Andhra High Court
Chiranjeevi vs Smt. Lavanya @ Sujatha on 9 March, 2006
Equivalent citations: AIR 2006 AP 269, 2006 (3) ALD 522, 2006 (3) ALT 168, II (2006) DMC 553
Author: B S Reddy
Bench: D Varma, B S Reddy
JUDGMENT B. Seshasayana Reddy, J.

1. This Civil Miscellaneous Appeal is directed against the order dated 19th October, 1995 passed by the Principal Subordinate Judge, Ranga Reddy District at Saroornagar, Hyderabad in O.P. No. 104 of 1992, whereby the learned Subordinate Judge dismissed the petition filed by the appellant-husband under Section 13(1)(ia) of the Hindu Marriage Act, 1955.

2. The marriage between the appellant and respondent was solemnized on 1 -8-1990 at Lalaguda, Secunderabad as per Hindu rites and customs. After the marriage they started living together at Goutamnagar, Malkajgiri. Differences arose between them within three months of their living together. It is the case of the appellant-husband that the respondent-wife used to visit her parents house without informing him or any one of the members in the joint family. On several occasions, according to the appellant-husband, he warned her not to leave the house frequently, but she never cared his words. One K. Narayana, a retired Police Officer working as Special Judicial Second Class Magistrate, ill-advised the respondent-wife and thereby respondent-wife became more and more adamant and behaved rashly and she even did not care the appellant-husband. The respondent-wife was under the influence of her maternal uncles and more particularly K. Narayana, a retired Police Officer. The appellant-husband took a separate residence on rent for comfortable living of the respondent-wife. Even then the respondent-wife did not change her mind and she continued to leave the matrimonial home and stay with her parents. Thereby the appellant-husband was deprived of her conjugal association. It is the case of the appellant-husband that the respondent-wife deserted him on her own accord on 23-11 -1990 and she carried her all belongings including jewellery, cash and other costly sarees. Since then the respondent-wife has been residing in her parental home. The appellant-husband made several efforts to bring her back to matrimonial home, which proved to be futile. According to the appellant husband, K. Narayana, a retired Police Officer, came along with K. Vishwanadham and other anti-social elements and tried to manhandle him at N.G.R.I, office. On 12-5-1991 at about 11-00 a.m. the maternal uncles of the respondent-wife, namely, Anand, Ramarao and Viswanatham; and a rowdy sheeter by name George of Thukaram gate came to his house with deadly weapons threatened him and his father and abused them in filthy and un-parliamentary language. The appellant-husband reported the matter to the Station House Officer, Malkajgiri, Police Station, but the police being hand in glove with the said Narayana, did not take any action. The acts and threats of the maternal uncles of the respondent-wife at her instance caused mental agony to him. A month there after, the respondent-wife gave a legal notice dated 20-6-1991 directing the appellant-husband to take her for conjugal association. The appellant-husband issued a reply notice dated 8-7-1991. It is the further case of the appellant-husband that the respondent-wife had instigated the press people and got published a news item in Telugu newspaper "Udayam", dated 23-7-1991 making all false accusations. The respondent-wife also lodged a report with the S.H.O. Malkajgiri P.S. and thereupon a case in Crime No. 199 of 1991 under Section 498-A I.P.C. came to be registered against the appellant-husband and the members of his family. The conduct of the

respondent-wife caused mental agony and thereby the appellant-husband chose to file O.P. No. 104 of 1992 under Section 13(1)(ia) of Hindu Marriage Act seeking divorce on the ground of cruelty.

