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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2026

CORAM

THE HON'BLE DR. JUSTICE P. MURUGAN

C.M.A(MD) No. 1146 of 2026

CNR:{HCMD010951802024}

and

C.M.P(MD) No. 12016 of 2026

Amali .. Appellant

Vs

Maria Antony Joseph .. Respondent

PRAYER: Civil Miscellaneous Appeal filed under section 55 of Indian Divorce Act to *set aside* the fair and decretal order dated 24.02.2023 passed in D.O.P. No.82 of 2017 on the file of the Principal District Court, Thoothukudi and dismiss the petition in D.O.P.No. 82 of 2017 on the file of the Principal District Court, Thoothukudi.

For Appellant : Mr. Fr.S. Savarimuthu
for M/s Father Xavier Associates

For Respondent : Mr.T.Chandrasekaran

J U D G M E N T

The wife in a divorce case, filed by the husband in D.O.P.No.82 of 2017 on the file of the Principal District Court,

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Thoothukudi, wherein divorce under section 10(1)(x) of the Divorce Act, 1869, to dissolve marriage between the husband and wife taken place on 21.10.1993 at St. Xavier's Church, Punnakayal, according to the Christian rites and customs, has filed this appeal.

2. The litigative status of the parties are referred to as it stood before the trial Court that the appellant is the respondent / wife and the respondent is the petitioner / husband.

3. Brief facts from the divorce petition is as that the petitioner married the respondent on 21.10.1993 at St. Xavier's Church, Punnakayal, according to the Christian rites and customs. After their wed lock, no child born as of now. They started marital life at the petitioner's house at Punnakayal. Since the marriage, the respondent did not show love and affection on the petitioner as a dutiful wife. The respondent used to disrespect the petitioner by saying as "thlh Nghlh" in the presence of others. The respondent suspected the fidelity of the petitioner. The respondent did not cook for the petitioner and made quarrel with him. The respondent often told that if the petitioner dies, she would bequeath his house to the children of her brother and also give 18 sovereigns of gold, which were adorned to her to them. She often says that she would not give

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anything to his mother. The respondent also told that "cd; jhaplk; Ngha; gL" and thereby caused mental cruelty to the petitioner. When the family elders tried to pasify the respondent, she replied as "rhfr; nrhy;Yq;fs;". When the petitioner questioned it, the respondent instigated her family members to beat the petitioner. Though the petitioner lived with the respondent patiently, there is no change in the attitude and mind of the respondent. The respondent would be happy, only if the petitioner die. Since January, 2017 the respondent deserted the petitioner saying that she did not want to live with the petitioner. Hence, the divorce petition.

4. Brief counter of the respondent is as that the allegations stated in the petition are false and invented for the purpose of case. The petition is liable to be dismissed. It is true that the petitioner married the respondent and other allegations are denied. Only the respondent shown love and affection to the petitioner, but the petitioner tortured the respondent repeatedly. The respondent always willing to live with the petitioner. On 07.05.2009, the petitioner purchased 2 cents of land from selling the respondent's jewels. In order to give the said land to his relatives, he made quarrel with the respondent and left the company of the respondent.

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The petitioner did not give any money for the maintenance of the family needs. Therefore, the petition is devoid of merits and liable to be dismissed.

5. Before the trial Court, the petitioner himself was examined as P.W.1 and 4 documents were marked as Ex.P1 to Ex.P4. The respondent herself examined as R.W.1 and no document was marked.

6. After appreciating the facts and evidence, finally the trial Court allowed the divorce petition, which is impugned in this appeal.

7. Heard both sides. Perused the records. Considered the submissions raised by both sides.

8. The point for consideration is as to whether the trial Court decree of divorce is not correct and it has to be *set aside* by allowing the appeal?

9. From the facts narrated in the above paragraph and hearing the counsels, it is not in dispute about the marriage of the petitioner and the respondent took place on 21.10.1993 as per Christian rites and customs. It is not in dispute that there is no child born out of the wed lock. It is the case of the petitioner that the respondent harassed him by using unparliamentary words. The

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petitioner was unable to digest the insulting and disrespectful words used by the respondent against him and his mother. The averments made in this regard in the statement were also considered by the Trial Court, which extracted the following expressions: ‘thlh Nghlh", "cd; jhaplk; Ngha; gL”, and "rhfr; nrhy;Yq;fs;”. **10.**

Though the first and last sentences may be regarded as ordinary wear and tear of family life, the middle sentence is unacceptable and cannot be digested, particularly when uttered by a dutiful wife, as it would cause considerable mental agony to the husband. When the matter was discussed before the Panchayat, and advised the respondent even then, the respondent did not show any willingness or positive attitude towards resuming matrimonial life with the petitioner. Further, she did not file any police complaint or restitution of conjugal rights petition. Since January, 2017 the respondent left the matrimonial home and she is living away.

