



C.M.A.Nos.2459 & 2460 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Reserved on : 11.12.2025

Pronounced on: 09.01.2026

CORAM

**THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN**

**and**

**THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI**

**C.M.A.Nos. 2459 & 2460 of 2024 and**

**C.M.P. Nos.19545 and19551 of 2024**

A. Anu Soundarya

...Appellant in both the appeals

Vs.

C. Tamilselvan

...Respondent in both the appeals

**Prayer in C.M.A. No.2459 of 2024:** The Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act, 1984, against the common judgment and decree order dated 10.04.2024 made in I.D.O.P. No.1762 of 2022 on the file of the Additional Principal Family Court, Coimbatore.

**Prayer in C.M.A. No.2460 of 2024:** The Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act, 1984, to set aside the common judgment and decree order dated 10.04.2024 made in H.M.O.P. No.362 of 2020 on the file of the Additional Principal Family Court, Coimbatore.

For Appellant : Mr. B. Manoharan

For Respondent : Mr. M. Rajasekhar



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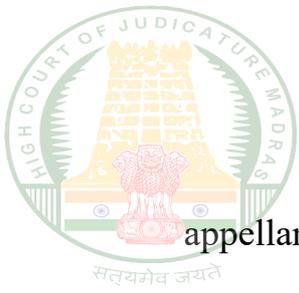


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## COMMON JUDGMENT

The instant Appeals have been preferred by the appellant/wife against the common judgment and decree dated 10.04.2024 made in HMOP No.362/2020 and IDOP 1762/2022 on the file of the Additional Principal Family Court, Coimbatore, wherein the Family Court, Coimbatore, granted divorce in favour of the respondent/husband on the ground of cruelty.

2. The respondent/husband in this appeal, who married the appellant/wife on 08.06.2016, filed HMOP No.362/2020 before the Family Court, Coimbatore, under Section 13(1)(i-a) of the Hindu marriage Act, 1955, to pass an order for dissolution of his marriage solemnised with appellant / wife on 08.06.2016 at Sri Venkateswara Thirumana Mandapam, Kondapanaickanpatti, Salem. The appellant/wife filed IDOP No.1762 of 2022 under Section 32 of the Indian Divorce Act, 1869, for restitution of conjugal rights. The Family Court, Coimbatore, by a common Order dated 10.04.2024, allowed HMOP No.362/2020 dissolving the marriage between the respondent/husband and the appellant/wife and dismissed IDOP No.1762 of 2022 filed by the



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appellant/wife for restitution of conjugal rights. Assailing the said common

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order passed by the Additional Principal Family Court, Coimbatore, the

appellant/wife has preferred the present appeals before this Court.

3. There is no dispute that the marriage between the appellant and the respondent took place on 08.06.2016 at Sri Venkateswara Thirumana Mandapam, Kondapanaickanpatti, Salem. The respondent/husband sought for the relief of divorce in the Family Court against the appellant on the ground of cruelty under Section 13(1)(i-a) of Hindu Marriage Act, 1955. It is the contention of the appellant/wife, *inter alia*, that the provisions of the Hindu Marriage Act, 1955, are not applicable, since the respondent/husband belongs to Christian religion and the marriage was conducted as per Christian customs and rituals and therefore, they are not governed by Hindu Law. Her further contention is that, the materials on record amply prove that the marriage was solemnised as per Christian rites. She says that the marriage was performed by one Pastor Masiya Selvakumar, founder of Masiya Ministries and therefore, the provisions of Hindu Marriage Act, 1955, are not applicable to them and that the Family Court has no jurisdiction to grant a decree of divorce under the Hindu Marriage Act, 1955. She has relied upon the marriage invitation which



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contains plus symbol and the marriage photo to prove that the marriage was held in accordance with the Christian rituals.

4. Therefore, in the light of the above, the primary contention of the appellant/wife in these appeals are that, since the respondent/husband is not a Hindu and is a Christian by religion, provisions of the Hindu Marriage Act, 1955, are not applicable to him and that the petition filed by the respondent/husband against her in the Family Court for divorce under the said Act, is not maintainable and in turn the Family Court has no jurisdiction to pass decree of divorce between the parties under the Hindu Marriage Act, 1955.