3. Respondent-wife filed written statement denying the allegations made against her. It is the case of the respondent-wife that the appellant-husband misrepresented to her parents as if he was a scientist in office of Survey of India and thereby made them to part with a substantial amount towards marriage expenses and purchase of various articles such as Kinetic Honda Scooter, Refrigerator, Jewelleries, marriage suits etc. It is further stated in the written statement that the appellant-husband moved the Court with the object of going for second marriage and to quench his thirst of more dowry. It is also the case of the respondent-wife that she was subjected to harassment and was also confined in a room for more than three days under the pretext of appellant-husband was going on official camp. On enquiry the respondent-wife came to know that the appellant-husband was only a stenographer and he was in the habit of taking drinks and gambling by spending money lavishly. The appellant-husband used to force her to bring more money on one pretext or the other to meet the expenses of his vices. When the appellant-husband deserted her and her child, she moved M.C. No. 33 of 1991 in the Court of X Metropolitan Magistrate for maintenance to self and her child. She is always ready and willing to join with the appellant-husband for conjugal association. Hence, she sought for dismissal of the O.P.

4. On behalf of the appellant-husband, he got himself examined as P.W.1 and examined his father-B.E. Vishwanadtham as P.W.2 and his colleague A. Uppalaiah as P. W.3 and marked five documents as Exs.A-1 to A-5.

5. On behalf of the respondent-wife, she got herself examined as R.W.1, and examined one K. Narayana, a retired Police Officer, as R.W.2, her mother-Kalavathi as R.W.3 and her maternal uncle-K. Vishnuvardhan as R.W.4 and marked eight documents as Exs.B-1 to B-8. On the basis of the pleadings and evidence of the parties, the Court below framed an issue; whether there is just and sufficient cause to pass decree of divorce against the respondent-wife on the ground of cruelty.

6. Learned Subordinate Judge, on considering the evidence brought on record and on hearing the counsel for the parties, found that the appellant-husband failed to make out a ground of cruelty and accordingly dismissed the petition being O.P. No. 104 of 1992 by order dated 19-10-1995.

7. Assailing the order passed in O.P. No. 104 of 1992, the husband filed this Civil Miscellaneous Appeal. A Division Bench of this Court by order dated 19-2-1999 allowed the appeal and set aside the order dated 19-5-1995 passed in O.P. No. 104 of 1992 and granted a decree of divorce by dissolving the marriage between the parties. The respondent-wife carried the matter to the Supreme Court by filing C.A. No. 3367 of 2001. The appeal filed by the respondent-wife came to be allowed remitting the matter back to this Court to dispose of the appeal in accordance with law after giving opportunity to the parties.

8. Heard Sri B. Adinarayana Rao, learned Counsel appearing on behalf of the appellant-husband and Sri M.V.S. Suresh Kumar, learned Counsel appearing on behalf of respondent-wife.

9. The appellant filed C.M.A.M.P. No. 136 of 2006 to receive certain documents as additional evidence. The documents sought to be received in additional evidence are:

(1) Certified copy of the judgment dated 18-7-2001 in C.C. 598 of 2000 on the file of the Judicial First Class Magistrate (Special Mobile Court) Ranga Reddy District.

(2) Certified copy of complaint in C.C. No. 494 of 1994 on the file of the X Metropolitan Magistrate, Secunderabad.

(3) Deposition of Respondent-wife.

10. Learned Counsel appearing for the appellant-husband submits that the case registered against the appellant and his parents on the complaint of respondent-wife ended in acquittal after disposal of the OP. and therefore, the appellant-husband could not place on record the judgment of the Criminal Court during the trial in the O.P. He further submits that the acquittal of the appellant-husband and his parents in a criminal case strengthened the case of the appellant-husband to prove cruelty on the part of the respondent-wife as a ground for divorce and thus the certified copy of the judgment of the criminal Court in C.C. No. 598 of 2000 is essential. It is also submitted by him that K. Narayana, a Police Officer, who was examined as R.W.2 in the O.P. filed a complaint under Section 200 Cr.P.C. against the appellant, his father and another namely B. Chiranjeevi and A. Uppalaiah for the offence, under Section 500, I.P.C. and it speaks of his animosity against the appellant and his father, thus the certified copy of the complaint in C.C. No. 494 of 1994 is essential for a just conclusion in the appeal.

