IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MRS. JUSTICE C.S. SUDHA

THURSDAY, THE 4TH DAY OF AUGUST 2022 / 13TH SRAVANA, 1944

MAT.APPEAL NO. 513 OF 2021

AGAINST THE JUDGMENT AND DECREE DATED 25/09/2021 IN OP 1060/2011 OF FAMILY COURT, KOTTAYAM AT ETTUMANOOR

APPELLANT/RESPONDENT:

XXXXXXXX

BY ADVS.THUSHARA JAMES
M.S.AMAL DHARSAN

RESPONDENT/PETITIONER:

XXXXXXXX

BY ADVS.K.P.SREEJA
M.B.SANDEEP

THIS MATRIMONIAL APPEAL HAVING COME UP FOR FINAL HEARING ON 11/07/2022, THE COURT ON 04.08.2022 DELIVERED THE FOLLOWING:

"C.R."

ANIL K.NARENDRAN & C.S.SUDHA, JJ.

Mat.Appeal No.513 of 2021

Dated this the 4th day of August, 2022

J U D G M E N T

C.S.Sudha, J.

This Mat. Appeal is against the judgment and decree dated 25/09/2021 in O.P.No.1060 of 2011 of the Family Court, Ettumanoor. The appellant is the respondent and the respondent herein, the petitioner in the proceedings before the Family Court, Ettumanoor. The parties and the documents will be referred to as described in the proceedings before the court below.

2. The petitioner/wife moved O.P.(Div.)No.334 of 2009 under Section 10(x) of the Divorce Act, 1869 (the Act), before the Family Court, Thodupuzha, seeking dissolution of her marriage to the respondent solemnized on 17/01/2009, on the ground of cruelty. The respondent/ husband challenged the jurisdiction of the court. The point was found against

him. Hence the respondent challenged the same before this Court in Mat. Appeal No.303 of 2011. As per judgment dated 05/06/2011, this Court directed the Family Court, Thodupuzha, to return the original petition for presentation before the appropriate Family Court. Pursuant to the same, the original petition was presented before the Family Court, Ettumanoor, and it was re-numbered as O.P.No.1060 of 2011. Thereafter, the petition was amended to bring in an additional ground for dissolution of marriage, that is, non-consummation of marriage under Section 10(vii) of the Act.

3. On completion of pleadings, the parties went to trial. PW1 was examined on behalf of the petitioner/wife and Exts.A1 to A3 were marked. The respondent/husband examined himself as RW1 and Exts.B1 to B6 were marked on his side. After considering the oral and documentary evidence and after hearing the parties, the court below by judgment dated 07/12/2013 dismissed the petition. The petitioner/wife preferred an appeal before this Court as Mat.Appeal No.238 of 2014. This Court by judgment dated 29/12/2019 allowed the appeal and the judgment dated 07/12/2013 of the Family Court, Ettumanoor, was set aside. The matter was remanded and the petitioner/wife was given an opportunity to adduce further evidence to

substantiate her case on both the grounds. The respondent was also given the liberty to adduce further evidence, if so desired by him.

4. After remand, PWs.2 and 3 were examined and Ext.A4 marked on the side of the petitioner/wife. No additional oral or documentary evidence was adduced by the respondent/husband. As per judgment dated 25/08/2021, the Family Court, Ettumanoor, allowed the petition and the marriage between the petitioner and the respondent solemnized on 17/01/2009 has been dissolved by a decree of dissolution of marriage, by accepting the ground under Section 10(vii), that is, non-consummation of marriage. However, the court below rejected the allegation of cruelty raised by the petitioner under Section 10(x) of the Act. Aggrieved by the decree of dissolution of marriage granted under Section 10(vii), the respondent/ husband has come up in appeal.

5. In the appeal memorandum, it is alleged that the court below on an incorrect appreciation of the facts, evidence and law, has erroneously concluded that the marriage has not been consummated and so granted the petitioner/wife a decree of dissolution under Section 10(vii) of the Act. The court below has granted the decree relying solely on the evidence of PW2

and Ext.A4 which are insufficient to establish the ground of non-consummation of marriage, alleges the respondent/husband.

6. The points that arise for consideration in this appeal are-

(i) Has the petitioner succeeded in establishing that the respondent had wilfully refused to consummate the marriage and as a result of the same, the marriage has not been consummated?

(ii) Does the finding of the court below granting dissolution of marriage on the ground under Section 10(vii) of the Act suffer from any infirmity?

(iii) Is the petitioner/wife, entitled to challenge the finding of the court below rejecting her prayer for dissolution of marriage on the ground of cruelty as contemplated under Section 10(x) of the Act, without filing a Cross Objection ?

(iv) Is there any infirmity in the findings of the court below calling for an interference by this court?

(v) Reliefs and Costs?

7. Heard the learned counsel for either side.

8. **Points no. (i) & (ii):** - Section 10 of the Act deals with the

various grounds that can be taken up for seeking dissolution of a marriage. Sub-section (1) says that any marriage solemnized, may on a petition presented to the court either by the husband or wife, be dissolved, if it is shown that since the solemnization of the marriage, the respondent is guilty of any of the acts stated in clauses (i) to (x). As per clause (vii) with which we are presently concerned, a spouse is entitled to seek dissolution, if the other spouse has willfully refused to consummate the marriage. Referring to the said clause, it was pointed out on behalf of the respondent/husband that, the petitioner can succeed only if she shows that the respondent/husband had willfully abstained or refused to consummate the marriage and the marriage has therefore not been consummated. Our attention was drawn to point no. (3) raised by the court below which reads - "*3) Whether the marriage has not been consummated?"* According to the learned counsel, the point framed itself is incorrect, because, unless the petitioner pleads and proves willful abstinence/refusal by the respondent to consummate the marriage, she cannot succeed. However, the court below has never gone into the said aspect, which according to the learned counsel is clear from the point raised and the discussion on the same found in paragraphs 15 and 16 of the impugned

judgment. It was also submitted that in the petition originally filed, the petitioner never had a case of non-consummation of marriage. According to the respondent, if actually there was no consummation of marriage, that would have been the first aspect that would have been highlighted by the petitioner in the petition. However, the same is conspicuously absent in the petition originally filed. The said ground was brought in by way of an amendment after more than a year, as an afterthought, which itself would probabilise the stand of the respondent/ husband that the said ground alleged is false. It was also pointed out that there are no sufficient pleadings to establish the ground under Section 10(vii) of the Act.

