

John Vincent Versu Nancy

John Vincent Versu Nancy

SooperKanoon Citation : sooperkanoon.com/1187202

Court : Chennai

Decided On : Nov-10-2016

Judge : T. Raja

Appeal No. : C.M.A.No. 2373 of 2014

Judgement :

(Prayer: Memorandum of Grounds of Civil Miscellaneous Appeal under Section 55 of the Divorce Act, 1869, as amended by the Indian Divorce (Amendment) Act, 2001 Act 51 of 2001, against the order and decretal order dated 19.04.2011 made in I.D.O.P.No.140 of 2006 on the file of the Principal District Judge, Tiruvallur.)

1. Today when the matter was taken up as part-heard, as usual, no one appeared for the respondent/wife. Finding no response whatsoever in spite of service of notice on the respondent, this Court is inclined to proceed with the matter, after hearing the learned counsel for the appellant.

2. The matter pertains to a long matrimonial dispute between the parties and this appeal is against the order of the Court below in dismissing the petition filed by the appellant/husband seeking a decree for dissolution of marriage between the parties solemnised on 23.8.1998 at St.Antony's Church, Avadi by the Parish Priest Rev.Fr.K.T.Mathew and for custody of the children as well as award of costs.

3. The facts in brief leading to the filing of the appeal are as follows:-

(a) The appellant/husband is working as a Sub Inspector of Police in the Central Reserve Police Force. He filed the I.D.O.P.No.140 of 2006 under Section 10(1)(iii) and (x) of the Divorce Act, 1869 before the learned Principal District Judge, Tiruvallur seeking a decree for dissolution of marriage inter alia that the marriage between the appellant and the respondent took place as per the Christian rites and customs on 23.8.1998 at St.Antony's Church, Avadi, Chennai and out of the wedlock, two female children, namely, Anie John, aged 6 years, and Patricia, aged 3 years, were born. In the meanwhile, the appellant was transferred to Madhya Pradesh battalion. However, the behaviour of the respondent started to change after the birth of the first child at the instigation of her parents and sisters, thereby she started to harass not only the appellant but also his parents and sisters. Moreover, she also demanded a house to be purchased near her sister's house. When the appellant and the respondent were residing in Madhya Pradesh, she even started to beat the appellant. The respondent also lodged a complaint before the All Women Police Station at the instigation of her parents. In fact, when the appellant purchased a house near Jaya Engineering college, Chennai and also invited his in-laws to the house warming ceremony, they created trouble to see that the ceremony did not take place. Although the appellant suffered cruelty at the hands of the respondent, considering the welfare of the two female children, his earnest efforts to unite with his wife did not fructify. Even when the appellant was transferred to Avadi battalion, Chennai during April, 1999, the respondent again started to make complaints to his superior officers.

(b) The appellant's entire family was being controlled by ladies and the father and brothers in law of the respondent remained as silent spectators for whatever acts done by the respondent, her mother and sisters. Whenever the appellant used to visit the respondent's house, her mother and sisters used to fight against the appellant even for petty reasons. Moreover, when the respondent's elder sister is staying next to her mother's house and another sister being a Nun, the respondent's mother and the Nun were the main root cause for the misunderstanding between the appellant and the respondent, thereby putting the appellant and his family to shame. Besides the respondent had insisted to construct a house in the plot next to her sister's house. But the appellant refused to accede to the said demand, since he had to look after his aged parents and also

stated clearly one another reason that if his residence were to come nearer to her parents house, it would not be congenial. Only for the above refusal, the respondent and her parents started to create problems in the appellant's marital life. After sometime, when both the appellant and the respondent were living in Madhya Pradesh in the quarters, there also, the respondent used to quarrel and torture the appellant by entertaining suspicion due to inferiority complex. Even if there was a small wordy quarrel, she would act like a hysterical patient, thereby putting the appellant to mental agony and unnecessary hardship directly impacting on his official duties. Again when there was a second delivery, the respondent's mother came and stayed in the appellant's house for helping his wife. While so staying, the respondent's mother, noticing that the jewels of the respondent were temporarily pledged by the appellant for his sister's marriage expenses till the PF loan was made available, created a big issue by threatening the appellant that she will prefer a dowry complaint against him if the jewels were not redeemed and returned to her daughter. Whenever the respondent, due to petty quarrel, left for her parental house, the entire family members of the respondent approached the appellant and used filthy language and at one point of time, they went to the extent of beating him. They also preferred a complaint to the Hon'ble President of India and also before the All Women Police Station. However, after enquiry, it was found that the complaint was false and accordingly advised her to lead a peaceful matrimonial life with the appellant.

