

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO. 6916 OF 2021 (MC)

BETWEEN:

C.C SHARMILA @ DHANYA
W/O M.C CHENGAPPA
D/O LATE CHINNAPPA
AGED ABOUT 35 YEARS
R/AT C/O C.C GOWRAMMA
KUNJILAGERI VILLAGE
BOLLARIMADU POST,
VIRAJPET TALUK
KODAGU DISRICT-571 232

...APPELLANT

(BY SRI. KARUMBIAH T.A, ADVOCATE)

AND:

MAKERIRA C CHENGAPPA
S/O M.P CHARAMANA
AGED ABOUT 40 YEARS,
RESIDING AT KUKLOOR VILLAGE,
CHEMBEBELLOR POST,
VIRAJPET TALUK
KODAGU DISTRICT-571218

...RESPONDENT

(BY SMT. ANUSHREE MENON, ADVOCATE)



THIS MFA IS FILED U/S.28(1) OF HINDU MARRIAGE ACT, AGAINST THE JUDGMENT AND DECREE DT.28.10.2021 PASSED IN MC NO.19/2016 ON THE FILE OF THE SENIOR CIVIL JUDGE, VIRAJPET, ALLOWING THE PETITION FILED U/S.13(1)(ia) OF THE HINDU MARRIAGE ACT, 1955.

THIS APPEAL HAVING BEEN RESERVED FOR JUDGMENT ON 23.03.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, **RAJESH RAI K, J.**, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE RAJESH RAI K)

This appeal is preferred by the wife challenging the judgment and decree dated 28.10.2021 passed in M.C.No.19/2016 by the Court of the Senior Civil Judge, Virajpet, whereby the petition filed by the husband under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (for brevity, "the Act") for decree of divorce came to be allowed.

2. The parties are being referred by their ranks as appearing before the Trial Court for the sake of convenience.

3. The facts in nutshell are:

The marriage of the petitioner was solemnized with the respondent on 21.05.2008 at Kodava Samaj, Murnad as per the customs and usages prevailing in the Kodava Community. From the wedlock, they begotten a male child. The petitioner came from very respectable family and commands high respect around Kuklooru Village where his house is situated. Since he is working as a Soldier in the Indian Army for the past several years, after the marriage, the respondent used to leave her matrimonial house time and again without ascribing any reason and that too without intimating the petitioner or taking his permission to leave the house. Thereafter, the petitioner went to the respondent's house and brought her back to the matrimonial house to live the marital life, but the respondent hardly used to stay at her matrimonial house. After the birth of the male child on 04.03.2009, it is stated that the respondent started to quarrel with the petitioner for silly reasons without any cause and she used to suspect the nature of the petitioner and was not cooperative. The respondent changed her SIM card of the mobile phone and there was no contact between the parties (eversince 2009) and even she was avoiding meeting

the petitioner without any due cause. It is submitted that the petitioner is not addicted to any bad vices or habits and was lovable and affectionate towards the respondent.

4. It is submitted that number of conciliations were held to sort out the differences wherein the respondent refused to live with the petitioner as his wife. Whenever the petitioner used to visit her parental house and "console" her to come to his house, she used to threaten the petitioner with dire consequences of filing dowry harassment case, domestic violence case and also used to threaten to commit suicide after naming him in the death note.

5. It is stated that the petitioner is sending a sum of Rs.7,000/- every month to the respondent and his child and is taking utmost care of them. The illicit relationship of the respondent is alleged. Whenever the petitioner used to visit his native place during vacation period, the respondent never used to care for the petitioner nor joined his company. It is alleged that the respondent never respected the petitioner and talked with him, but used to belittle him in the eyes of general public, relatives, well-wishers and friends circle. It is alleged that the respondent had complained even with the matter regarding her

matrimonial life that she was not in good terms with the petitioner and used to move false and frivolous applications, petitions which would adversely affect the petitioner's status in the military. It is alleged that the respondent had moved an application to the Mahila Santhwana Kendra, Madikeri. Constant letter writing by the respondent to the military officials time and again, misguiding them as to the behaviour of the petitioner caused depression, mental agony, torture and stress to the petitioner. It is alleged that the respondent has taken all her belongings such as clothing, jewelry, utensils, gift items with her. As such, left with no other option, the petitioner filed a petition under Section 13(1)(ia) of the Act seeking decree of divorce.