9. *Per contra*, it was submitted by the learned counsel for the petitioner/wife that the ground under Section 10(vii) was omitted to be incorporated in the petition initially filed, which was an inadvertent mistake on the part of the counsel. Necessary pleadings have been brought in by way of the amendment carried out, which amended pleadings contain the necessary ingredients to make out a case under Section 10(vii) of the Act, contends the petitioner.

10. A reading of Section 10(vii) of the Act referred to earlier, would

make it clear that the petitioner to succeed will have to establish that the respondent had willfully refused to consummate the marriage. The petitioner relies on Ext.A4 to establish that the marriage has not been consummated and that she continues to be a virgin. Ext.A4 is the original certificate and Ext.A3 its copy. Initially, the petitioner had only produced Ext.A3. As the said document is only a copy, the court below in its initial judgment dated 07/12/2013 had refused to rely on the same on the ground that the certificate had not been proved by examining the doctor who issued the same. After remand, the petitioner has produced the original which is Ext.A4 and has examined PW2, the doctor who had examined her and issued Ext.A4 certificate. PW2 in her testimony deposed that while she was working as Assistant Professor, Department of Obstetrics and Gynecology, Medical College Hospital, Kottayam, on 13/10/2012, she had examined the petitioner herein and had issued Ext.A4 certificate. The petitioner had been brought for examination on the direction of the Family Court. The facts noticed by her on examination have been recorded in the certificate as - there were no external injuries; external genitalia were normal; hymen was intact with 0.075 x 0.75 cm circular opening and clinically there was nothing to suggest penetration.

10.1. PW2 deposed that she had not conducted any vaginal examination as the hymen was found intact. To a court question as to whether at the time of examination, the petitioner was a virgin, PW2 answered in the affirmative. PW2 further deposed that there was no evidence of sexual intercourse and therefore she had not collected any specimen of semen. Moreover, the direction given by the court was to conduct a virginity test and so she conducted the same only. On further questioning, PW2 deposed that her examination of the petitioner did not reveal that the latter had been subjected to sexual intercourse. PW2 admitted that in very rare cases, like in the case of elastic hymen, the hymen would remain intact without rupture even after the woman is subjected to sexual intercourse. However, in this case PW2 ruled out the said eventuality in the light of the circular opening having a width of 0.75 cm x 0.75 cm seen in the hymen. PW2 denied the suggestion put to her that without conducting any virginity test, she had issued Ext.A4 certificate in order to help the petitioner in this case. Ext.A4 is the certificate issued by PW2 and the result of the examination recorded reads - "*Vitals stable, No external injuries …..* (Not legible) *External genitalia – normal. Hymen normal, intact 0.75x0.75 cm. circular opening.*

Since the hymen is intact examination of vagina cannot be done. No abnormal discharge. Hymenal membrane intact, there is nothing to suggest penetration clinically."

11. The respondent/husband has a case that it is not necessary that in all cases the hymen should be ruptured after coitus. There are cases wherein, even after several instances of coitus, the hymen remains intact. In support of this argument, reference was made to a paragraph in Modi's Textbook of Medical Jurisprudence & Toxicology relating to virginity, which reads -

> *"……. Certain signs in the breasts and the genitals, particularly the intactness of the hymen, were always held to signify the physical virginity of a woman. However, in reality, it is seen that this particular anatomical structure has limited value, since it happens that a single coitus is not necessarily sufficient to rupture the membrane. There are cases on record of women having regular marital relations, of pregnant women, and even prostitutes, in whom the hymen appeared untouched. …."*

Therefore, referring to the aforesaid paragraph, the argument advanced is that the same is the case with the petitioner herein also. This argument is not right, because the said possibility can be ruled out as PW2 has quite categorically deposed that the eventuality pointed out by the respondent is not possible here because the hymen though found normal and intact, had a circular opening of 0.75x0.75 cm. PW2 asserted that PW1 had not been

subjected to coitus. The testimony of PW2 has not been discredited in any way and hence we find no reasons to disbelieve her. Therefore, it appears that consummation of marriage has not taken place.

12. Now the question is, has there been any willful refusal on the part of the respondent/husband to consummate the marriage? On behalf of the respondent/husband the decisions in **Kuruvilla Varghese v. Sapnam Elizebeth Joseph [2007 (3) KHC 41]** and **Shaju P.L. v. Anitha [2014 (4) KHC 873]** have been relied on in support of the argument that there has been no willful refusal on his part to consummate the marriage. What is 'willful refusal' has been considered by a Division Bench of this court in **Kuruvilla Varghese** (*Supra*). Relying on the decision of the Apex Court in **State of Orissa v. Md.Illiyas [AIR 2006 SC 258],** it has been held that an act is said to be 'willful' if it is intentional, conscious and deliberate. In **Shaju P.L.** (*Supra*) a Division Bench of this Court was of the opinion that mere non-consummation of marriage is not a ground for divorce under Section 10(vii) of the Act. The non-consummation must have been the result of "wilful refusal" to consummate marriage. The word "wilful" assumes significance on this point. The Bench posed itself a question as to - What

does the adjective "wilful" mean and intend and went on to say that "in wilful refusal to consummate marriage", there is an element of deliberate and conscious application of mind not to consummate the marriage despite his or her capacity to do otherwise. It follows that, if the refusal is due to any disease or physical inability, it cannot be held that the refusal is wilful, one falling under Section 10(vii) of the Act. Referring and relying on **Md. Illiyas**, (*Supra*) and **Kuruvilla Varghese** (*Supra*), it has been held that in view of the meaning given to "wilful", it is significant and pertinent to note that the adjective 'wilful has been intentionally prefixed before the word 'refusal' by the Legislature, with abundant care and caution.

12.1. The Bench also went on to consider the meaning and intent of the term 'consummation of marriage' employed in Section 10(vii) of the Act. The Act does not provide a definition for the same under Section 3 of the interpretation clause. Therefore, after referring to the meaning given in various dictionaries, which the Bench held could be relied on to interpret the term in the absence of a statutory definition, held - "… *'consummation' means the act of making marital relationship complete by having sex. Needless to say, the marital relationship would become complete by the first*

sexual intercourse itself, i.e., consummation is confined to first intercourse only after the marriage. If that be so, after the first intercourse, in pursuance of marriage, the ground of non-consummation of marriage owing to wilful refusal of the spouse, under Section 10(vii) of the Divorce Act, is not available to the other spouse to seek dissolution of the marriage. Even if the spouse has been wilfully refusing to have sexual intercourse after the first intercourse, the ground under Section 10(vii) of the Divorce Act cannot be made available to the other spouse even though that may amount to cruelty which would come under Section 10(x) of the Divorce Act. Consummation comprises erection and ejaculation. Consummation would be complete by erection and ejaculation, whether ejaculation is imminent or not, after erection."