(c) On yet another occasion, the respondent's mother and sister insisted the appellant to shift the residence nearer to her mother's house. When he refused to move to her house, they created another problem in the matrimonial life of the appellant obstructing the appellant to lead a peaceful marital life with the respondent. When the attitude of the respondent's mother and her sisters had gone to a very bad extent, the appellant called them and requested them not to interfere with his marital life by creating nuisance and putting pressure to shift his house. In addition thereto, when the appellant purchased a new house, even for a petty reason, her parents and sisters used to come and would create a bad scene in the locality. At one point of time, on a Sunday (14.5.2006), when the respondent's parents and sisters came to the appellant's house, they not only shouted at him but also beat his aged parents and his sisters, thereby putting the

appellant's family to shame and mental agony. Even she shouted at the appellate threatening that if he did not keep quiet, she will prepare a criminal complaint under the Dowry Prohibition Act and put his entire family members behind bars. As the respondent was acting as a puppet in the hands of her parents, even the genuine efforts taken by him to reconcile with the respondent became futile. Therefore the appellant has been advised to file the petition for dissolution of marriage to put an end to the matrimonial dispute.

(d) In support of the prayer, it has been stated that the appellant and the respondent were living at Delhi from 23.8.98 till March, 1999 and thereafter till December, 1999 at Avadi and the first break took place in December, 1999. Secondly, when they were living at Avadi from October, 2002 to July, 2003, again she left the matrimonial home. However, after the first daughter by name Annie John was born on 26.7.99 and the second daughter by name Lidya Petricia was born on 11.4.2003, the respondent wrongly sent a petition to the Hon'ble President of India with undesirable allegations against the appellant only with an object of tarnishing the image of the appellant in the department, which proved to be wrong after enquiry. On 17.3.2006, the respondent gave another false complaint against the appellant and his family members. After enquiry, the police detected the falsification of the said complaint and closed the same as mistake of fact. Thereafter on 14.5.2006, the respondent and her father visited the appellant's house and created an awkward scene, which ended in the beating of the appellant by the respondent and her family members. However, the respondent, in spite of enjoying the benefits from the appellant through his salary and also knowing fully well that the house building advance has not been settled, left the appellant on her own volition. Since there was no possibility of them getting united any more, he has filed the aforesaid petition for divorce.

4. Per contra, the respondent in her counter affidavit denied the averment that she was brainwashed by her mother and sisters. She also denied the allegation of the appellant that her parents had asked the appellant to construct a house next to her sister's house. Only the appellant and his family members demanded the transfer of the land in the appellant's name, when the respondent refused the same, resultantly the appellant and his family started to harass the respondent. While he

was working in Delhi, he was transferred to Madhya Pradesh. It is at this point of time, the respondent was sent to her parents house for delivery. After delivery, the appellant did not take back the respondent to Madhya Pradesh. Only after great efforts, the appellant was convinced to take back the respondent. Even in Madhya Pradesh, the respondent was put to harassment, cruelty and physical torture. Only the respondent's mother spent the expenses for the entire family while she came for help. When a complaint was made, the appellant being a Sub Inspector of Police influenced his officials not to take any action against the complaint. When the respondent did not create any problem at any point of time, she was beaten for very silly reasons and on one occasion she also suffered injuries all over her body. In this process the appellant never allowed the respondent to meet even her parents. When the house warming ceremony was held without inviting her parents, without taking it as a big issue, the respondent and her parents came to the ceremony. But she was beaten and her father was also pushed away by the appellant and the children were also beaten by the appellant. Since at no point of time the appellant moved with love and affection towards his wife and children, the entire false story made by the appellant should be rejected.