11. Undisputedly by the date of passing the order in O.P. No. 104 of 1992, C.C. No. 494 of 1994 was pending trial and the judgment in the said C.C. 598 of 2000 came to be passed on 18-7-2001. In that view of the matter, we do not see any impediment in permitting the appellant-husband to file the copy of the judgment in C.C. No. 598 of 2000 and mark the same as exhibit on his behalf and accordingly the certified copy of the judgment is received as additional evidence and marked as Ex.A-6.

12. With regard to receiving the complaint filed by K. Narayana (R.W.2) against the appellant and two others, this fact came on record during the trial of the O.P. 104 of 1992. The dispute between K. Narayana and the appellant is not essential for disposal of this appeal and therefore, in our considered view, the certified copy of the complaint in C.C. No. 494 of 1994 is not required to be received as additional evidence on behalf of the appellant-husband. Accordingly, C.M.A. M.P. No. 136 of 2006 is partly allowed.

13. Learned Counsel appearing for the appellant husband submits that incidents of filing complaint by the respondent-wife against the appellant-husband and his parents, lodging report with the employer of the father of the appellant-husband, making certain unfounded allegations, manhandling of the appellant-husband by the maternal uncles of the respondent-wife and making reckless allegations against appellant-husband would constitute cruelty and thus the appellant-husband is entitled to a decree of divorce on the ground of cruelty. A further submission

has been made that parties have been residing separately for the last 14 years and they have crossed the point of no return and marital relationship between them has broken down irretrievably and therefore, there is no useful purpose in allowing the marital relationship to subsist between the parties. He took us to the evidence of the witnesses brought on record and pointed out certain inconsistencies with regard to the incidents of dowry demands. In support of his submissions, reliance has been placed on the decisions of Supreme Court G.V.N. Kameswara Rao v. G. Jabilli , Parveen Mehta v. Inderjit Mehta , Durga Prasanna Tripathy v. Arundhati Tripathy , A. Jayachandra v. Aneel Kaur and the decision of our High Court in Gajjala Shankar v. Mrs. Anuradha .

14. In the 1st cited decision the Supreme Court held that false police complaint and consequent loss of reputation and standing in the society at the instance of one's spouse, would amount to cruelty. It is further held that a degree of cruelty which involves conduct of such a nature as to have caused damage to life, limb or health or to give rise to a reasonable apprehension of such danger is, therefore, not required to be proved by the petitioner for obtaining a decree for divorce. Cruelty can be said to be an act committed with the intention to cause sufferings to the opposite party. Austerity of temper, rudeness of language, occasional outburst of anger, may not amount to cruelty, though it may amount to misconduct.

In the 2nd cited decision, the Supreme Court held that mental cruelty is a state of mind and feeling and is therefore necessarily a matter of inference to be drawn from the facts and circumstances of the case.

In the 3rd cited decision, the Supreme Court held that the marriage is irretrievably broken, where long desertion of 14 years between the parties and re-consummation is not possible, though wife is willing to join husband. The Supreme Court after referring the decisions in three cases; Sanat Kumar Agarwal v. Nandini Agarwal , Adhyatma Bhattar Alwar v. Adhyatma Bhattar Sri Devi , in G.V.N. Kameswara Rao (1 supra) has observed in paras 29 and 30 of the judgment as follows:

29. The facts and circumstances in the above three cases disclose that reunion is impossible. Our case on hand is one such. It is not in dispute that the appellant and the respondent are living away for the last 14 years. It is also true that a good part of the lives of both the parties has been consumed in this litigation. As observed by this Court, the end is not in sight. The assertion of the wife through her learned Counsel at the time of hearing appears to be impractical. It is also a matter of record that dislike for each other was burning hot.