6. After service of summons, the respondent filed her objections admitting their marriage and the birth of the male child. However, it was denied that she used to leave her matrimonial house without ascribing any reason and that too without intimating the petitioner or taking his permission. Regarding threats being held out by the respondent for filing dowry harassment cases, domestic violence cases and threats of committing suicide, were denied. It is also denied that she had changed her SIM card and there is no contact between the

parties since 2009 or that she was avoiding meeting the petitioner without any due cause. The sending of monthly sum of Rs.7,000/- to the respondent by the petitioner was denied. It is stated that initially the petitioner was reluctant to pay any sum of money towards the maintenance of the respondent and her son but it was only when the respondent contacted the Higher Officers of the Indian Army for her and her son's maintenance, the petitioner was compelled to pay a sum of Rs.7,000/- per month as maintenance for the respondent and her son. It is stated that sometimes the petitioner used to withdraw the maintenance amount from the joint account of the petitioner and the respondent, which caused mental agony and financial hardship to the respondent. It is stated that the respondent's son is studying in a school in second standard for which she has to borrow money from her parents. As the amount of Rs.7,000/- is insufficient, which requires to be enhanced to Rs.25,000/- per month. She though had approached the Mahila Santhwana Kendra, Madikeri for appropriate relief but she could not get any relief and had to withdraw the petition. It is stated that the respondent was leading a happy married life with the petitioner and even after birth of the child, she went to stay with the petitioner in his

army unit in Firozpur in the State of Punjab. Initially, the petitioner looked after the respondent and her son well but thereafter, he used to ill-treat both of them for no apparent reason. He started demanding a sum of Rs.5,00,000/- as dowry. When the respondent said that she will not approach her aged parents for Rs.5,00,000/- dowry, the petitioner started abusing the respondent and manhandled her. For this reason, the respondent was compelled to file a written complaint against the petitioner before the Military Higher Officers. It is stated that the Army Officers directed the petitioner to handover all the belongings of the respondent, including gold ornaments etc. It is stated that the petitioner has failed to return the items to the respondent.

7. The respondent stated that she has a part time job as a teacher in Thriveni School in Virajpet town, South Kodagu for a paltry salary. It is stated that the petitioner and his mother demanded the salary from the respondent for maintenance of her and her son, when she refused to handover the salary amount, the respondent's mother-in-law got angry and started to lock the front door and the bedroom of the respondent to cause mental agony and hardship to the respondent and her son. The petitioner and his mother refused

to accept the respondent in their house. When they refused to open the front door for letting the respondent and her son inside, the respondent was forced to go to her parents' house, which is approximately 17 kilometres from Virajpet town. Everyday the respondent had to travel with her son to attend school which was quite time consuming and tiresome. She had to get up everyday very early in the morning to catch up the school van. Due to this, the minor son is not having good health. It was stated that if proper accommodation was provided in the petitioner's house, the respondent and her son would regain their lost health and it would improve the educational performance of the minor son. It was stated that the respondent is prepared to stay in one of the portion of the petitioner's newly built RCC roofed residential house. She sought maintenance of Rs.10,000/- for herself and Rs.15,000/- for her minor son.

8. In support of the case of the petitioner, he has examined himself as P.W.1 and examined his mother as P.W.2 and got marked the documents as Exs.P1 to P11. In support of the case of the respondent, she has examined herself as R.W.1 and got marked the document as Ex.R1.

9. The Family Court, upon appreciation of the oral and documentary evidence adduced by both parties, framed the necessary issues for consideration.

10. Upon such consideration and assessment of the material on record, the Family Court, by its impugned judgment and decree dated 28.10.2021 allowed the petition filed by the petitioner - husband seeking dissolution of marriage. Aggrieved by the said judgment and decree, the respondent - wife has preferred the present appeal.

11. Heard the learned counsel Sri Karumbaiah T.A. for the appellant - wife and learned counsel Smt.Anushree Menon for the respondent - husband.

