

**IN THE COURT OF THE ADDL. SENIOR CIVIL
JUDGE, ANANTAPURAMU**

Present:- Sri P.Srinivasa Rao,
ADDL. SENIOR CIVIL JUDGE, ANANTHAPURAMU.

Thursday the 4th day of April, 2019.

H.M.O.P No.01/2019

Between:

Boya Vannurswamy S/o Late Boya Yerrappa, 32 years, Hindu, Cultivation, Konampalli village, Beluguppa Mandal, Ananthapuramu District.

...Petitioner.

And

Boya Geethanjali W/o Boya Vannurswamy D/o B. Vannappa, 30 years, Hindu, House Wife, Borampalli Village, Kalyandurg Mandal, Ananthapuramu District.

....Respondent.

This petition is coming on this day for final hearing before me in the presence of **Sri T. Devendra**, Advocate for the petitioner and the respondent remained ex-parte and having stood over for consideration till this day, this court made the following:

ORDER

This petition is filed by the petitioner against the respondent U/sec.13 (1) (ia) of the Hindu Marriage Act, 1955 for dissolution of the marriage between himself and the respondent by a decree of divorce on the grounds of Cruelty.

2. The averments of the petition, in brief, are as follows:

The respondent is the legally wedded wife of the petitioner and their marriage performed on 20.10.2013 at Sri Lakshmi Narasimhaswamy temple, Pennahobilam according to caste customs. Soon after the marriage the respondent joined with petitioner and lived happily for a period of one month and the marriage was consummated. Later, the respondent began to quarrel with the petitioner and she

dislike the parents of the petitioner and used to behave adamantly. The respondent is puppet in the hands of her family and the respondent and her family members subjected the petitioner to cruelty. The respondent not discharged her duties as wife. Several panchayaths were held in this regard but in vain. Finally the respondent herself left the matrimonial home without any reasonable cause and residing in her parents house since 4 years. The respondent and her family members used to threatened the petitioner over phone that they will kill him. Thus, the petitioner filed this petition for dissolution of their marriage by decree of divorce.

3. The respondent remained ex-parte.

4. To establish his case, the petitioner himself examined as PW.1 and got marked Exs.P.1 and P2. Ex.P1 is wedding card and Ex.P2 is marriage photograph.

5. Heard the learned counsel for the petitioner.

6. The point for determination is:

Whether the petitioner is entitled for a decree as of divorce on the ground of cruelty ?

Point:

7. I have carefully perused the oral and documentary evidence adduced by the petitioner. The petitioner has filed this petition u/s 13(1) (ia) of Hindu Marriage act seeking divorce from the respondent on the ground of cruelty. Cruelty is one of the main grounds to grant divorce to the parties as per Sec.13(1)(ia) of Hindu Marriage Act. Admittedly, the respondent remained ex-parte and she did not choose to contest the matter. Therefore, this Court proceeds the material available on record whether the petitioner has made out a case for grant of divorce on the ground of cruelty.

8. To establish his case, the petitioner filed his evidence in the form of chief-affidavit stating all the facts as narrated in the petition, so we will not repeat the same to avoid repetition. The petitioner has stated almost same thing in his affidavit as he stated in his divorce petition. The petitioner has reiterating each and every incident and allegations against the respondent as stated in the petition and narrated herein above. The evidence of the petitioner disclosed that his marriage performed with respondent on 20.10.2013 as per caste customs and they lived happily for one month. The evidence of PW.1 further reveals that the respondent picked-up quarrels with the petitioner and his parents without any reasons. The evidence of PW.1 further reveals that the respondent never discharged her duties as dutiful wife and the petitioner and his family members several times convinced her to change her attitude but in vain. The evidence of PW.1 further reveals that the respondent left the matrimonial home by picking-up quarrels with the petitioner and his parents several panchayaths were held but in vain and the respondent did not to come and join with him. The evidence of PW.1 further reveals that the respondent and her family members harassed the petitioner over phone that they will kill him.

9. From the evidence on record, it is seen that the petitioner has laid down instances of behaviour of the respondent since their marriage to show that he has been a victim of continuous cruelty at the hands of the respondent. The last of them being, the act of the respondent leaving her matrimonial home as she is not interested to lead marital life with the petitioner. It is the clear evidence of petitioner that the respondent has no interest to lead marital life with him. The affidavit of the petitioner depicts the picture that the respondent picked-up quarrels without any reason by not co-operating with him and left the

matrimonial home. The petitioner in his evidence clearly narrated the harassment meted by him in the hands of respondent. All the conduct of the respondent can be treated as cruelty. In the legal parlance, the cruelty is a cumulative effect of all act and conduct of the other party which may have impact upon the other spouse. The edifice of marital life is love and affection and mutual trust towards each other, lack of which made the life miserable. As soon as the faith upon the wife has been vanished from the heart of the petitioner then how he can continue his marital life with the respondent under the same roof, is a considerable aspect. In the instant case, the respondent deserted the petitioner 4 years ago. The respondent remained ex-parte and did not choose to contest the matter. The respondent did not rebut the case of the petitioner in spite of having knowledge of the allegation and therefore, it must be held that petitioner has established his case. The petitioner amply established that he was subjected to cruelty at the hands of respondent. The petitioner also established that the respondent has deserted him. The relationship between the spouses became so strained that they could not continue their life living jointly in the same house. The petitioner by leading evidence has established the case in his favour. The respondent by neglecting to contest the petition has also shown her disinterest to resume the marital tie with the petitioner. It seems that the respondent subjected the petitioner in cruelty.

10. Under section 13(1)(ia) of The Hindu Marriage Act 1955, marriage can be dissolved by a decree of divorce on a petition presented either by the husband or the wife on the ground that the other party has, after solemnization of the marriage treated the petitioner with cruelty. Cruelty may be physical or mental. The **Hon'ble Supreme Court in Samar Ghosh Vs. Jaya Ghosh reported in 2007(4) SCC 511** set out

illustrative cases where inferences of mental cruelty can be drawn. The Hon'ble Court held that no uniform standard can be ever laid down for guidance, however some instances were laid down by the Hon'ble Court. The Hon'ble Court stated that mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of the other for a long time may lead to mental cruelty.

11. In the instant case, the petitioner has been successful in laying down the sustained and unjustifiable conduct of the respondent amounting to mental cruelty and deteriorating of relationship to such an extent the petitioner, found it extremely difficult to leave the respondent and the matrimonial bond was ruptured beyond repair because of the mental cruelty caused by the wife.

12. On a careful consideration of the evidence on record, this court holds that the petitioner has been able to establish that the respondent by her conduct, has caused physical and mental cruelty upon the petitioner. So, the petitioner is entitled to decree of divorce as prayed for. The marriage between the spouses shall be dissolved by decree of divorce w.e.f the date of the order.

13. In the result, the petition is allowed dissolving the marriage between the petitioner and the respondent and accordingly, a decree of divorce is granted. However, there is no order as to costs.

Typed to my dictation by the Stenographer, corrected and pronounced by me in open Court, this the 4th day of April, 2019.

**Addl. Senior Civil Judge,
Ananthapuramu.**

Appendix of evidence
Witnesses examined for

Petitioner:

PW.1: B. Vannurswamy.

Respondent:

-Ex-parte-

Documents marked for Petitioner:

Ex.P.1: Wedding card.

Ex.P2: Marriage photograph.

Documents marked for Respondent:

-Nil-

A.S.C.J