30. Before parting with this case, we think it necessary to say the following:

Marriages are made in heaven. Both parties have crossed the point of no return. A workable solution is certainly not possible. Parties cannot at this stage reconcile themselves and live together forgetting their past as a bad dream. We, therefore, have no other option except to al low the appeal and set aside the judgment of the High Court and affirming the order of the Family Court granting decree for divorce. The Family Court has directed the appellant to pay a sum of Rs. 50,0007- towards permanent alimony to the respondent and pursuant to such direction the appellant had deposited the amount by way of bank draft. Considering the status of parties and the economic

condition of the appellant who is facing criminal prosecution and out of job and also considering the status of the wife who is employed, we feel that a further sum of Rs. 1 lakh by way of permanent alimony would meet the ends of justice. This shall be paid by the appellant within 3 months from today by an account payee demand draft drawn in favour of the respondent-Arundhati Tripathy and the dissolution shall come into effect when the demand draft is drawn and furnished to the respondent.

In the 4th cited decision, the Supreme Court held that mental cruelty has to be considered in the light of social status of the parties, their education, physical and mental conditions, customs and traditions. Paras 16 and 17 of the judgment need to be noted and they are thus:

16. The matter can be looked at from another angle. If acts subsequent to the filing of the divorce petition can be looked into to infer condonation of the aberrations, acts subsequent to the filing of the petition can be taken note of to show a pattern in the behaviour and conduct. In the instant case, after filing of the divorce petition a suit for injunction was filed and the respondent went to the extent of seeking detention of the appellant. She filed a petition for maintenance which was also dismissed. Several caveat petitions were lodged and as noted above, with wrong address. The respondent in her evidence clearly accepted that she intended to proceed with the execution proceedings, and prayer for arrest till the divorce case was finalized. When the respondent gives priority to her profession over her husband's freedom it points unerringly at disharmony, diffusion and disintegration of marital unity, from which the Court can deduce abut irretrievable breaking of marriage.

17. Several decisions, as noted above, were cited by learned Counsel for the respondent to contend that even if marriage has broken down irretrievably decree of divorce cannot be passed. In all these cases it has been categorically held that in extreme cases the Court can direct dissolution of marriage on the ground that the marriage had broken down irretrievably as is clear from para 9 of Shyam Sunder case. The factual position in each of the other cases is also distinguishable. It was held that long absence of physical company cannot be aground for divorce if the same was on account of the husband's conduct. In Shaym Sunder case it was noted that the husband was leading adulterous life and he cannot take advantage of his wife shunning his company. Though the High Court held by the impugned judgment that the said case was similar, it unfortunately failed to notice the relevant factual difference in the two cases. It is true that irretrievable breaking of marriage is not one of the statutory grounds on which court can direct dissolution of marriage, this Court has with a view to do complete justice and shorten the agony of the parties engaged in long drawn legal battle, directed in those cases dissolution of marriage. But, as noted in the said cases themselves, those were exceptional cases.

In the last cited case, a Division Bench of this Court relying on another Division Bench judgment of this Court in Anagalla Padmaalatha's case has observed that filing of criminal case against the husband and her in-laws, which was held to be not proved by the criminal Court, and also filing a case of maintenance, which appears to have been granted, basically prove the strong desire of the wife to be disassociated with the husband and the matrimonial home as a whole and these two circumstances would indicate that she had no real intention to lead a happy marital life with the

husband.