5. Mr.B. Manoharan, the learned counsel for the appellant / wife would submit that the respondent / husband in spite of conferment of Schedule Caste Communal status, who is a Christian by religion, claims to be a Hindu for the purpose of employment would go against the very object of reservation and would amount to fraud on the constitution. His further contention is that, the 'marriage' dated 08.06.2016 between the parties is not a 'Hindu marriage' having regard to the provisions of Section 7 of the Act. To support his



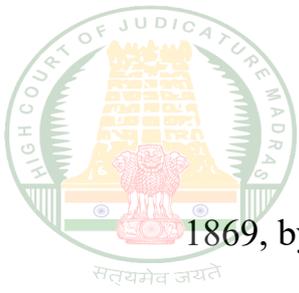
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contentions, he relied on the following decisions:

- 1. 2024 SCC OnLine SC 754 (Dolly Rani vs. Manish Kumar Chanchal)**
- 2. 2024 SCC OnLine SC 3470 (C. Selvarani vs. Special Secretary cum District Collector and others).**

Hence, the provisions of Hindu Marriage Act, 1955, is not applicable to the facts and circumstances of the present case, which warrants interference by this Court.

6. Whereas, the contention of the respondent / husband is that the marriage was solemnised on 08.06.2016 in accordance with the ceremonies and rituals of Hindu Religion and in fact the appellant / wife has previously filed HMOP 1236/2016 for restitution of conjugal rights under Section 9 of Hindu Marriage Act, 1955. She had also filed a petition under Section 24 of Hindu Marriage Act, 1955, in I.A. No.324/2017 in HMOP No.1236/2016 for interim maintenance claiming to be Hindu by religion, in which interim maintenance was also granted and the same is received by her. Subsequently, she had withdrawn HMOP No.1236/2016 and had filed IDOP No.1762 of 2022 for restitution of conjugal rights under Section 32 of Indian Divorce Act,



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1869, by mentioning that both of them belong to Christian religion and that the

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marriage was solemnised in accordance with the rituals of Christian religion, for the first time. Even in the counter filed by the appellant / wife in HMOP 362/2020, there is no whisper as to the parties belonging to Christian religion and the marriage was solemnised as per Christian rituals. He had also produced his community certificate before the Family Court, marked as Ex.P14, in which it is mentioned that he belongs to Adi Dravidar Community. His further contention is that, the marriage was not conducted as per Christian religion and the Pastor had attended the marriage only to bless them, who also presented a Bible book.

7. Mr.M. Rajasekhar, learned counsel for the respondent / husband would submit that, the learned Family Court Judge, after appreciating the materials on record, rightly granted the decree of divorce, which warrants any interference by this Court.

8. We have heard the arguments advanced by the respective counsel for the parties at length and perused the records.



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**WEB COPY** 9. At the outset, marriage as an institution forms a major part of the social fabric of the society. Marriage as it exist today is not only the union of a man and a woman but a seed from which numerous rights stem out such as conjugal rights, maintenance rights, successions rights, etc. If a marriage is held to be invalid or void, then neither of the parties is entitled to any of such rights. Therefore, the validity of a marriage is of immense importance and this gives rise to the important issue of the legal precautions one should take before solemnisation. The problem is not in the performance of marriage but in its legal standing when the validity of the marriage is called into question later.

10. Marriage is governed by various personal laws such as the Hindu Marriage Act, 1955, the Indian Christian Marriage Act, 1872, etc. An individual has option to either marry under their personal Law or to marry under the Civil Law, i.e., the Special Marriage Act, 1954. Marriage acquires validity from the legal provisions of law under which the marriage has been performed. For instance, if both the parties are Hindus and have performed a marriage under the Hindu Law, it is to be determined whether the legal



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requirements under the Hindu Marriage Act, 1955, have been fulfilled. If the

necessary requirements are not fulfilled, then the marriage is held to be void and consequently, has no legal standing.

11. Whereas, the Indian Christian Marriage Act, 1872, provides for marriage between persons one or both of whom is a Christian. Section 4 of the said Act provides that such a marriage has to be solemnised in accordance with provisions of that Act and Section 5 names the person by whom the marriage may be solemnised, which includes any person who has received episcopal ordination, clergymen of the Church of Scotland or by any member of religion licensed under this Act to solemnise marriages, by or in the presence of Marriage Registrar appointed under this Act by any person licensed under this Act to grant a certificate of marriage between a Hindu and a Christian. Section 6 to 9 of the Indian Christian Marriage Act, deals with grant of licenses to solemnise marriages including Marriage Register. Section 10 and 11 stipulates the time and place at which the marriage may be solemnised. Part III of this Act deals with marriages solemnised by the Minister of Religion licensed under this Act. Similarly, Part IV of this Act provides for registration of marriages solemnised by the Ministers of Religion.



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Part V deals with marriage solemnised by or in the presence of a Marriage

Registrar. Part VI deals with every marriage solemnised between Indian Christian.