5. On consideration of the evidence adduced by both sides and on the basis of the documentary evidence, the Court below dismissed the petition filed by the appellant/husband on the ground that the respondent/wife was willing to join the appellant/husband considering the welfare of the two female children, without dealing with any of the cruelty and harassment meted out to the appellant. Hence this appeal.

6. Mrs.Rita Chandrasekaran, learned counsel for the appellant, assailing the decretal order passed by the Court below, has submitted that the appellant was subjected to repeated cruelty and harassment at the hands of his wife and her parents, for the reason that on 11.9.2009, she made a complaint to the appellant's higher authority with a false allegation of cruelty against him. Again on 8.10.2009, she made another complaint to the Deputy Inspector General of Police, CRPF, Avadi seeking legal right and retirement benefits from the appellant. She also lodged a criminal complaint before the W6 All Women Police Station, Avadi, which was registered in CSR No.295 on 18.10.2009. This apart, when the respondent

had made a false complaint to the Hon'ble Prime Minister of India on 10.7.2010 in the names of his daughters, which was further forwarded to the CRPF, Avadi through the Ministry of Home Affairs, the appellant was directed to submit his explanation and he also submitted the same on 28.10.2010 to the higher authority explaining that the above complaints were totally false and bereft of any merit. But the Court below has not come forward to give any finding on the repeated harassment perpetuated by the respondent. The learned counsel also submitted that although the respondent made repeated complaints starting from 11.9.2009 to his higher authority and followed by the complaints dated 8.10.2009, 15.10.2009 to the Deputy Inspector General of Police, Avadi and to the Hon'ble Prime Minister of India on 10.7.2010, for which the appellant submitted his explanation and the same was closed as false and without any merit, in none of the complaints the respondent has alleged any dowry harassment. Therefore, when the respondent made repeated complaints to the Headquarters higher officers, Hon'ble President of India and the Hon'ble Prime Minister of India, she did not show any regards or courtesy to this Court by appearing on any of the occasions to present her case. If the respondent is really desirous of living with her husband or wants for maintenance from the appellant, she would have definitely appeared before this Court and fought for her rights in the interest of her daughters future. In spite of the matter having been adjourned on 18 occasions, i.e., 20.11.2015, 30.11.2015, 2.12.2015, 7.12.2015, 9.12.2015, 16.12.2015, 21.12.2015, 18.1.2016, 27.1.2016, 28.1.2016, 29.1.2016, 5.10.2016, 18.10.2016, 20.10.2016, 25.10.2016, 8.11.2016, 9.11.2016 and on 10.11.2016, except on one occasion when her counsel took time to take instructions, thereafter, neither her counsel nor the respondent appeared before this Court. The respondent did not even come forward to avail the opportunities to present her case before this Court so as to disprove the allegations made by the appellant. That shows her attitude not only to the appellant but also to this Court repeatedly. Moreover, in all the above mentioned complaints addressed to the higher authorities, namely, the Hon'ble President and the Hon'ble Prime Minister of India, she was interested only to get the monthly benefits from the appellant and not to continue her marital life with him. When the appellant is therefore prepared to take care of his two daughters by paying a reasonable monthly amount of maintenance along with some reasonable

permanent alimony to the respondent/wife, the appeal should be allowed by granting a decree of divorce after setting aside the decretal order passed by the Court below.