13. Before we go into the question whether there has been a wilful refusal on the part of the husband to consummate the marriage, we will look into the pleadings in the petition. As stated earlier, initially the ground under Section 10(vii) had not been specified. The petition states that it has been filed under Section 10(x) of the Act. Even after the amendment of the petition, Section 10(vii) of the Act is not seen mentioned in the petition. But

merely because the specific provision or section has not been mentioned/stated or referred to in the petition, is no ground to reject the case. What is to be looked into is whether there are sufficient pleadings to support the said case. On behalf of the respondent/husband, it was submitted that there was and is no pleadings in the petition to make out a case of wilful refusal to consummate and so no amount of evidence can be looked into in a case which finds no place in the pleadings. In support of this argument, reference has been made to the decision in **Biraji@ Brijraji v. Surya Pratap [2021 (1) KHC 214]**. There cannot be any quarrel on this proposition. However, it is also well settled that pleadings should receive a liberal construction. No pedantic approach is to be adopted to defeat justice on hair splitting technicalities. Pleadings has to be construed reasonably. The contention of the parties has to be culled out from the pleadings by reading the same as a whole. Sometimes, pleadings are expressed in words which may not expressly make out a case in accordance with the strict interpretation of the law. In such a case it is the duty of the court to ascertain the substance of the pleadings. Whenever the question about lack of pleading is raised, the enquiry should not be so much about the form of the pleadings. The court

must find out whether in substance the parties knew the case and the issues, upon which they went to trial. Once it is found that in spite of the deficiency in the pleadings, parties knew the case and they proceeded to trial on the issues by producing evidence, it would not be open to a party to raise the question of lack of pleadings [See: **Ram Sarup Gupta v. Bishun Narain Inter College AIR 1987 SC 1242**].

14. Keeping the aforesaid principle in mind, let us consider whether the pleadings in the present case are sufficient to attract the ground under Section 10(vii) of the Act. Paragraph 7 of the Original Petition initially filed on 02/11/2009 reads - *"7. After few weeks of the marriage, the respondent confided to the petitioner that she was not cute enough to suit to the girl of his expectations and that she had married her only out of the pressure exerted by his mother. Even when they met on weekends at his residence, he did not evince any interest in the petitioner. He did not find pleasure in the company of the petitioner. Instead, the respondent preferred to work on his laptop. In fact the respondent had an aversion towards the petitioner from the beginning."*

15. On 06/03/2010, the petitioner is seen to have moved I.A.No.249

of 2010 under Order VI Rule 17 of the Code of Civil Procedure, 1908 (CPC) seeking amendment of the original petition, in which application it is alleged that though the petitioner had stayed with the respondent for about 40 days, there was never any sexual relations between the parties, as the latter refused to have it and as such the marriage between the parties has not been consummated. Though the petitioner had briefed her counsel of this fact too, by an inadvertent mistake, the same has been omitted to be pleaded in the original petition and hence it is necessary to amend the petition. The application was not opposed by the respondent and hence the same is seen allowed on 03/06/2010. The pleading brought in by way of amendment and in continuation of paragraph 7 of the original petition reads – *"The respondent was not interested in the sexual relationship with the petitioner. After the first two weeks of the marriage, they stayed together only in the night of Saturdays. Never there was any sexual relationship between them during those days. As such the marriage between the petitioner and the respondent has been consummated."* In paragraph 17 one sentence has been added, which reads – "*As the respondent refused to indulge in sexual relationship, the marriage in question has not been consummated."*

16. According to the learned counsel for the petitioner/wife, the aforesaid pleadings coupled with the evidence on record is more than sufficient to make out a case of ‘wilful non-consummation of marriage' by the respondent because the respondent/husband does not have a case of physical inability or disability or a case of impotency. In spite of the fact that both the spouses are normal and healthy, the marriage has not been consummated, for which no cogent reasons have been given by the respondent, except a bald assertion that he has consummated the marriage, which case stands disproved by the testimony of PW2 and Ext.A4 certificate. Therefore, as held in **Shaju P.L.** (*Supra*), there is an element of deliberate and conscious application of mind by the respondent not to consummate the marriage despite his capacity to the contrary, submits the petitioner.

17. From a reading of the facts pleaded, the case of the petitioner seems to be that the respondent did not find her physically attractive or appealing so as to engage with her and that she was an object of aversion to him, right from the initial days of the marriage. According to her, the respondent entertained a feeling, which he conveyed to her also, that she was not a wife of his expectations or that she fell short of his expectation of a

wife because in his opinion or perspective, she is not cute like certain other women he had occasion to meet. Due to this physical revulsion or aversion to the petitioner, he never found pleasure in her company, instead he preferred to work on his laptop. It is true that the word 'wilful' has not been specifically pleaded or referred to in the petition. However, the original pleadings read along with the amended pleadings, do make out a case under Section 10(vii) of the Act especially when the respondent/husband has no case of physical inability or disability to perform the act. The aforesaid pleadings do make out a case of studied neglect and indifference on the part of the respondent towards the petitioner. The allegations also make out a case that the respondent did not engage in coitus with the petitioner as he did not find her physically attractive. So, the argument of the learned counsel for the respondent that there are no pleadings to make out a case of wilful refusal, though at first blush appeared to be appealing, on a closer reading of the entire pleadings in the petition and the principles laid down in **Ram Sarup Gupta** (*Supra*), is not right**.**

18. Now the question is, has the petitioner been able to prove the case pleaded in the petition? Before we answer that, we need to mention a

disturbing aspect noticed in the cross examination of the respondent who has been examined before the court below as RW1. As is evident from the pleadings of both the parties, there is no case for either of them that the respondent has erectile dysfunction or sexual dysfunction or physical disability in engaging in coitus. However, the cross examination of the respondent is seen to have crossed all limits of decency and fair play. Questions are seen put to the respondent/husband relating to the extent/depth/measurement of the penetration achieved by him during the instances of coitus he is alleged to have had with the petitioner, the dimensions of the phallus, whether he could contain it within his palm or whether it went beyond his palm so on and so forth. These questions were absolutely unnecessary in the light of the case pleaded by the parties. It escapes our comprehension as to why such questions were permitted to be put to the respondent/husband when neither party has a case that the respondent has erectile or physical dysfunction or physical incapacity or incapability or impotency. Here the only case of the petitioner is the lack of interest of the respondent in her and as he did not find her physically attractive or to put it in her words, the respondent did not find her 'cute'

enough, he abstained from engaging in coitus with her. For establishing the same or substantiating the same, it was absolutely unnecessary to question the respondent on his physical attributes or features.