15. Learned Counsel appearing for the respondent-wife submits that mere acquittal in a criminal case filed by respondent-wife against the appellant and her in-laws cannot be treated as an incident in favour of the appellant-husband entitling him to seek divorce on the ground of cruelty. He also submits that nature of proof required in a criminal case is on a higher degree than what is required in a civil case and therefore, acquittal of criminal case does not enure to the benefit of the appellant-husband to make it a ground for grant of divorce. In elaborating his arguments he submits that the criminal case filed by the respondent-wife ended in acquittal by granting benefit of doubt and therefore, acquittal of appellant-accused on a criminal charge for the offence under Section 498-A I.P.C. does not in any way weaken the pleadings of the respondent-wife in these proceedings. A further submission has been made by him that the statement of respondent-wife in the legal notice to the effect that the situation in the family of the appellant-husband drove her to commit suicide by pouring the kerosene does not in any way a factor which enures to the benefit of the appellant-accused to take the stand that his conjugal association with respondent-wife is dangerous and not in his interest. In support of his submissions, reliance has been placed on the decisions of this Court in Gajjala Rajeswara Reddy v. Gajjala Revathi , T. Yadagiri v. Smt. Bhagyawathi and Usha Rani v. N. Sridhar 2003 (2) An.W.R. 595.

In Gajjala Rajeswara Reddy's case (8 supra), a Division Bench of this Court held that filing of the petition under Section 498-A I.P.C., subsequent to the filing of divorce petition is of no consequences to grant divorce. In T. Yadagiri's case (9 supra), a Division Bench of this Court held that divorce cannot be granted even though the spouses are living separately with no possibility of living together in future. In Usha Rani's case (10 supra), a Division Bench of this Court following the judgment of Supreme Court in V. Bhagat v. D. Bhagat has observed that irretrievable break down of the marriage is not a ground for dissolution of the marriage by a decree of divorce as it is not made as one of the grounds even under Amended Act, 1976.

The appellant-husband pleaded three instances which, according to him, constitute cruelty, a ground for grant of divorce:

Firstly, accusing him of making false representation with regard to nature of his employment.

Secondly, accusation against him and his parents for the offence under Section 498-A I.P.C.

Thirdly, false statement against him and his parents with regard to dowry demand.

The appellant-husband filed O.P. for divorce under Section 13(1)(ia) on the ground of cruelty.

16. Under Section 13(1)(ia) of the Hindu Marriage Act, on a petition presented by the husband or wife, the marriage can be dissolved by decree of divorce on the ground that the other party has after solemnization of the marriage, treated the petitioner with cruelty. 'Cruelty' is not defined in the Act. Some of the provisions of Hindu Marriage Act were amended by the Hindu Marriage Laws Amendment Act, 1976. Prior to the amendment, cruelty was one of the grounds for judicial

separation. Cruelty has to cause a reasonable apprehension in the petitioner's mind that it will be harmful or injurious for the petitioner to live with the other spouse. By the Amendment Act, 1976 'Cruelty' has been made one of the grounds for divorce. Section 13(1)(ia) reads as follows:

Divorce: Any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party:

(i) has after the solemnization of a marriage, had voluntary sexual intercourse with any person other than his or her spouse; or (ia) has, after the solemnization of the marriage, treated the petitioner with cruelty; or"

17. The omission of the words, which described 'cruelty' in the unamended Section 10 of the Hindu Marriage Act, has some significance in the sense that it is not necessary to prove that the nature of the cruelty is such as to cause reasonable apprehension in the mind of the petitioner that it would be harmful for the petitioner to live with the other party. English Courts in some of the earlier decisions had attempted to define 'cruelty' as an act which involves conduct of such a nature as to have caused damage to life, limb or health or to give rise to reasonable apprehension of such danger. But, we do not think that such a degree of cruelty is required to be proved by the petitioner for obtaining a decree for divorce. Cruelty can be said to be an act committed with the intention to cause sufferings to the opposite party. The Court has to come to a conclusion whether the acts committed by the counter-petitioner amount to cruelty, and it is to be assessed having regard to the status of the parties in social life, their customs, traditions and other similar circumstances. Cruelty for the purpose 13 (1)(ia) is to be taken as a behaviour by one spouse towards the other, which causes reasonable apprehension in the mind of the latter that it is not safe for him or her to continue the matrimonial relationship with the other. Mental cruelty is a state of mind and feeling of one of the spouses due to the behaviour or behavrioural 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 will 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.