12. Therefore, to come under the purview of the Christian Marriage Act, 1872, it must be first established that the parties belong to Christian religion. To be a Christian, the core 'proofs' involve faith in Jesus Christ and living a life demonstrating that faith through love for God and others, obedience, spiritual growth, with public declarations like baptism often marking the commitment, though true assurance comes from an inner conviction and changed life, rather than proving it to others. In essence, while specific actions like baptism are important, the essence of being a Christian is a transformed heart that trusts Jesus, evidenced by a life reflecting love and obedience, which provides assurance to the believer.

13. In the present case, the appellant/wife has relied upon Ex.R1 marriage invitation and Ex.R10 marriage photo which were taken at the time of marriage. Her evidence is that, the mother of the respondent/husband is following Christian religion and that she used to go to Church and apart from



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that, his mother has written a book which was published by a Christian Pastor

who conducted their marriage. She would further contend that, at the time of their marriage, they were wearing Christian religion oriented dresses and it was conducted as per Christian religion and not as per Hindu religion.

14. However, to prove that a marriage is conducted by Christian rituals, the primary evidence is the marriage certificate issued by the Church/Officiant under the Indian Christian Marriage Act, 1872, supported by witness testimonies and photographic evidence. The certificate is issued immediately after the ceremony by the officiating Minister or Priest who is licensed under the Act, and is signed by both parties and two credible witnesses. A certified copy of an entry in the Marriage Register is considered legal evidence that the marriage was performed according to law. The appellant/wife, though deposed that she had signed the Marriage Register maintained by Pastor Masiya Selvakumar prior to the marriage in accordance with Christian religion, the same was not produced at the time of trial. She herself admitted that no certificate was obtained from Church with regard to their marriage and there was no exchange of rings on the date of marriage. In fact, the appellant/wife initially filed an application in HMOP No. 1236 of 2016 before the Additional



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Family Court, Coimbatore, under Section 9 of the Hindu Marriage Act, 1955,

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for restitution of conjugal rights and also another application under Section 24 of the Hindu Marriage Act, 1955, for maintenance. Even in the counter affidavit filed by the appellant/wife in HMOP No. 362 of 2020, there is no whisper about her husband belonging to Christian religion. On the other hand, she had only averred that she has discharged all her marital obligations to her husband as a true Hindu Woman. For the first time in the additional counter affidavit, it is stated that the marriage was solemnised as per Christian Rites and rituals.

15. Therefore, the marriage between the appellant and the respondent was not solemnised as per the provisions contained under the Indian Christian Marriage Act, even though the Act recognises the solemnisation of marriage between a Christian and a person professing any other religion, since none of the requirements under the Christian Marriage Act, 1872, was fulfilled. Mere inclination towards Christian Religion by the mother of the respondent/husband is not sufficient, without fulfilling the above requirements. Therefore, the provisions contained under the Indian Christian Marriage Act, cannot be made applicable to the facts of this case.



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**WEB COPY**16. Now the attention is drawn to the provisions contained under The Divorce Act, 1869. As per the provisions of the Divorce Act, 1869, the marriage solemnised between a person who professes Christianity and another person who profess any other religion is valid. The provisions of this Act confers jurisdiction upon certain Courts to adjudicate matrimonial dispute with respect to dissolution, judicial separation, restitution of conjugal rights, custody of child, etc. Section 2 of the Act empowers the Court to grant relief to the husband or wife, one of whom is a Christian. As per Section 2 of the Act, either the husband or a wife, one of whom is a Christian is entitled to invoke the provisions contained under this Act for relief. This Act does not specify that it will only apply to a marriage solemnised in a particular form. If one of the parties to the lis is a Christian, irrespective of the form of marriage solemnised, the provisions contained under the Act, will be applicable to them for resolution of matrimonial dispute. But, in the present case, it is not established that one of the parties to the lis is a Christian and therefore, the provisions of the Indian Divorce Act, 1869, will not be applicable to them for resolution of matrimonial dispute.



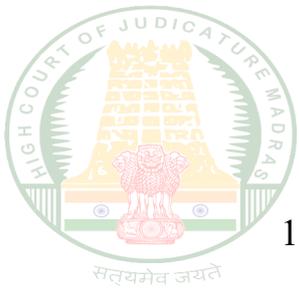
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**WEB COPY** 17. Under the Special Marriage Act, 1954, two types of provisions can be found.

- (i) The parties can get married under the Act, or
- (ii) The parties can get their marriage registered under the Act even if the marriage is solemnised in some other way not provided in the Act.