18.1. The questions asked are indeed indecent and inappropriate and appears to have been put with an intention to insult or annoy. Sections 151 and 152 of the Evidence Act, 1872 require the court to forbid such questions being put to a witness. Without there being any basis in the pleadings, such questions ought not to have been permitted. [See: **Deb Narayan Halder v. Smt.Anushree Halder AIR 2003 SC 3174**]. In **State of U.P. v. Raghubir Singh [(1997) 3 SCC 775]**, the Apex Court after referring to Sections 140, 151 and 155 of the Evidence Act and an early decision of Patna High Court in **Mahammad Mian v. Emperor [52 Indian Cases 54]**, pointed out that if inquiries involving any scandalous matters are made with a purpose of shaking the credit of a witness, the court has complete dominion over them and may forbid such questions even though they may have some bearing on the question before the Court. But the Court may have no discretion to forbid such question, if they relate to the facts in issue or to matters necessary to be known in order to determine whether or not the facts in issue existed.

19. Be that as it may, the question that needs to be answered is whether the petitioner has succeeded in establishing that the respondent/ husband had wilfully refused to consummate the marriage. The respondent's case is that the couple had in fact engaged in coitus on several occasions, some instances were successful and some had to be stopped midway as the petitioner complained of pain. As the petitioner had complained of pain during coitus, they had consulted a gynaecologist of the Medical Trust Hospital, Ernakulam. The doctor on examination opined that the petitioner has a thick hymen membrane, which could be rectified by a minor surgery or by repeated coitus. However, the petitioner never underwent the surgery, as the problem according to RW1 was solved by repeated coitus. The petitioner denies this allegation of the respondent and according to her, the pain she had to endure during coitus was quite normal and that the gynecologist, consulted at the instance of the respondent, had advised them that regular/repeated coitus would solve the problem and that the pain would subside. However, the respondent never took any interest in the same. Here the evidence of PW3, the mother of the petitioner is quite relevant and important. PW3 in her cross examination deposed that she had been informed that the parties

had consulted a Gynecologist of the Medical Trust Hospital. She denied the suggestion put to her that the petitioner had excruciating pain during intercourse. According to PW3, her daughter had told her that the respondent had not been engaging in coitus with her and that it was to find out the reason for the same, the couple had consulted the doctor. PW3 further deposed that the petitioner had told her that the doctor had advised her daughter to undergo a minor surgery. However, the surgery was not conducted. She further deposed that the respondent after the consultation had said that he would take the initiative to take the petitioner for the surgery, but he never kept his word. PW3 also deposed that the doctor had said that the surgery would be unnecessary, if the couple engaged in sexual intercourse. PW3 denied the suggestion that the surgery could not be conducted as the petitioner had not taken any interest in the same. According to PW3, the surgery never took place because the respondent did not take her daughter for the same.

20. The testimony of PW3, who is none other than the mother of the petitioner, would show that the petitioner did have some issues during coitus. Though the parties admit that they had consulted a gynecologist, the reason

for the same is disputed and different reasons are given by them. Neither side thought it fit or necessary to examine the gynecologist they had consulted. It might probably have been due to excruciating pain or pain suffered/felt by the petitioner during coitus, which prevented a successful consummation of marriage. The fact that there has been no consummation of marriage, is established by the testimony of PW2 and Ext.A4. However, from the evidence on record we are unable to conclude that there had been willful abstinence or refusal to consummate the marriage within the meaning of Section 10(vii) by the respondent. From the facts, circumstances and the evidence on record, to which we will be referring to shortly, the couple do not seem to have been very keen on consummating the marriage, which would be clear/evident from our discussion on the remaining point. Therefore, the finding of the court below on the ground under Section 10(vii) appears to be incorrect, and so needs to be interfered with. Hence, we do so. Points answered accordingly.

21. **Point No. (iii).** Another question that arises for consideration is whether the petitioner/wife in this appeal filed by the respondent/husband, is entitled to challenge the finding of the court below rejecting the ground of

cruelty raised under Section 10(x) of the Act? The learned counsel for the petitioner submitted that Order XLI Rule 24 and Rule 33 give ample power to this Court to "resettle the issues and determine the case for meeting the ends of justice."

22. As per Section 96 CPC, an appeal shall lie only from a decree passed by a court exercising original jurisdiction to the court authorized to hear appeals from the decisions of such court. There is no decree against the petitioner and so obviously she could not have filed an appeal challenging the finding of the court below rejecting her prayer for dissolution on the ground of cruelty. The same is only a finding against the petitioner. Here, we refer to Order XLI Rule 22, which says that any respondent, though he may not have appealed from any part of the decree, may not only support the decree but may also state that the finding against him in the court below in respect of any issue ought to have been in his favour; and may also take any cross-objection to the decree which he could have taken by way of appeal, provided he has filed such objection in the Appellate Court within one month from the date of service on him or his pleader of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may

see fit to allow. Therefore, even without filing a cross objection, the petitioner/wife can challenge the ground of cruelty found against her.

23. As per clause (x) of Section 10, the petitioner is entitled to a decree of dissolution if the respondent has treated her with such cruelty as to cause a reasonable apprehension in her mind that it would be harmful or injurious for the petitioner to live with the respondent. The petitioner has a case of physical as well as mental cruelty by the respondent. The petitioner refers to a few instances of physical cruelty as well as mental cruelty in her petition as well as in her testimony. In the petition, it is alleged that the respondent, a man of short temper, is a person who gets easily provoked. He used to pick quarrels with the petitioner even on trivial matters. When he loses his temper, he turns violent and physically assaults anyone and everybody including his mother and sister apart from the petitioner and is also in the habit of hurling things like ashtray, flower vase, etc. and breaking them. The petitioner was taken aback on seeing this violent behaviour and strange conduct of the respondent. On such occasions, she was consoled by the respondent's mother, who is alleged to have told her that occasionally her son turns violent and that he would calm down after a while. The mother is

also alleged to have advised the petitioner not to approach the respondent when he is in a foul mood and that she is to approach him only after he has calmed down.

