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Family Court grants divorce to Muslim couple

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CHENNAI Holding that divorce by mutual consent/Mubarraat is available to Muslims, a Family Court here has granted divorce to a Muslim couple "who cannot live together and carry out the wish of Allah in carrying out their matrimonial obligations."

In his order, P. Devadass, Principal Judge of Family Court here, said: "From the Holy Quranic verse and the teachings and doings of Prophet Muhammed, views

of Islamic scholars and judicial decisions, we learnt that 14 century years ago itself Islam put an end to a meaningless marriage, a marriage on mere paper or a mere fiction, by the mutual consent of the spouses."

The court, before taking up the divorce plea of the couple, sought to consider whether the Islamic jurisprudence had an analogous provision to dissolve failed marriages by mutual consent of the spouses, as provided for in other legislations. "The question is

whether such a provision, available to Hindus, Christians, Parsis and persons married under the Special Marriage Act 1954, is also available to Muslims?"

He said: "Allah, the Almighty, hates talaq in any form. But, when the spouses are not able to carry out the various injunctions and limits prescribed by Allah, the Almighty, with respect to marital obligations, then He permits separations," the Judge reasoned.

Tracing the first decree of

divorce granted in Islam, the Judge also discussed judicial precedents and views of Islamic scholars, before granting divorce to the couple who sought separation. Acceding to their plea, he said, "it is a clear case of irretrievable breakdown of nikah...They cannot carry out the wish of Allah in carrying out their matrimonial obligations. They (couple) have categorically stated that they wish not to live together and they wish to put an end to their marriage."