7. I have considered the submissions. When the appellant was working as Sub Inspector of Police in the Central Reserve Police Force, he married the respondent on 23.8.98 at St.Antony's Church, Avadi. Thereafter they have begotten two daughters on 26.7.99 and on 11.4.2003, namely, Annie John and Lidya Petricia. Although several allegations have been made by the appellant/husband and counter allegations by the respondent/wife, one of the allegations made by the appellant shows that after the marriage, when the appellant was posted to Madhya Pradesh, the respondent went to her parents house for the first delivery and during the first delivery, the respondent's mother and sisters started to fight against the appellant even for petty reasons. Since the respondent's elder sister is staying next to her mother's house and another sister is a Nun, they are the main root cause for the entire misunderstanding between the appellant and the respondent, because they jointly insisted the appellant to construct a house in the plot next to the respondent's sister's house, for which the appellant refused stating that he has to look after his aged parents, because he is affected by paralysis and his mother is a sugar patient. Only for the above refusal, the respondent and her parents started creating problems in the appellant's marital life. Although he was able to manage the affairs, the respondent delivered for the second time and when the respondent's mother stayed in the appellant's house for helping her, after noticing that her jewels were pledged for the appellant's sister's marriage temporarily till his PF dues were sanctioned and made available, she made a big issue by creating a bad scene threatening the appellant and her mother that if the appellant and his family did not return the jewels, they would prefer a dowry complaint against the appellant and his family members. At one point of time, they went to the extent of beating the appellant and at the instigation of the respondent's parents, a complaint was made to the Hon'ble President of India on 21.4.2003 making a false allegation against him. Immediately the appellant also, due to the threat given by his in-laws, gave a complaint on 5.8.2003 to the Superintendent of Police, Chengalpet district about a threat to his life, marking a copy to the Deputy Inspector General of Police, CRPF, Neemuch, Madhya Pradesh. Subsequently he

was transferred from Madhya Pradesh to Additional Deputy Inspector General of Police, GC CRPF, Avadi in the month of August, 2003. After reaching a compromise in W6 All Women Police Station, Avadi, both were living together in Avadi at a rental house and also in CRPF quarters, Avadi from August, 2003 to October, 2004.

8. In the meanwhile, after purchasing a plot at Tiruninravur, Chennai on 14.7.2004, both were living together. After sometime, the appellant also shifted his residence to the respondent's parental house at Kamaraj Nagar, Avadi, Chennai from February, 2005 to March, 2006 and during their stay, the respondent's attitude not only became indifferent but also violent and forced the appellant not to bring his parents to the new house. Subsequently, house warming ceremony was conducted. But it appears that no one from the respondent's family attended the ceremony. After waiting for re-union for eight long months, the appellant issued a legal notice on 24.5.2006. Consequently the respondent also filed a petition for family maintenance, in which an order was passed on 17.9.2008 granting an interim maintenance of Rs.4,000/- per month and Rs.10,000/- for litigation expenses. Thereafter the respondent had given a complaint on 11.9.2009 to the higher authority of the appellant alleging cruelty and for his illegal contact with one lady. Again the respondent gave one another petition on 8.10.2009 to the Deputy Inspector General of Police, CRPF, Avadi seeking legal right and retirement benefits from the appellant. Pursuant to the repeated complaints made by the appellant's wife, the department sought for an explanation from the appellant on 15.10.2009 in Letter No.P.VIII-1/09-EC-2. After three days, the respondent also lodged a criminal complaint against the appellant on the file of W6 All Women Police Station, Avadi, Chennai, which was also registered as CSR No.295 on 18.10.2009. it is not in dispute that the divorce petition filed by the appellant was pending. During the pendency of the divorce petition, when they were living separately, lodging of a criminal complaint against the appellant in W6 All Women Police Station, Avadi, Chennai does not carry any weight. The reason is that pursuant to the complaint made by the respondent wife, the appellant was directed to submit his explanation. Accordingly, he was called upon to show cause as to why the complaint should not be taken cognizance. In the meanwhile, he also suffered a transfer in the month of June, 2010 to the 18th battalion Srinagar, J and

K. When he was working in Srinagar, J and K, again on 10.7.2010, another complaint addressed to the Hon'ble Prime Minister of India was sent in the names of the daughters, which was also forwarded to the CRPF through the Ministry of Home Affairs. Therefore the appellant was directed to submit his explanation. As such he has given his explanation on 28.10.2010 to his superiors. Again the respondent sent another complaint on 27.12.2010 to the Director General, CRPF, New Delhi for enhancement of the family maintenance making allegation that the respondent suffered a lot of mental and physical torture at the hands of the appellant. Relentlessly, the respondent made another complaint on 9.3.2011 to the Director General, CRPF, New Delhi demanding Rs.12 lakhs from the appellant. This apart, yet another letter dated 15.4.2011 was given to the Inspector General of Police, CRPF, SS, Hyderabad seeking enhancement of family maintenance. In the meanwhile, the Court below has dismissed the petition for divorce without giving any finding with regard to the harassment. Therefore the appellant has filed this appeal.