18. Merely because there are allegations and counter allegations a decree for divorce cannot follow, nor is mere delay in disposal of the divorce proceedings itself is a ground, there must be real and extra ordinary features warranting grant of divorce on the basis of pleadings. Irretrievable breakdown of marriage is not a ground while scrutinzing the evidence on record to determine whether the grounds alleged are made out in determining the relief to be granted.

19. Undisputedly the respondent-wife issued Ex.A-1 legal notice to the appellant-husband calling upon him to restore conjugal relationship. Thereupon the appellant husband issued Ex.A-2 reply

notice. The parties have been residing separately from November, 1990. The respondent-wife initiated proceedings before the X Metropolitan Magistrate Court seeking maintenance and also presented a report before the S.H.O. Malkajgiri P.S. on 22-7-1991. It can be said without any controversy that the respondent-wife has chosen recourse through process of Court. Initially, she filed M.C. No. 33 of 1991 claiming maintenance for herself. She also moved Crl. M.P. No. 2352 of 1991 seeking interim maintenance and an amount of Rs. 4007-came to be awarded by learned X Metropolitan Magistrate vide Ex.B-2 certified copy of the order dated 23-9-1991. Pending M.C. Proceedings, the respondent-wife gave birth to a child on 28-10-1991 and thereupon the respondent-wife filed petition seeking maintenance to the child also. It appears the appellant-husband resisted the application and questioned the pregnancy and birth of the child. The application filed by the respondent-wife came to be allowed granting maintenance to the child at the rate of Rs. 200/- per month.

20. The appellant-husband in his application seeking divorce stated as follows:

The petitioner submits that the ostensible changes with the attitude of the respondent leads to live in a separate house in October, 1990 and from there the respondent left the petitioner in November, 1990, the respondent's pregnancy is also in question. Thereby, the doubt of the child in absence of petitioner is still in vague. It further gives the mental cruelty to the petitioner.

21. The appellant-husband disputed the paternity of the child and asserted that conduct of the respondent-wife caused mental agony to him. The appellant-husband having made such statement in his application seeking divorce failed to adduce any evidence before the Trial Court to substantiate his plea. Therefore, we are of the view that the conduct of the appellant-husband in disputing the paternity of the child, definitely, goes against him and he cannot take advantage of his own conduct as a ground for divorce.

22. Much arguments have been advanced by the learned Counsel appearing for the appellant-husband that the acquittal of the appellant-husband and his parents in a criminal case on a full fledged trial is an incident which constitutes cruelty on the part of the respondent-wife who initiated criminal proceedings. We have gone through the judgment, which has been marked as Ex.B-6. The criminal case ended in acquittal on the ground that the prosecution failed to prove the case against the accused beyond all reasonable doubt. The acquittal of the case is not on the ground of no evidence. It is settled law that nature of evidence required in a criminal case is of different standard and the same standard and proof is not required in civil proceedings. Therefore, mere acquittal of the appellant-husband and his parents in criminal case cannot be treated as instance which goes in favour of the appellant-accused (sic. husband) to substantiate the plea of cruelty, on which a decree of divorce has been sought for.

23. It is nextly contended by the learned Counsel appearing for the appellant-husband that the respondent-wife is having adamant attitude towards appellant-husband and his parents and therefore, it is impossible for the appellant-husband to continue with her marital relationship. He took us to the statement made by the respondent-wife in the notice dated 17-6-1993 which has been marked as Ex.A-1. It is no doubt that respondent-wife stated in the notice of her resorting to commit

suicide. It is not proper to tear out a sentence and lay much emphasis on it. We have to read the notice in toto and note the circumstances under which such a statement came to be made by her. It is stated by her that harassment meted out in the hands of the appellant-husband and his parents became intolerable which drove her to attempt to commit suicide by pouring kerosene on self. The statement made by her in Ex.A-1 notice has to be taken in toto and riot in isolation. Therefore, we find no merit in the Contention of the learned Counsel for the appellant-husband that it is not safe to Continue marital relationship with the respondent-wife who is having a tendency to commit suicide.