23.1. Instances of physical violence are referred to in the petition. On one occasion, the respondent is alleged to have abused her in the filthiest language, attempted to strangle/choke her and it was the respondent's mother who had got her extricated/released from the respondent's grip. The provocation is stated to be the petitioner's brother Sandeep's advise to the respondent not to quit his job at 'Oracle'. Here again the mother is stated to have cautioned and advised the petitioner to approach her son only after observing his facial expressions and gauging his mood, which was the practice adopted by her all along in dealing with her son.

23.2. Another like incident is stated to have taken place a week before the respondent's sister Anu's betrothal. The petitioner and the respondent's sister on their return from shopping, found the home in total disarray with broken pieces of glass, plates etc. strewn around and the respondent in quite a belligerent mood. It is alleged that he was fretting, fuming and abusing his mother. On seeing the petitioner, the respondent is stated to have got all the

more furious and demanded her to leave the house forthwith. The time was about 6 p.m. The respondent is then alleged to have dragged the petitioner to the front door and then had pushed and thrown her out. Later, Anu came and took her inside. The respondent again made an open statement that he would divorce the petitioner. On that day, during night, she was not let into their bedroom and so had to sleep in Anu's room.

23.3. As regards the case of physical violence alleged to have been endured by the petitioner, the court below on both occasions, that is, before and after the remand disbelieved her. Initially she was disbelieved because there was only the sole testimony of the petitioner to substantiate the allegations. After the remand, she examined her mother PW3, who supports her case. This time the court below found fault with her by saying that on the earlier occasion the petitioner had no case that she had informed her mother about the aforesaid incidents; the version that the mother had been informed is an afterthought and the court below even goes to the extent of saying that the mother's testimony is the result of 'a plan hatched by the petitioner and her mother'. As referred to earlier, the matter was remanded by this Court to enable the parties to adduce further evidence to substantiate their respective

contentions. Pursuant to the remand, when the petitioner adduced further evidence by examining her mother, the court below finds that the same is the outcome of a plan hatched by the mother and the daughter. Then who is the witness to be brought in, to substantiate the petitioner's case? In cases of this nature, disputes and quarrels generally take place in the privacy of the home or the bedroom. The petitioner cannot be expected to prove the allegations by examining witnesses who are complete strangers. The parties to the proceedings can attempt or try to establish the allegations only through their near and dear ones or relatives who would naturally have been present or have heard about the disputes and differences between the couple. The court below has also found fault with the petitioner for not examining the mother of the respondent, who in its opinion is the best witness to substantiate the case of the petitioner. The practice of a party causing his opponent to be summoned as a witness has been disapproved in rather strong terms in several decisions. [See: **Narayana Pillai v. Kalliyani Amma: 1963 KLT 537; Syed Mohammed v. Aziz: 1990 (2) KLT 952; Mary Francis v. Kesavan: 1993 (1) KLT 4; George v. State Bank of Travancore :2012 (2) KLT 935**]. True, the respondent's mother cannot be termed as the opposite

party in the strict sense of the term. Nevertheless, the petitioner cannot be expected to prove her case by examining the opposite party's own mother. That would be expecting the impossible from her. As held in **Naveen Kohli v. Neelu Kohli [AIR 2006 SC 1675]**, in delicate human relationship like matrimony, one has to see the probabilities of the case. The concept, proof beyond the shadow of doubt, is to be applied to criminal trials and not to civil matters and certainly not to matters of such delicate personal relationship as those of husband and wife. Therefore, one has to see what are the probabilities in a case and legal cruelty has to be found out, not merely as a matter of fact, but as the effect on the mind of the complainant spouse because of the acts or omissions of the other.

24. It is also alleged that there were instances in which respondent even suspected her fidelity and used to get wild and furious when the petitioner used to receive messages on her phone from her male friends. According to her, the respondent hated her and always treated her like a foe. He had never evinced any love or affection for her. She had been treated like an unwanted burden on him. When the respondent loses his temper, he abuses her in the most foul and obscene language. According to the

petitioner, it is never expected of an educated man of the stature of the respondent to use such abusive language, which crossed all permissible limits, and the said conduct was something which no woman could be expected to tolerate or bear with. The respondent never treated her as his life partner. The respondent is alleged to have repeatedly threatened to divorce her even when he was in a normal mood.

25. Yet another allegation is that the respondent was always in the habit of belittling and humiliating the petitioner by comparing her with other women. In his opinion, she was not a wife of his expectations as she was not 'cute' like certain other women he had occasion to meet. Two such instances have been referred to in the petition. One such instance was after the respondent is stated to have accompanied the petitioner's brother Sandeep, when the latter went to see his prospective bride. On return from the girl's house, the respondent is stated to have been quite upset and had instructed the petitioner not to call or disturb him for a week. After two days, the petitioner was informed by the respondent's mother that her son, the respondent, was quite upset after seeing Sandeep's prospective bride, as he felt that the petitioner was not as smart as the said girl. The respondent also

kept blaming his mother for having compelled him to marry the petitioner, who fell far short of his expectations. Due to this, the respondent's mother is alleged to have scolded the petitioner for having allowed the respondent to accompany her brother to meet the prospective bride of the latter. Another similar incident is referred to in paragraph 9 of the petition. The petitioner and the respondent had attended a marriage party. On return home from the party, the respondent started quarreling with the petitioner for no reason. He abused his mother and accused her of thrusting the petitioner on him. He is alleged to have openly stated that the petitioner could not hold a candle to the woman the couple had met at the marriage party. The petitioner felt humiliated and felt quite unwanted by her husband, which was more than what any woman could endure. All her attempts of adjustment with the respondent have failed. The repeated bullying and humiliating behaviour of the respondent is stated to have caused quite a stress, strain and tension to her and had a deep impact on her mind and health, as a result of which she was not even able to concentrate on her work, which seriously impacted her profession too.