9. Although the respondent's counsel appeared on one occasion, keeping in mind that the children of the parties are pursuing their studies, this Court granted time to enable them to settle the issue amicably. But the counsel appearing for the respondent, having taken time, did not appear for the last 18 occasions, i.e., 20.11.2015, 30.11.2015, 2.12.2015, 7.12.2015, 9.12.2015, 16.12.2015, 21.12.2015, 18.1.2016, 27.1.2016, 28.1.2016, 29.1.2016, 5.10.2016, 18.10.2016, 20.10.2016, 25.10.2016, 8.11.2016, 9.11.2016 and on 10.11.2016. Here only the conduct of the respondent needs to be examined. On one side, the respondent/wife has been making repeated complaints to the higher authorities, where the appellant has been working as Sub Inspector of Police. When repeated complaints were made to the Inspector General of Police, CRPF, SS, Hyderabad on 8.2.2011, the Director General of Police, CRPF, New Delhi on 27.12.2010 for enhancement of the family maintenance, a petition dated 10.7.2010 was addressed to the Hon'ble Prime Minister of India and it is not known why the respondent has not appeared before this Court to address her grievance in spite of 18 opportunities given in the last two years. This Court also, hoping that the respondent would offer some explanation to iron out her differences with the appellant, also referred the matter before the Mediation Centre. But she did not

offer any good reason for her repeated abstinence from the Court. After repeatedly adjourning the matter, finding that the respondent has voluntarily abstained from appearing before the Court, this Court could see that she has no explanation whatsoever to offer before this Court. It is a well settled legal position that if one party to the matrimonial proceeding makes wild allegations, it is the duty cast upon the other to disprove the same. But every allegation of fact in the complaint being not denied specifically or by necessary implication, the same shall be taken to be admitted. Similarly, in the present case, in spite of 18 long repeated adjournments, the respondent has not come to this Court to place her views and she has miserably failed to avail any one of the opportunities to fight for her rights and that of her daughters. This kind of attitude shows how much regards she has to this Court and also to settle the dispute with the other side. The said attitude of the respondent clearly shows that she is not desirous of living with her husband and only wants appropriate maintenance for her and her daughters.

10. It is quite common in every family to face bitterness from both the husband and wife, sometimes even from the parents and children. But the husband and wife on all such occasions should not cross their limit. Once they cross their limit, the question of cruelty, harassment resulting in marital separation would occur. In the present case, as mentioned already, the respondent/wife has made several allegations against the appellant/husband, which led to defaming his goodwill and reputation not only in the department but also in the eye of public. Except for a short period of union with the appellant, before and after delivery of her two daughters, the respondent has started to make repeated complaints, namely, on 21.4.2003 to the Hon'ble President of India and on 17.3.2006 before W6 All Women Police Station, Avadi, Chennai, which was closed as false after an enquiry. Even during the pendency of the divorce petition and after receipt of interim maintenance of Rs.4,000/- per month, she has made a complaint on 11.9.2009 to the higher authority alleging cruelty, followed by the complaint dated 8.10.2009 to the Deputy Inspector General of Police, CRPF, Avadi seeking legal right and retirement benefits, for which the appellant was asked to submit his explanation vide DIGP, CRPF, Avadi letter No.P.VIII-1/09-EC-2 dated 15.10.2009. Even thereafter she has made a complaint to W6 All Women Police Station, Avadi, which was registered as CSR No.295 on 18.10.2009, for which also the appellant

