IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

WEDNESDAY, THE 15TH DAY OF OCTOBER 2025 / 23RD ASWINA, 1947

MAT.APPEAL NO. 518 OF 2021

AGAINST THE JUDGMENT IN OP NO.372 OF 2016 OF FAMILY COURT, KOTTAYAM AT ETTUMANOOR.

APPELLANT/PETITIONER:

BY ADVS.
SHRI.SANTHOSH PETER (MAMALAYIL)
SRI.P.N.ANOOP

RESPONDENT/RESPONDENT:

BY ADV SRI.P.K.RAVISANKAR

THIS MATRIMONIAL APPEAL HAVING COME UP FOR HEARING ON 10.10.2025, THE COURT ON 15.10.2025 DELIVERED THE FOLLOWING:

CR

DEVAN RAMACHANDRAN & M.B. SNEHALATHA, JJ.

Mat.Appeal No.518 of 2021

Dated this the 15th October, 2025

JUDGMENT

M.B.Snehalatha.J

In this appeal, appellant/wife assails the judgment and decree of Family Court, Kottayam which declined the relief of divorce sought by her under Section 10(1)(x) of the Divorce Act, 1869.

2. Appellant's case is that her marriage with the respondent was solemnised on 17.01.2013 in accordance with the rites and ceremonies of Christians. A girl child was born to them in the said wedlock. During the period of marriage, she was working as a staff nurse in 'Medical Centre, Kottayam'. Respondent, who was then working abroad, demanded her to resign her job and he promised to arrange a job for her in Salala. Believing his words, the appellant resigned her job at Kottayam. After the marriage, respondent went abroad. Soon thereafter, appellant also went

abroad and joined the respondent. Respondent was suspicious from the very beginning of their married life and he used to suspect her whenever she happened to speak or interact with any male person and monitored her movements. When she expressed her wish to go for employment, respondent discouraged her. He used to go out after locking her in the room. Appellant was not permitted to make any phone calls to anyone in his absence. She was not even permitted to watch TV programmes except devotional programmes. On two occasions, respondent manhandled the appellant. Respondent had huge financial liability and he had no money even to meet their household affairs. When she was admitted for delivery in Kottayam Medical Centre, respondent came there and created a ruckus in the hospital. After delivery, when she returned to her house with the child, he came there and manhandled her parents and abused them. Respondent subjected the appellant to physical and mental cruelty and therefore she sought divorce on the ground of cruelty.

3. Respondent resisted the petition by filing counter and denied the allegations of cruelty alleged against him. Respondent neither demanded the appellant to resign her job nor he make any

promise to arrange a job for her in Salala. The allegation that respondent was suspicious and he used to lock her in the room etc. are false. Likewise, the allegation that she was not allowed to watch TV programmes and entertainment programmes and never allowed to talk with friends and relatives is also false. When the appellant was admitted to the hospital for delivery, respondent took leave and came to the native place, but her parents behaved in a cruel manner and they did not permit him to stay in the hospital. Respondent never treated the appellant with cruelty as alleged, and he sought for dismissal of the Original Petition.

4. After trial, the learned Family Court dismissed the Original Petition declining the relief of divorce sought by the appellant/wife.

5. The learned counsel for the appellant contended that though the appellant and her father, examined as PW1 and PW2, in their evidence have specifically narrated the mental and physical cruelty meted out by her at the hands of the respondent/husband, the Family Court failed to appreciate the evidence in its correct perspective and went wrong in declining the relief of divorce. Therefore, according to the learned counsel for the appellant, the

impugned judgment and decree are liable to be set aside by allowing the appeal.

6. Per contra, the learned counsel for the respondent supported the findings of the Family Court and contended that appellant failed to establish that she was subjected to cruelty and therefore, there are no reasons to interfere with the impugned judgment and decree.

7. The point for consideration is whether the impugned judgment and decree of the Family Court needs any interference by this Court.

8. The evidence consists of oral testimonies of PW1, PW2 and RW1 and documents marked as Exts.A1, A2, A2(a).

9. Appellant has sought divorce on the ground that respondent/husband subjected her to mental and physical cruelty. According to her, respondent is a suspicious husband; that from the very beginning of their marriage, he used to ask her whether she maintained any connection with her classmates. According to her, while they were residing in a rented house in Salala, he used to go for work after locking her in the room. She has further testified that on several occasions, he refused to go for his job and on many

occasions he used to return home from his workplace within one hour, suspecting her fidelity. Her further version is that she was not permitted to make phone calls to anyone in his absence. It is also her case that she was not permitted to watch TV programmes except the devotional programmes. She has also testified that in Salala, initially they were residing at the residence of respondent's sister, and he shifted from the said house, saying that the younger brother of his brother-in-law and the two strangers who were residing there would look at her with bad intentions. Appellant has further testified that on two occasions, respondent manhandled her. According to PW1, though the respondent had undergone counselling on several occasions, he was not ready to obey the directions and advice of the counsellor and was not ready to change his attitude. On one occasion, his own father had taken him to the hospital for treatment for behavioural disorder.