26. The petitioner when examined as PW1 more or less stands by the case alleged in the petition. She also relies on Ext.A2, the printout of a mail dated 17/07/2009, which according to the petitioner was sent by the respondent from her personal e-mail ID to her official e-mail ID, to substantiate her case. The respondent who had access to her e-mail ID and password, had sent the mail from her personal mail. After this incident, she is stated to have changed her password. In the mail, the respondent has expressed quite vividly his expectations of a life partner, who according to him should not only be beautiful like certain film stars, whose names have also been mentioned, but also should be financially quite well off, so that he would become rich instantaneously. He laments that contrary to his expectations, he has got a plain Jane. He further states that inspite of the disillusionment, he is doing his best to adjust to the situation. However, when he attends functions like marriage, engagement, etc., he is reminded of his dreams. Then his character would change and would trigger his emotions ten times. Therefore, he says that the only solution to the problem is to avoid attending such functions, except that of his very dear and near ones. Then he goes on to give the petitioner a set of instructions like, she should not force

him to attend such functions as he hates relatives and so she should not force him to mingle with them; the time at which she should contact him, so on and so forth. He ends the mail by saying that if she is ready to obey the conditions put forth by him, they can live peacefully, if not life would be terrible and violent. He then gives the option to the petitioner to choose from the aforesaid two situations.

27. Ext.A2 mail, a crucial document, is denied by the respondent and it is contended that it is a fabricated document. The court below refused to rely on the same on the following grounds - if the respondent really intended to send such a message, there was no necessity for him to send it to the official mail of the petitioner, he could have sent it to her personal e-mail; even if the respondent had sent the mail as alleged, the petitioner could have taken a print out of the same from her official mail rather than forwarding it to her personal mail and then taking a copy. This line of thinking, according to us, is flawed. What could have been done and what could have been the better way of doing a particular thing is not the point to be looked into. The question is whether the petitioner has succeeded in establishing that the mail had in fact been sent by the respondent. The contents of the same is quite

damaging to the respondent whereas it substantiates the case of the petitioner. Human mind is extremely complex and human behaviour is equally complicated. As cautioned by the Apex Court in **Samar Ghosh v. Jaya Ghosh [(2007) 4 SCC 511 : 2007 (2) KHC 231]**, lawyers and judges are not to import their own notions of life in dealing with matrimonial problems. Judges should not evaluate the case from their own standards.

28. The petitioner in her proof affidavit filed in lieu of her chief examination has stated that she has left her previous job and hence unable to access her then official e-mail ID. This aspect has not been challenged or discredited. Therefore, this explains why she had not taken the printout from her official e-mail ID. It is true that the e-mail is seen forwarded from the official e-mail ID to the personal e-mail ID of the petitioner on 23/10/2009, that is, days before she moved for dissolution on 02/11/2009. By this time, the relationship must have soured to the extent that the petitioner had made up her mind to move for dissolution and so must have taken the precaution to preserve the evidence by forwarding it to her personal mail. The court below has also found fault with the petitioner for not producing the e-mails exchanged by the parties, before and after Ext.A2. True, the said e-mails are

not forthcoming. But that cannot in any way wipe off the contents of Ext.A2 and nor can the court completely discard the same, merely because the other e-mails have not been produced. Ext.A2 e-mail is initially seen sent on 17/07/2009, about 4 months before the present proceeding was initiated. Therefore, it cannot also be said that the petitioner in anticipation of the present proceeding, had fabricated the e-mail to suit her allegations. The court below also relied on Exts.B1 and B3 to disbelieve and reject Ext.A2. Ext.B1 is a greeting card sent by the petitioner to the respondent on his birthday which fell on 17/07/2009. Ext.B3 is the printout of an e-mail dated 24/07/2009 sent by the petitioner to the respondent in which she *inter alia* says that when he leaves, she would miss him. According to the court below, the printed message seen on the card as well as the e-mail would reveal the affection of the petitioner to the respondent. Well, that is the case of the petitioner too. According to her, she had done her best to adjust to the ways of the respondent. The respondent to a question put to him in the cross examination as - Was not the petitioner a loving wife? answered in the affirmative. Therefore, the aforesaid documents do not in any way help the

respondent in disproving the case of the petitioner, on the contrary it only probabilises the case of the petitioner.

29. Now coming to the question whether the aforesaid conduct of the respondent amounts to cruelty as contemplated under Section 10(x) of the Act. As held by the Apex Court in **Samar Ghosh v. Jaya Ghosh [2007 (2) KHC 231]** and **Naveen Kohli** (*Supra*), it is not easy or possible to define the term 'cruelty'. In **Naveen Kohli** (*Supra*), the Apex Court has referred to several English and Indian cases dealing with cruelty and in one of the English decisions, the term cruelty has been explained as- *"It is impossible to give a comprehensive definition of cruelty, but when reprehensible conduct or departure from the normal standards of conjugal kindness causes injury to health or an apprehension of it, it is, I think, cruelty if a reasonable person, after taking due account of the temperament and all the other particular circumstances would consider that the conduct complained of is such that this spouse should not be called on to endure it."*

30. In **Sirajmohmedkhan Janmohamadkhan v. Harizunnisa Yasinkhan** [**(1981) 4 SCC 250**] it has been held that the concept of legal cruelty changes according to the changes and advancement of social concept

and standards of living. To establish legal cruelty, it is not necessary that physical violence should be used. Continuous ill-treatment, cessation of marital intercourse, studied neglect, indifference on the part of the husband, and an assertion on the part of the husband that the wife is unchaste, are all factors which lead to mental or legal cruelty.

31. In **Shoba Rani v. Madhukar Reddi [(1988) 1 SCC 105]** the Apex Court had occasion to examine the concept of cruelty in the context of Section 13(1)(i)(a) of the Hindu Marriage Act, 1955. The term 'cruelty' which has not been defined in the said Act, has been stated to have been used in the context of human conduct or behaviour in relation to or in respect of matrimonial duties or obligations. It is a course of conduct of one, which is adversely affecting the other. Cruelty may be mental or physical, intentional or unintentional. If it is physical, it is a question of fact and degree. If it is mental, the enquiry must begin as to the nature of the cruel treatment and then as to the impact of such treatment on the mind of the spouse. Whether it caused reasonable apprehension that it would be harmful or injurious to live with the other, ultimately, is a matter of inference to be drawn by taking into account the nature of the conduct and its effect on the complaining spouse.