was directed to submit his explanation. When the appellant was transferred to Srinagar, J and K, she has again sent a letter to the Hon'ble Prime Minister of India on 10.7.2010 in the name of her daughters, which was forwarded to the CRPF through the Ministry of Home Affairs and that the appellant submitted his explanation for the same on 28.10.2010. Not stopping with that, she has once again made a complaint to the Director General, CRPF, New Delhi on 27.10.2010 for enhancement of family maintenance, for which the appellant submitted his explanation to the Inspector General of Police, CRPF, SS, Hyderabad on 8.2.2011. Thereafter, she made repeated complaints on 9.3.2011 to the Director General, CRPF, New Delhi demanding Rs.12 lakhs from the appellant and also to the Inspector General of Police, CRPF, Hyderabad seeking enhancement of family maintenance. Even after the dismissal of the divorce petition by the Court below, she sent a complaint to the Deputy Inspector General of Police, CRPF, Avadi only seeking enhancement of family maintenance of Rs.15,000/- per month and Rs.12 lakhs from the appellant, for which the appellant submitted his explanation on 4.9.2011 to the department.

11. The above sequence of events would undoubtedly show that the respondent has not only confined her fight within her limit, but has also crossed her limit of sending a letter to the Hon'ble Prime Minister of India, since it is not possible for a 11 year old daughter to write such a letter of such nature. Therefore, in my considered opinion, the attitude of the respondent in making complaints to the higher authority of the appellant on the one side, apart from writing letters to the Hon'ble President of India and to the Hon'ble Prime Minister of India in the names of her daughters on the other side and also lodging a criminal complaint before the W6 All Women Police Station, Avadi would clearly amount to cruelty, mental agony and harassment meted out to the appellant.

12. Since the parties are professing Christian religion, Section 10 of the Divorce Act, 1869, governing the grounds for dissolution of marriage, reads as follows:-

10. Grounds for dissolution of marriage.--(1) Any marriage solemnized, whether before or after the commencement of the Indian Divorce (Amendment) Act, 2001, may, on a petition presented to the District Court either by the husband or the wife,

be dissolved on the ground that since the solemnization of the marriage, the respondent--

(i)has committed adultery; or

(ii)has ceased to be Christian by conversion to another religion; or

(iii)has been incurably of unsound mind for a continuous period of not less than two years immediately preceding the presentation of the petition; or

(iv)has, for a period of not less than two years immediately preceding the presentation of the petition, been suffering from a virulent and incurable form of leprosy; or

(v)has, for a period of not less than two years immediately preceding the presentation of the petition, been suffering from venereal disease in a communicable form; or

(vi) has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of the respondent if the respondent had been alive; or

(vii)has wilfully refused to consummate the marriage and the marriage has not therefore been consummated; or

(viii)has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards after the passing of the decree against the respondent; or

(ix)has deserted the petitioner for at least two years immediately preceding the presentation of the petition; or

(x)has treated the petitioner with such cruelty as to cause a reasonable apprehension in the mind of the petitioner that it would be harmful or injurious for the petitioner to live with the respondent.

(2) A wife may also present a petition for the dissolution of her marriage on the ground that the husband has, since the solemnization of the marriage, been guilty

of rape, sodomy or bestiality.

13. Although the aforementioned grounds are available for a spouse to seek for dissolution of marriage on the ground of established cruelty, it is first necessary to find out what is 'cruelty'. 'Cruelty' is not confined to physical cruelty, but includes mental cruelty. The matrimonial alliance is irretrievably broken where one of the spouses persistently causes mental torture, disgrace and harassment. In an interesting case dealt with by the Allahabad High Court in the case of **Smt.Kalpana Srivastava v. Surendra Nath Srivastava, AIR 1985 Allahabad 253**, since the wife refused to prepare tea for the friends of the husband, it was held that she not only hurts his ego but causes him humiliation before his friends and where she lodges false reports of non-bailable offences, she causes husband deep anguish and brings disgrace and ignominy to the husband and his relations, besides causing harassment and by doing the third kind of act, she causes husband mental torture and deprives him of the pleasure and pride of being a father. Recently the Apex Court, in the case of **K.Srinivas v. K.Sunita, (2014) 6 SCC 34**, while dealing with the word 'cruelty', has laid down the law that even if a false criminal complaint is preferred by either spouse, it would invariably and indubitably constitute matrimonial cruelty and would entitle the other spouse to claim a divorce. It was further held that if the complaint filed by the wife against the husband under section 498-A of IPC and other related provisions is dismissed on merits and the husband and his family members are acquitted, then it is clear that the complaint filed by the wife against the husband was a false complaint. In this context, it is useful to refer to the relevant paragraphs of the said judgment, as follows:-