24. Another incident on which much reliance has been placed by the appellant-husband assault on him by the maternal uncles of respondent-wife at the instance of one K. Narayana, who has been examined as R.W.2. One of her maternal uncles who has been examined as R.W.4 has denied of the incident. The appellant-husband except marking copy of the complaint said to have been sent to the Station House Officer, Malkajgiri, no evidence has been placed on record to prove the said incident. Ex.A-4 is the copy of the complaint which is stated to have been sent to the S.H.O. It does not contain any proof of his sending the complaint to the concerned police station either in person or by post. In the absence of any proof of presenting Ex.A-4 before the S.H.O. Malkajgiri, we are not inclined to accept the oral testimony of appellant-husband that such a complaint has been sent to the Station house Officer.

25. It is the contention of the learned Counsel appearing for the appellant-husband that the respondent-wife having imputed a false representation with regard to his employment failed to prove the same and therefore, making such false imputation amounts to cruelty. R.W.1 has stated that the appellant-husband left home on the premise of going on tour and when he did not return home, even after four days, she went to her in-laws house and enquired about him and came to know that he was going to office from his parents house and thereafter, her maternal uncle went to the office of her husband and then came to know of his occupation as Stenographer and his occupation does not need of his going on tours. It is explicit from the evidence of R. W. 1 that she came to know of the occupation of the appellant-husband on enquiry through her maternal uncle. Therefore, it cannot be said the conduct of the respondent-wife in asserting that she came to know of the nature of employment of appellant-husband through her maternal uncle does not amount to cruelty.

26. It is contended by the learned Counsel for the appellant-husband that the respondent-wife got published a news item in 'Udayam' Telugu newspaper imputing various false allegations against the appellant-husband and thereby defamed the status of him and his parents in the society. He refers the news item published in Udayam Telugu Paper. We have perused the publication which was exhibited as Ex.A-3 in the trial Court. The respondent wife was not the author of the news item published in 'Udayam' Telugu newspaper and therefore, she could not be made responsible for such publication. The appellant-husband tried to elicit in the cross-examination of R.W.1-wife that it was one K. Narayana who got the news item published. But the said suggestion was flatly denied by her. For better appreciation we may refer the relevant portion of the cross-examination of R.W.1 in her own words and it is thus:

During the month of February or March of 1991 I became pregnant. That was confirmed when I was admitted in the hospital i did not personally inform the same to P.W.1. My parents informed the same to P.W.1 and his parents that I gave birth to a female child on 28th October, 1991. After delivery I did not raise any Panchayat. I did not file any petition against P.W.1 for restitution of conjugal rights. It is true that I filed a maintenance case against P.W.1 and obtained order in my favour. The Criminal case and the M.C. were filed against P.W.I while I was carrying. Ex.A-3 publication is published at the instance of my uncle, and not at the instance of Dy. S.P. the then Special Magistrate. It is not true to suggest that the then Magistrate got published the matter under Ex.A-3. It is not true to suggest that the Criminal investigation was being done at the instance of the Special Magistrate.

27. The appellant-husband having gone to the extent of disputing the paternity of the child failed to substantiate the same during the trial. The conduct of the appellant-husband in disputing the paternity of the child amounts to cruelty on his part and it is a justifiable reason for the respondent-wife to refuse conjugal association with the appellant-husband.

28. In view of the above discussion, we found that the appellant-husband failed to make a ground for grant of divorce. The trial Court considered the material brought on record in right perspective and refused to dissolve the marriage. We do not see any valid ground to interfere with the order of the trial Court.

29. Accordingly, this appeal fails and the same is hereby dismissed confirming the order dated 19-10-1995 passed in O.P. No. 104 of 1992 on the file of the Principal Subordinate Judge, Ranga Reddy District at Saroornagar, Hyderabad. No order as to costs.