There may, however, be cases where the conduct complained of itself is bad enough and *per se* unlawful or illegal. Then the impact or the injurious effect on the other spouse need not be enquired into or considered. In such cases, the cruelty will be established if the conduct itself is proved or admitted. The absence of intention should not make any difference in the case, if by ordinary sense in human affairs, the act complained of could otherwise be regarded as cruelty. Intention is not a necessary element in cruelty. The relief to the party cannot be denied on the ground that there has been no deliberate or wilful ill-treatment.

31.1. It has been further held that the cruelty alleged may largely depend upon the type of life, the parties are accustomed to or their economic and social conditions and their culture and human values to which they attach importance. Each case has to be decided on its own merits. It would be necessary to bear in mind that there has been marked changed in the life around us. In matrimonial duties and responsibilities in particular, there has been a sea change. They are of varying degrees from house to house or person to person. Therefore, when a spouse makes complaint about the treatment of cruelty by the partner in life or relations, the court should not

search for standard in life. A set of facts stigmatized as cruelty in one case may not be so in another case. The cruelty alleged may largely depend upon the type of life the parties are accustomed to or their economic and social conditions. It may also depend upon their culture and human values to which they attach importance. Judges and lawyers, therefore, should not import their own notions of life. It would be also be better there is less reliance upon precedents. The Apex court referred to the case of **Sheldon v. Sheldon**, **[(1966) 2 All E.R. 257 (CA)]**, wherein Lord Denning said- '*the categories of cruelty are not closed'. Each case may be different. We deal with the conduct of human beings who are not generally similar. Among the human beings there is no limit to the kind of conduct which may constitute cruelty. New type of cruelty may crop up in any case depending upon the human behaviour, capacity or incapability to tolerate the conduct complained of. Such is the wonderful (sic) realm of cruelty.*"

32. In the case of **V. Bhagat v. D. Bhagat [(1994) 1 SCC 337]**, it has been held that mental cruelty can broadly be defined as that conduct which inflicts upon the other party such mental pain and suffering as would make it not possible for that party to live with the other. In other words,

mental cruelty must be of such a nature that the parties cannot reasonably be expected to live together. The situation must be such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with the other party. It is not necessary to prove that the mental cruelty is such as to cause injury to the health of the petitioner. While arriving at such conclusion, regard must be had to the social status, educational level of the parties, the society they move in, the possibility or otherwise of the parties ever living together in case they are already living apart and all other relevant facts and circumstances which it is neither possible nor desirable to set out exhaustively. What is cruelty in one case may not amount to cruelty in another case. It is a matter to be decided in each case having regard to the facts and circumstances of that case. If it is a case of accusations and allegations, regard must also be had to the context in which they were made.

33. In **Savitri Pandey v. Prem Chandra Pandey [(2002) 2 SCC 73]** it has been held that cruelty, however, has to be distinguished from the ordinary wear and tear of family life. It cannot be decided on the basis of the sensitivity of the petitioner and has to be adjudged on the basis of the course

of conduct which would, in general, be dangerous for a spouse to live with the other.

34. In **Gananth Pattnaik v. State of Orissa [(2002) 2 SCC 619]**, it has been held that the concept of cruelty and its effect varies from individual to individual, also depending upon the social and economic status to which such person belongs. "Cruelty" for the purposes of constituting the offence under the aforesaid section need not be physical. Even mental torture or abnormal behaviour may amount to cruelty and harassment in a given case."

35. In **Parveen Mehta v. Inderjit Mehta [(2002) 5 SCC 706]**, it has been held that mental cruelty is a state of mind and feeling with one of the spouses due to the behaviour or behavioural pattern by the other. Unlike the case of physical cruelty, mental cruelty is difficult to establish by direct evidence. It is necessarily a matter of inference to be drawn from the facts and circumstances of the case. A feeling of anguish, disappointment and frustration in one spouse caused by the conduct of the other can only be appreciated on assessing the attending facts and circumstances in which the two partners of matrimonial life have been living. The inference has to be drawn from the attending facts and circumstances taken cumulatively. In case

of mental cruelty, it would not be a correct approach to take an instance of misbehaviour in isolation and then pose the question whether such behaviour is sufficient by itself to cause mental cruelty. The approach should be to take the cumulative effect of the facts and circumstances emerging from the evidence on record and then draw a fair inference whether the petitioner in the divorce petition has been subjected to mental cruelty due to conduct of the other."

36. In **Chetan Dass v. Kamla Devi [(2001) 4 SCC 250]**, it has been observed that matrimonial matters have to be basically decided on its facts. Matrimonial matters are matters of delicate human and emotional relationship. It demands mutual trust, regard, respect, love and affection with sufficient play for reasonable adjustments with the spouse. The relationship has to conform to the social norms as well. The matrimonial conduct has now come to be governed by statute framed, keeping in view such norms and changed social order. It is sought to be controlled in the interest of the individuals as well as in broader perspective, for regulating matrimonial norms for making of a well-knit, healthy and not a disturbed and porous

society. The institution of marriage occupies an important place and role to play in the society, in general.

37. Again in **A. Jaychandra v. Aneel Kumar [(2005) 2 SCC 22]** it has been held that, the question of mental cruelty has to be considered in the light of the norms of marital ties of the particular society to which the parties belong, their social values, status, environment in which they live. Cruelty, includes mental cruelty, which falls within the purview of a matrimonial wrong. Cruelty need not be physical. If from the conduct of a spouse, the same is established and/or an inference can be legitimately drawn that the treatment of the spouse is such that it causes an apprehension in the mind of the other spouse, about his or her mental welfare then this conduct amounts to cruelty. In delicate human relationship like matrimony, one has to see the probabilities of the case. The concept, a proof beyond the shadow of doubt, is to be applied to criminal trials and not to civil matters and certainly not to matters of such delicate personal relationship as those of husband and wife. Therefore, one has to see what are the probabilities in a case and legal cruelty has to be found out, not merely as a matter of fact, but as the effect on the mind of the complainant spouse because of the acts or omissions of the other.