11. Though the respondent alleged that the petitioner had sold her jewels and purchased two cents of land on 07.05.2009, the nature and value of the jewels and the amount allegedly received from its sale have not been established. Therefore, the respondent's allegation that the petitioner purchased the said two cents of land by

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selling her jewels cannot be accepted. It is the allegation of the respondent that the petitioner is willing to give the 2 cents of lands to his relatives and there is no such evidence to consider the case of the respondent.

12. Both the parties are Christian, though they lived for nearly 24 years after the marriage and during the time, there was no child born. The attitude of the wife reveals that she is not respecting the partner / husband and after sustaining mental cruelty, the husband filed the petition for dissolving the marriage for need of peace. The trial Court meticulously considered the case on both sides and finally had come to conclusion that the act of the respondent amounts to cruelty.

13. This Court re-appreciated the facts of the case and concur with the findings of the trial Court, wherein the act of the respondent amount to mental cruelty. From the evidence of P.W.1's cross examination, only the husband's mother had made a complaint at Tiruchendur All Women Police Station, where the respondent beaten her. Though the said document was not filed, but it was referred in the facts of the case. Therefore, there is a possibility that the husband had misplaced that document, when the trial was taken

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place in the year 2018.

14. Though the husband has narrated the nature facts in his chief examination as P.W.1 by proof affidavit, there is no cross examination with regard to the word uttered by the wife that ‘thlh Nghlh", ‘cd; jhaplk; Ngha; gL” and ‘rhfr; nrhy;Yq;fs;”;. When the allegation was not denied by the other side during the examination, the facts narrated in the case stand proved. Thereby, the act of the respondent amounts to cruelty.

15. On perusal of R.W.1’s cross examination, the respondent did not say about how many sovereigns of gold was given during the marriage. She also admitted that her mother-in-law has given complaint against her at Tiruchendur All Women Police Station. Further cross examination of R.W.1 reveals that the complaint given by the husband to the Superintendent of Police and forwarded to Athur police station for enquiry has been simply denied. She admitted that she did not file any petition for re-union. The other aspect has been denied by R.W.1.

16. The learned counsel for the wife placed the Hon’ble Supreme Court decision in ***Gurbux Singh* v. *Harminder Kaur*** (2010) 14 SCC 301 to the aspect of mental cruelty. It held that

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particular conduct may affect differently on different persons in different set of circumstances. To some it may or to some it may not amount to cruelty. Thereby onus to prove that particular conduct or behaviour resulted in cruelty is on the person, who claims relief.

17. By placing the said decision, The learned counsel for the wife contended that, though the petitioner alleged that he was ill-treated by the wife, the expressions referred to in the first and third sentences extracted above may not amount to cruelty, as such expressions are commonly used in village life. However, no specific explanation was offered by the respondent with regard to the other expression used by the respondent, asking the petitioner to go and sleep with his mother. Having the wife treated with this kind of word in the matrimonial life of 24 years beyond, it would amount to cruelty, as per the above decision, cruelty is different from different persons and the conduct of the person in different situation. Therefore, this Court is of the firm view that the acts of the wife towards the husband amounts to mental cruelty.

18. The learned counsel for the husband cited the decision of the Kerala High Court in ***Mary Margret* v. *Jos P Thomas*** (2022) 1 DMC 629, to the aspect when the spouse behaviour including

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abusive language, physical assault evidence, mental heath issues and threats to the husband constituted cruelty. Though isolated incidents do not constitute cruelty, but persistent behaviour and deterioration of relationship can amounts to cruelty. The cruelty is the question of fact and degree, determined by evidence and circumstances, therefore, the conduct found to be harmful and injurious to the other spouse. Therefore, the decree of divorce was granted under cruelty.

19. The learned counsel for the husband by placing the decision contended that during the 24 years of marriage life, the wife's conduct and behaviour towards the husband continued in this manner, causing him considerable mental agony. Therefore, the trial Court after appreciation of evidence, granted the decree of divorce and it cannot be disturbed as canvassed by the wife.

20. Considering the submissions raised by both sides and the precedents cited by both sides, this Court is of the firm view that the appeal does not deserve for allowing, wherein the act of the respondent / wife amounts to mental cruelty to the petitioner / husband. The trial Court has elaborately dealt with and reached right conclusion. Therefore, it does not require for any interference in the appeal. Therefore, the point is answered against the appellant /

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wife. Considering the nature of relief, there shall be no order as to costs.

14. In the result:

(i) This Civil Miscellaneous Appeal is dismissed;

(ii) The divorce decree granted in D.O.P.No.82 of 2017 dated 24.02.2023 on the file of the Principal District Court, Thoothukudi, is upheld; and

(ii) There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

17.11.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

The Principal District Court,
Thoothukudi.

Copy To :

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

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DR. P. MURUGAN, J.
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