5. The respondent wife has admitted in her cross-examination that she did not mention all the incidents on which her complaint is predicated in her statement under Section 161 Cr PC. It is not her case that she had actually narrated all these facts to the investigating officer, but that he had neglected to mention them. This, it seems to us, is clearly indicative of the fact that the criminal complaint was a contrived afterthought. We affirm the view of the High Court that the criminal complaint was ill advised . Adding thereto is the factor that the High Court had been informed of the acquittal of the appellant husband and members of his

family. In these circumstances, the High Court ought to have concluded that the respondent wife knowingly and intentionally filed a false complaint, calculated to embarrass and incarcerate the appellant and seven members of his family and that such conduct unquestionably constitutes cruelty as postulated in Section 13(1)(i-a) of the Hindu Marriage Act.

7. In these circumstances, we find that the appeal is well founded and deserves to be allowed. We unequivocally find that the respondent wife had filed a false criminal complaint, and even one such complaint is sufficient to constitute matrimonial cruelty.

8. We, accordingly, dissolve the marriage of the parties under Section 13(1)(i-a) of the Hindu Marriage Act. The parties shall bear their respective costs.

14. A mere reading of the above observations would clearly show that if a false criminal complaint is preferred by either spouse, it would invariably and indubitably constitute matrimonial cruelty and would entitle the other spouse to claim a divorce. In the present case, as highlighted above, several complaints were filed before the higher authorities, namely, Deputy Inspector General of Police, CRPF, Avadi, Inspector General of Police, CRPF, SS, Hyderabad and to the Director General, CRPF, New Delhi, one criminal complaint before W6 All Women Police Station, Avadi, Chennai, besides sending letters to the Hon'ble President of India and the Hon'ble Prime Minister of India in the names of her daughters and pursuant thereto, they were forwarded to the department, as a result the department directed the appellant to submit his explanations. However, after an enquiry, it was found that the complaints were false. Therefore, the repeated filing of the complaints before the higher authorities in which the husband was working, filing of a criminal complaint before the W6 All Women Police Station, Avadi and also using her minor daughters to write letters to the Hon'ble President of India and the Hon'ble Prime Minister of India would clearly constitute mental cruelty that would entail the husband to claim divorce. The above act of cruelty, in my considered opinion, will not be possible for the parties to live together and therefore there is no purpose in compelling both parties to live together. Hence, in my considered opinion, the best course open is to dissolve the marriage by

passing a decree of divorce, so that the parties who are litigating since 2002, having lost their valuable part of life, can live peacefully for the remaining part of their life.

15. For all the foregoing reasons, recording the submissions made by Mrs.Rita Chandrasekaran, learned counsel for the appellant that the appellant/husband is prepared to take care of the upkeep and maintenance of both the female children including wife by paying the monthly maintenance and also permanent alimony to his wife, this Court, while setting aside the decretal order of the Court below, hereby grants a decree for dissolution of marriage as prayed for in I.D.O.P.No.140 of 2006 by directing the appellant/husband to pay a sum of Rs.20,000/- as the monthly maintenance regularly commencing from the month of December, 2016 without fail for the welfare and upkeep of the two female children as well as a sum of Rs.10,00,000/- towards permanent alimony to the respondent/wife, which shall be paid within a period of four months from the date of receipt of a copy of this order. It is also made clear that the appellant, being the father of the two female children, shall also meet the marriage expenses of his two daughters. With these observations, the civil miscellaneous appeal stands allowed. No costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com