In physical cruelty, there can be tangible and direct evidence, but in the case of mental cruelty there may not at the same time be direct evidence. In cases where there is no direct evidence, Courts are required to probe into the mental process and mental effect of incidents that are brought out in evidence. It is in this view the evidence in matrimonial disputes has to be considered. To constitute cruelty, the conduct complained of should be "grave and weighty" so as to come to the conclusion that the petitioner spouse cannot be reasonably expected to live with the other spouse. It must be something more serious than "ordinary wear and tear of married life". The conduct, taking into consideration the circumstances and background has to be examined to reach the conclusion whether the conduct complained of amounts to cruelty in the matrimonial law. Conduct has to be considered, in the background of several factors such as social status of parties, their education, physical and mental conditions, customs and traditions. It is difficult to lay down a precise definition or to give exhaustive description of the circumstances, which would constitute cruelty. It must be of the type as to satisfy the conscience of the Court that the relationship between the parties had deteriorated to such extent due to the conduct of the other spouse that it

would be impossible for them to live together without mental agony, torture or distress, to entitle the complaining spouse to secure divorce. Physical violence is not absolutely essential to constitute cruelty and a consistent course of conduct inflicting immeasurable mental agony and torture may well constitute cruelty within the meaning of Section 10 of the Act. Mental cruelty may consist of verbal abuses and insults by using filthy and abusive language leading to constant disturbance of mental peace of the other party.

38. In the case on hand, the pleadings, the testimony of the petitioner and her mother coupled with Ext.A2, do make out a case of cruelty as explained in the aforesaid decisions. It is true that there is only the testimony of PW1 and her mother to substantiate the case alleged. It is a time-honoured principle, that evidence must be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or otherwise. The legal system has laid emphasis on value provided by each witness, rather than the multiplicity or plurality of witnesses. It is quality and not quantity, which determines the adequacy of evidence as provided by Section 134 of the Evidence Act. [See: **Laxmibai v. Bhagwanthbuva AIR 2013 SC 1204**]. On an overall analysis of the

pleadings, the testimony of PW1 and PW2 coupled with Ext.A2, probabilises and substantiates the case of the petitioner. Both the petitioner and respondent are MCA Graduates. In the petition it is stated that the petitioner had completed her MCA from TKM College of Engineering, Kollam and that she has been working as a Software Engineer in a Company in Thiruvananthapuram. According to her, the respondent is also an MCA from Marian College, Kuttikanam, and that he has been working in a company in Bangalore. The petitioner cannot be expected to put up with such attitude and behaviour of the respondent whose outlook/perspective is quite evident from Ext.A2. The marriage between the parties was solemnized on 17/01/2009. The petition for dissolution of marriage is seen filed on 02/11/2009. Going by the materials on record, the couple seems to have been together for hardly a month or so. Almost 14 years have elapsed since the filing of the present petition. The couple still continue to be separated and are hotly contesting the matter. The parties were quite young, i.e., the petitioner was 26 years old and the respondent 29 years, when their marriage was solemnized and later when the original petition was moved. No intimacy or emotional bond seems to have developed between the parties pursuant to the marriage. The conduct

of the respondent/husband can, by no stretch of imagination, be said to be the outcome of the normal "wear and tear" of family life. The parties cohabited for quite a short period of time and so there could hardly be any "wear and tear" of marriage. The marriage does not seem to have been consummated too, though the evidence does not satisfy the ground under Section 10(vii) of the Act. The constant and repeated taunts of the respondent/husband that the petitioner is not a wife of his expectations; the comparisons with other women etc. would certainly be mental cruelty which a wife cannot be expected to put up with.

39. It is true that irretrievable breakdown of marriage is not a ground for dissolution of marriage. Once the parties have separated and the separation has continued for a sufficient length of time and one of them has presented a petition for divorce, it can well be presumed that the marriage has broken down. This Court had also tried to reconcile the parties by sending them for mediation. But the said attempt also failed. RW1 in his deposition refers to the unsuccessful attempts made by several persons including their Church for settling the matter. But all attempts failed. The breakdown appears irreparable. The consequences of preservation in law of the

unworkable marriage which has long ceased to be effective, are bound to be a source of greater misery for the parties. As held in **Naveen Kohli** (*Supra*), once the marriage has broken down beyond repair, it would be unrealistic for the law not to take notice of that fact, and it would be harmful to society and injurious to the interests of the parties. Where there has been a long period of continuous separation, it may fairly be surmised that the matrimonial bond is beyond repair. The marriage becomes a fiction, though supported by a legal tie. By refusing to sever that tie, the law in such cases do not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. Public interest demands not only that the married status should, as far as possible, as long as possible, and whenever possible, be maintained, but where a marriage has been wrecked beyond the hope of salvage, public interest lies in the recognition of that fact. Since there is no acceptable way in which a spouse can be compelled to resume life with the consort, nothing is gained by trying to keep the parties tied for ever to a marriage that in fact has ceased to exist. Human life has a short span and situations causing misery, cannot be allowed to continue indefinitely. A halt has to be called at some stage. Law cannot turn a blind eye to such situations,

nor can it decline to give adequate response to the necessities arising therefrom.

40. As held in **Naveen Kohli** (*Supra*), undoubtedly, it is the obligation of the court and all concerned that the marriage status should, as far as possible, as long as possible and whenever possible, be maintained, but when the marriage is totally dead, in that event, nothing is gained by trying to keep the parties tied forever to a marriage which in fact has ceased to exist. In the instant case, the matrimonial bond between the parties seems to be beyond repair. The marriage between the parties is only in name. The marriage has been wrecked beyond the hope of salvage, public interest and interest of all concerned lies in the recognition of the fact and to declare defunct *de jure* what is already defunct *de facto*. To keep the sham is obviously conducive to immorality and potentially more prejudicial to the public interest than a dissolution of the marriage bond. Point answered accordingly.

41. **Point No.(iv):** Hence in the light of the above discussion, we find that the petitioner has succeeded in establishing the ground under

Section 10(x) of the Act and so the finding of the court below to the contrary needs to be interfered with and hence we do so. Point answered accordingly.

42. **Point no.(v):** In the result, the appeal is dismissed. The decree granted by the court below for dissolution of marriage whereby the marriage between the petitioner and the respondent solemnized on 17/01/2009 stands dissolved, shall stand modified as one under Section 10(x) of the Act.

In the light of the order dated 15/03/2021 in W.P.(C)No.6687 of 2017, Registry is directed to mask the name and address of the parties in the cause title of this judgment.

Interlocutory applications, if any pending, shall stand closed.

Sd/-

ANIL K.NARENDRAN
JUDGE

Sd/-

C.S.SUDHA
JUDGE

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