12. The learned counsel for the appellant - wife primarily would contend that the impugned judgment and decree passed by the Family Court are unsustainable in law and on facts. He would further contend that although the appellant - wife after the birth of the child was living with the respondent at his work place at Firozpur and it was the respondent who was harassing her demanding dowry and torturing her, which act of the respondent had forced her to go her parental house,

the Family Court has failed to appreciate the said aspect. The Family Court has also failed to appreciate that it was the respondent - husband whose act of cruelty and mental torture made her to approach Mahila Santwana Kendra time and again and that since the appellant intended to live happy marital life with the respondent - husband, she approached Mahila Santwana Kendra.

13. *Per contra*, learned counsel for the respondent - husband would contend that the Family Court has rightly appreciated the materials on record and the evidence adduced, both oral and documentary and has rightly granted the decree of divorce. As such, no interference warrants at the hands of this Court.

14. Having heard the learned counsel for both parties and upon perusal of the material on record, the sole point that arises for our consideration in this appeal is:

Whether the Family Court was justified in allowing the petition filed by the respondent-husband seeking a decree of divorce?

15. As could be gathered from the records, the appellant sought dissolution of marriage solely on the ground of

cruelty, alleging many instances of complaint being lodged by the appellant - wife before the Mahila Santwana Kendra and also to the Higher Officers of the Army, where the respondent was working. The said act of complaining to Mahila Santwana Kendra and Higher Officers of the Army has been admitted by the appellant - wife. It is also admitted in the cross-examination of the appellant-wife that since 2013, there was no communication and cohabitation between herself and her husband, by which it is clear that the marital relation between the parties has become deadwood. Nowhere in her evidence, the appellant - wife has stated about her efforts of rejoining the respondent-husband after 2013 including invoking Section 9 of the Act for restitution of conjugal rights. However, it is admitted in her evidence that she wants accommodation in one of the portions of the newly built house of the respondent - husband and that she has not stated that she wants to lead a marital life with the respondent - husband, rather she has stated that she wants enhancement in maintenance amount. Further, she has failed to produce any documents to prove the allegations of dowry against the respondent - husband and his family members. It is noticed from the cross-examination of the respondent-husband that the appellant-wife had given false

complaint to the Higher Officer regarding maintenance, although he was giving maintenance. Exs.P9 to P11 are the statement of account, which would also show that salary was deducted for maintenance amount to the appellant - wife. It is noticed from the evidence of the appellant - wife that she had admitted that she lived in the place where the respondent - husband was working, for four months and due to quarrelling, she was brought back to her place at Kattemadu and that the family members convened panchayath at Kattemadu and made arrangement for monthly maintenance. However, it was initially pleaded by her that only after complaining to the Higher Officers of the Army, the respondent - husband was paying the maintenance.

16. Upon comprehensive appreciation of the evidence and materials produced before it, the Family Court concluded that the respondent - husband had established that the appellant - wife had subjected him to cruelty by filing complaints to Mahila Santwana Kendra and also to the Higher Officers of the Army, where the respondent - husband was working and also by filing false affidavit stating that the husband was not paying maintenance, although he was paying the same. In view of these findings, the Family Court has

rightly held that the respondent was entitled to a decree of divorce.

17. The Hon'ble Apex Court in **SAMAR GHOSH V. JAYA GHOSH – (2007) 4 SCC 511** has observed that mental cruelty is characterized by mercilessness and hard-heartedness, and that the act of lodging complaints against one's spouse itself constitutes cruelty.

18. However, in the above judgment, the Hon'ble Apex Court clarified that, in all cases of cruelty, the entirety of the matrimonial relationship must be examined, particularly when the alleged cruelty consists not of overt violence but of reproaches, complaints, accusations, or taunts. Applying this principle to the facts of the instant case, it is evident that the appellant had subjected the respondent to mental cruelty.

19. The Hon'ble Apex Court in the case of **JOYDEEP MAJUMDAR Vs. BHARTI JAISWAL MAJUMDAR - (2021) 3 SCC 742**, has observed that if wife written letters to Higher Authorities and official colleagues of the husband, it amounts to mental cruelty. The said judgment squarely applies to the facts and circumstances of the present case.

20. In view of the foregoing, on careful scrutiny of entire evidence and documents on record afresh, in our considered view, the Family Court was justified in allowing the respondent-husband's petition for divorce. Accordingly, we answer the point raised above in the affirmative and as a result, the appeal stands ***dismissed***.

**SD/-
(JAYANT BANERJI)
JUDGE**

**SD/-
(RAJESH RAI K)
JUDGE**

PKS/K