10. PW2, the father of PW1 has also testified that respondent constantly doubted the appellant's character and fidelity. According to PW2, he has direct knowledge about the said conduct of the respondent.

11. The learned counsel for the respondent laboured

much to impress this Court that all the allegations of cruelty spoken to by PW1 are trivial in nature and it can only amount to normal wear and tear in any family life.

12. Cruelty is a course and conduct of one which is adversely affects the other. The cruelty may be mental or physical, intentional or unintentional. It is a question of fact and degree. It can be of infinite variety. The impact of the cruel treatment on the mind of a spouse, whether it would be harmful or injurious to live with the other, varies from person to person and cruelty can never be defined with exactitude and what is cruelty may be dependent on the facts and circumstances of each case. In *Raj Talreja v. Kavita Talreja* [AIR 2017 SC 2138], the Hon'ble Supreme Court held that cruelty can never be defined with exactitude.

13. This Court find no reason to disbelieve the version of PW1 that the respondent suspected her fidelity and whenever he went out, he used to lock the room and monitor her movements and she was not permitted to make phone calls to anyone in his absence. A wife who experiences such a behaviour from the husband may not be in a position to produce any documents or any other independent evidence to substantiate her version and the

courts cannot lightly throw away the case of the wife on the ground that she did not produce any documentary or independent evidence in respect of the alleged acts of cruelty.

14. A healthy marriage is based on mutual trust, love and understanding. A suspicious husband can turn the matrimonial life into a living hell. The constant doubt and mistrust poison the very foundation of marriage, which is built on love, faith and understanding. A suspicious husband who habitually doubts wife's loyalty destroys her self-respect and mental peace. Mutual trust is the soul of marriage, when it is replaced by suspicion, the relationship loses all its meaning. When a husband suspects his wife without any reason, monitoring her movements, questions her integrity and interferes with her personal freedom, it causes immense mental agony and humiliation to the wife. Such behaviour of the husband destroys mutual respect and emotional security leading to an atmosphere of fear and tension within the home and it would destroy the peace, dignity and happiness of the wife. The continued mistrust of the husband creates an atmosphere of humiliation, fear and emotional suffering and such conduct makes it unreasonable to expect the wife to continue living with

him and the wife is entitled to live with dignity and freedom through the remedy of divorce. The unfounded suspicion of a husband is a serious form of mental cruelty.

15. In *Ravi Kumar v. Julmidevi* [(2010) 4 SCC 476], cruelty was interpreted to mean the absence of mutual respect and understanding between spouses, which embitters the relationship and often leads to various out bursts of behaviour which can be termed as cruelty.

16. In *Roopa Soni v. Kamalnarayan Soni [AIR 2023 SC 4186],* the Hon'ble Supreme Court observed as follows:

> "(7). Historically, the law of divorce was predominantly built on a conservative canvas based on the fault theory. Preservation of marital sanctity from a societal perspective was considered a prevailing factor. With the adoption of a libertarian attitude, the grounds for separation or dissolution of marriage have been construed with latitudinarianism."

17. The Apex Court also observed as follows:

> "..... element of subjectivity has to be applied albeit, what constitutes cruelty is objective. Therefore, what is cruelty for a woman in a given case may not be cruelty for a man, and a relatively more elastic and broad approach is required when we examine a case in which a wife seeks divorce." (emphasis supplied by us)

18. In *V.Bhagat v D.Bhagat [(1994) 1 SCC 337]*, the Hon'ble Apex Court held that mental cruelty is a conduct, which

inflicts upon the other spouse such mental pain and suffering that it would be impossible for them to live together. The Apex Court has emphasized that the notion of mental cruelty is not static – it changes over time as societal norms evolve. The Court must apply a relatively more elastic and broad approach, acknowledging that what constitutes cruelty may vary between spouses and across eras.

19. In *Sujata Uday Patil v. Uday Madhukar Patil* [(2006) 13 SCC 272] the Hon'ble Apex Court observed as follows:

> "Where there is proof of a deliberate course of conduct on the part of one, intended to hurt and humiliate the other spouse, and such a conduct is persisted, cruelty can easily be inferred. Neither actual nor presumed intention to hurt the other spouse is a necessary element in cruelty."

20. In the instant case, appellant/wife has satisfactorily and substantially proved that respondent/husband has treated her with such cruelty as to cause a reasonable apprehension in her mind that it would be harmful or injurious for her to live with the respondent. Hence, appellant/wife is entitled to get a decree of divorce as sought for.

In the result, appeal is allowed. The judgment and decree of the Family Court, Kottayam in O.P.No.372/2016 stand set aside.

The marriage between the appellant and respondent, solemnised on 17.1.2013, is dissolved under Section 10(1)(x) of the Divorce Act from the date of this judgment.

Parties shall suffer their respective cost.

Sd/-

DEVAN RAMACHANDRAN
JUDGE

Sd/-
M.B.SNEHALATHA,
JUDGE

ab