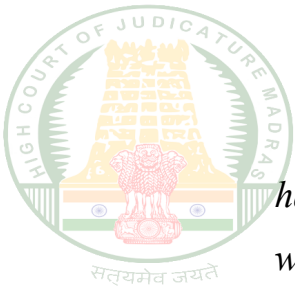


plays a very dubious role so far as the upbringing of the children is concerned.”

Therefore, in the interest of institution of marriage, and for the welfare of child this court is declined to grant divorce.

9.12.This Court in C.M.A.(MD).No.291 of 2024 one of us **(K.K.Ramakrishnan.J.)** observed as follows:

19. “The marriage is a heavenly union of two souls, two families and sometimes two diverse cultures. There would be some couple, meeting each other before their marriage and sort out all their major issues that loomed large and would make the marriage proposal work. Then they enter into a blissful marriage. They are also blessed with a child. Now their marriage is on the rocks, not because of any major issues, or astronomical issues, but of the trivial issues. Instead of sitting together and clearing the air, they are not only spoiling their life, but the life of innocent lamb, the divine gift namely the child. In marriage, often you have to lose an argument in order to win your spouse. The worst pain in life is when some one "you know" turns into some one "you knew". The couple should think twice before parting, for the sake of their child. If the child is deprived of the love of a parent, there is always a danger of the child drifting away from the mainstream. The child needs not only feeding, but a decent standard of living and it has to be protected in every way. The couple should consider to save the marriage and not to break the marriage for the future of their child. They should burry the



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hatchet and start a new life, otherwise the Court has to find out a way and pass an order to protect the child. How many childless couples are longing to beget a child. The fighting couple should rise above hate and come to terms.”

9.13. Applying the aforesaid principles to the facts of the present case, this Court finds no circumstance warranting the grant of a decree of divorce in favour of the husband. Hence, this Court finds that none of the allegations levelled by the husband constitute legally sustainable grounds for dissolution of marriage and this Court holds that the petitioner has failed to establish any ground recognized in law for the grant of a decree of divorce. The petitioner has failed to establish mental cruelty by cogent and convincing evidence. The petition for divorce, therefore, deserves to be dismissed. The divorce petition is liable to be dismissed and is accordingly dismissed.

10.The respondent-wife has filed C.M.P.No.35958 of 2026 in this Civil Miscellaneous Appeal under Order XLI Rule 27 CPC, seeking permission to produce additional documents. The documents sought to be produced include her reply notice dated 21.11.2020 expressing her bona fide intention to resume cohabitation with the appellant-husband, the husband's reply notice dated 09.12.2020, and another notice dated 25.12.2020.



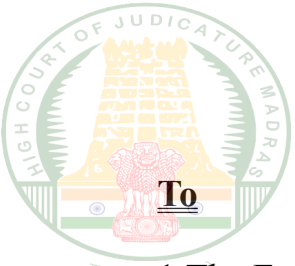
10.1.This Court has already found, on the basis of the counter affidavit filed by the respondent-wife, that she had a clear and bona fide intention to rejoin the appellant and was willing to live with him. The said fact is sufficiently borne out by the pleadings on record. Therefore, production of the above notices as additional evidence is not necessary for adjudication of the issues involved in this appeal. Mere production and marking of all such documents is not required to establish the respondent-wife's willingness to resume matrimonial life. Accordingly, the petition seeking reception of additional documents is closed as unnecessary.

11. Conclusion:

11.1.In the result, the Civil Miscellaneous Appeal stands dismissed, confirming the judgment and decree dated 15.09.2020 passed in H.M.O.P. No.9 of 2015 by the learned Family Court, Tiruchirappalli. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[N.A.V.,J.] & [K.K.R.K.,J.]
28.07.2026

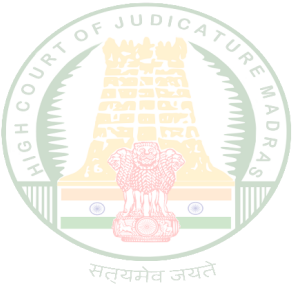
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Internet :Yes/No
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C.M.A.(MD).No.671 of 2

1.The Family Court,
Trichy.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD).No.671 of 2

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

pal/sbn

Pre-delivery Judgment made in
C.M.A.(MD).No.671 of 2020

Dated: 28 .07.2026