

**Sudheer Kumar vs Anila**

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**SooperKanoon Citation :** [sooperkanoon.com/1279502](http://sooperkanoon.com/1279502)

**Court :** Kerala

**Decided On :** Mar-28-2025

**Judge :** Honourable Mr. Justice Sathish Ninan, Honourable Mrs. Justice Shoba Annamma Eapen

**Appeal No. :** Mat.Appeal/75/2015

**Appellant :** Sudheer Kumar

**Respondent :** ANILA

**Judgement :**

..1..

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE SATHISH NINAN & THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN FRIDAY, THE 28TH DAY OF MARCH 2025 / 7TH CHAITHRA, 1947 MAT.APPEAL NO. 75 OF 2015

**JUDGMENT DATED 11.03.2014 IN OP NO.229 OF 2012 OF FAMILY COURT,**

PALAKKAD APPELLANT/PETITIONER: SUDHEER KUMAR, AGED 42 YEARS S/O.PADMANABHAN, PANDARAKADAVIL, KUNNATHURMEDU POST,

PALAKKAD 678 013 BY ADV GIRIJA K GOPAL RESPONDENT/RESPONDENT: ANILA, D/O.SIVARAMAN, KOZHIYODEVEEDU, KUTHIRAPPARA, KUNISSERY, ALATHUR TALUK, PALAKKAD 678 681 BY ADVS. SRI.LIJU. M.P SRI.SAJAN VARGHEESE K. THIS MATRIMONIAL APPEAL HAVING COME UP FOR HEARING ON 28.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: ..2..

## **JUDGMENT**

**SHOBA ANNAMMA EAPEN, J.**

The husband is in appeal challenging the judgment and decree of the Family Court, whereby the original petition filed by the husband for divorce under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act was dismissed. The respondent is the wife.

2. For sake of convenience, the parties are referred to as, husband and wife.

3. The marriage was solemnized on 27.01.2008 and a child was

born in their wedlock. The husband alleged that, soon after the marriage, the wife began to show discontent and dissatisfaction with their matrimonial life and she always used to belittle and humiliate him in front of others. He returned to the gulf after two months of marriage. Thereafter, the wife delivered a girl child on 21.10.2008 and they were taken back to the matrimonial home. In August, 2009, the husband came from the gulf. However, when he returned to gulf, the wife also returned to her parental home. It is alleged that the wife often left the matrimonial home without the knowledge or consent of her husband's family, citing various

..3..

reasons. From 10.11.2009 onwards, she is living separately from the husband. Even though the husband tried for a reunion, she and her family members did not consider his request. Thereafter, she filed a complaint before the police station for return of gold ornaments; and subsequently, all her gold ornaments were returned. The husband filed the original petition for divorce, alleging cruelty and desertion by

his wife.

4. The wife denied all the allegations raised by the husband.

She alleged that she was subjected to cruelty by her husband and mother-in-law, who repeatedly harassed her claiming that the gold ornaments brought by her to the matrimonial home were inadequate. She further alleged that all her gold ornaments were forcibly taken by the husband and mother-in-law and were returned in April, 2011, only after the intervention of police. According to her, whenever she complained to her husband about her mother-in-laws attitude and behaviour, he used to tell her to tolerate everything. She was also forced to resign her job and was burdened with all the household responsibilities. Even during pregnancy, she was ill-

treated by the husbands family. She never experienced happy moments with the husband; and even after the birth of their child, the attitude towards her remained unchanged. She further contended ..4..

that due to the ill-treatment and cruelty meted out by her husband and his family, she was compelled to leave the matrimonial home. However, she expressed her willingness to reconcile and live with her husband, provided he changes his behaviour and attitude and turns to be responsible. The Family Court, after an elaborate consideration of the materials on board, dismissed the petition filed by the husband for divorce. Thus, aggrieved by the same, the husband is before us.

5. We have heard Smt.Girija Gopal, the learned counsel for the husband/appellant and Sri.Sajan Varghese, the learned counsel for the wife/respondent.

6. According to the husband, immediately after the marriage, the wife showed discontent and dissatisfaction in the matrimonial life; she found it difficult to live with her husband and his family; and she always insisted on a separate residence and complained that her husband failed to provide a peaceful home

environment. It was his allegation that the wife left the matrimonial home on 10.11.2009 without his consent and has been living in the parental home since then. However, the wife contended that it was the husband and his family

members, who inflicted cruelty upon her, and she was never given the opportunity to lead a ..5.. peaceful life with him. However, the wife also does not have a case that there was any cohabitation between the parties after 2009. She contended that she is hopefully waiting for the husband to change his attitude, so they can live together in harmony and peace.

7. Admittedly, the parties have been living separately since

2009. The original petition was filed in 2012 and the appeal was

filed in 2015. This Court had referred the parties to mediation hoping that a settlement could be reached. However, the dispute between the parties remained unresolved despite multiple mediation sessions, which reveals that the chance of reunion is remote. Although the wife claims that she wants to live with her husband, she has not filed any petition for restitution of conjugal rights. This reveals that despite her assertions, she is not genuinely interested in resuming their marital relationship with her husband. The marriage between the parties is irretrievably broken and dead,

the emotional bond had become dry, and the warmth of their matrimonial relationship went increasingly missing. In *Shilpa Sailesh v. Varun Sreenivasan* [2023 SCC OnLine SC 544], it has been

**held that where there is irretrievable breakdown of marriage, then,**

dissolution of marriage is the only solution. In a recent decision of the apex court in *Rajib Kumar vs. Sushmita Saha* [2023 LiveLaw ..6..

(SC) 727], it has been held that keeping the parties together

despite irretrievable breakdown of marriage amounts to cruelty on both sides. In the case on hand, there has been a separation for almost more than 15 years. The sweetness of their marriage faded with time. In such circumstances, if a decree of divorce is not granted, the parties would be forced to endure unnecessary suffering, misery and emotional distress. Hence, we are of the opinion that the

impugned judgment and decree of the Family Court are to be interfered with.

**Accordingly, the appeal is allowed and the impugned judgment**

and decree of the Family Court are set aside. The marriage between the parties solemnized on 27.01.2008, will stand dissolved by a decree of divorce. No costs.

Sd/- SATHISH NINAN JUDGE Sd/- SHOBA ANNAMMA EAPEN JUDGE bka/-

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