There are certain requirements and procedures that need to be followed to perform a marriage under this Act which includes giving notice of the intended marriage to the Marriage Officer, etc. The parties are free to solemnise their marriage in any form, but, procedures under the Act must be followed. Even exchange of garlands along with all the procedures under the Act will lead to a valid marriage under the Special Marriage Act, 1954. But, it is not the case of the parties that they got married under the Special Marriage Act, 1954.

18. Now, the point which emerges for decision in these appeals is whether provisions of the Hindu Marriage Act, 1955, are applicable to the marriage between the parties.



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19. The Hindu Marriage Act, 1955, applies only to Hindus, i.e., both parties need to fall under the definition of 'Hindu' given under Section 2 of the Act.

20. The Hindu Marriage Act, 1955, solemnly acknowledges both the material and spiritual aspect of this event in the married couples life. A special place is given to rites and ceremonies in the Act. It follows that the critical conditions for the solemnising of a Hindu marriage should be assiduously, strictly and religiously followed. This is for the reason that the genesis of a sacred process cannot a trivial affair. The sincere conduct of and participation in the customary rites and ceremonies under Section 7 of the Hindu Marriage Act, 1955, ought to be ensured by all married couples and priest who preside over the ceremony. But, in the instant case, the above parameters have not been followed by the parties herein. There are certain conditions for a Hindu marriage which need to be fulfilled according to Section 5 of the Act. If the conditions are not fulfilled, the validity of the marriage is affected. Moreover, the performance of Hindu Marriage is also considered to be a sacred and divine process. Thus, the performance of ceremonies becomes very important for the validity of marriage under Hindu Law, as per Section 7 of the Act. The



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validity of the Hindu Marriage can be ensured in two ways, i.e., by performing

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shastric ceremonies and rites or by performing customary ceremonies prevalent in the community of either party or both the parties. The important thing to note here is that, the shastric ceremonies are the customary ceremonies, whichever is performed, must be prevalent in the caste or community of either of the parties. Kanya Dhana, Panigrahan, Vivaha Homa, and Saptapadi are the four main shastric ceremonies. Of these four, Saptapadi has been given statutory recognition under Section 7 of the Act. Thus, the performance of these ceremonies and rites become essential for the validity of the marriage.

21. However, in certain cases, these ceremonial rites may not be performed and still the marriage can be valid. These are when the customary practices of either side allow performance of marriage in some other way. Section 7(A) of the Hindu Marriage Act, inserted by the Tamil Nadu Amendment, validates marriages, allowing two Hindus to marry without priest by just exchanging garlands, tying a mangalsutra, or putting a ring in the presence of friends/relatives, provided they declare each other as husband/wife in a language they understand. This provision, applicable mainly in Tamil



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Nadu, recognises marriages based on mutual consent and simple ceremonies

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overriding traditional religious rites for validity. The purpose is to recognise marriages based on mutual respect, equality, and dignity, challenging caste based norms and to allow intercaste marriages to gain momentum, fostering companionship over traditional customs. The Hon'ble Supreme Court, in many cases, has upheld the validity of Section 7A, affirming that such marriages are legal and binding, even when performed in unconventional settings. In the present case, the appellant wife failed to establish that the parties belong to Christian Religion and the requirements under the Indian Christian Marriage Act was fulfilled. Moreover, she herself admitted that she had performed her duties as a true Hindu wife, which shows that they were living only as Hindu couple. Hence, the provisions of the Hindu Marriage Act, 1955, is applicable to the marriage between the parties.

22. In view of the aforesaid discussions, the present Civil Miscellaneous Appeals are devoid of merits and are dismissed.



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**WEB COPY** 23. In the result, the order, dated 10.04.2024, passed by the Family Court in HMOP No.362 of 2020 and IDOP No.1762 of 2022 on the file of the Additional Principal Family Court, Coimbatore, is upheld. No costs. Consequently, connected miscellaneous petitions are closed.

[C.V.K., J]

[K.G.T., J]

09.01.2026

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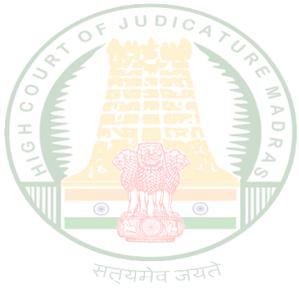
Index: Yes/No

Speaking/Non-speaking order

To

1. Additional Principal Judge,  
Additional Principal Family Court, Coimbatore
2. The Section Officer,  
VR Section,  
High Court, Madras.

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**C.V. KARTHIKEYAN, J.  
and  
K.GOVINDARAJAN THILAKAVADI, J.**

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Pre-delivery common Judgment in  
C.M.A.Nos. 2459 & 2460 of 2024 and  
C.M.P. Nos.19545 and19551 of 2024

09.01.2026