
(1994) 08 MAD CK 0038
In the Madras High Court
Case No : M.C. No. 20 of 1994

Mallika Rani

APPELLANT

Vs

D.S. Rajendran and another

RESPONDENT

Date of Decision : 22-08-1994

Acts Referred:

Divorce Act, 1869 — Section 18, 19

Citation : AIR 1995 Mad 100

Hon'ble Judges : Srinivasan, J;Raju, J;A.R. Lakshmanan, J

Bench : Full Bench

Advocate : T.S. Ramarathnam, Amicus Curiae, for the Appellant; B. Kalyanasundaram and Miss. V. Uma, Amicus Curiaes, for the Respondent

Judgement

Srinivasan, J.—The original petition is on the ground that the first respondent-husband is guilty of desertion coupled with adultery. The

marriage took place on 7-12-1981. The first respondent was having illicit intimacy with the second respondent who was his sister-in-law, a

widow. In February 1984, the first respondent left the matrimonial home after a quarrel intentionally began by him stating that he would never

return. Since then the petitioner and the first respondent were separated.

2. The petition was contested by the respondents. They have filed separate counter statements. The petitioner has given evidence substantiating the

allegations made in the petition. She has also stated that the first respondent is a drunkard and at times, he will drink to such an extent that he does

not know as to what he is doing. P.W. 12 is a relative of the first respondent. He has given evidence to the effect that the first respondent is living

away from the petitioner from the beginning of 1984. He has also stated that he advised both of them to live amicably. The petitioner has examined

herself as P.W. 1. The first respondent has examined himself as R.W. 1 He has admitted that he is having the habit of drinking. He would add that

he will drink only occasionally in functions. He has also admitted that he was staying with his cousin-the second respondent at Palayamkottai. At

that time, the second respondent was a widow. He admitted that he had a child through the second respondent and that he was maintaining the

second respondent and the child.

3. Thus the admission of the first respondent proves that he is guilty of adultery. The evidence of P.Ws. 1 and 2 makes out that the first respondent

is also guilty of desertion. The District Judge has rightly accepted the evidence adduced on the side of the petitioner and granted a decree for

divorce, as prayed for by the petitioner. We see no infirmity whatever in the discussion of the evidence. In the circumstances, we confirm the

decree granted by the District Judge. Tiruneveli.

4. Order accordingly.