

**THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

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CIVIL MISCELLANEOUS APPEAL No.3892 OF 2004

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JUDGMENT: (Per Hon'ble Sri Justice R. Subhash Reddy)

This appeal, under Section 28 of the Hindu Marriage Act, 1955, is filed aggrieved by the order and decree, dated 03.02.2004, passed in O.P.No.69 of 2002 by the Family Court, Secunderabad, by which, the petition filed by the respondent – wife, under Section 13 (1) (ia) and (ib) of the Hindu Marriage Act, for dissolution of marriage and for grant of divorce on the grounds of cruelty and desertion, was allowed.

For the sake of convenience, the parties are hereinafter referred to as they are arrayed in the O.P..

The allegations made in the petition are as follows:

Petitioner and the respondent got married on 06.06.1994 as per Hindu Rites and Customs. Petitioner's mother has performed the marriage by spending more than Rs.1,50,000/- and paying cash of Rs.50,000/- towards dowry and Rs.50,000/- for purchase of household articles. After marriage, petitioner has joined the company of respondent at Lalaguda and out of their wedlock, a son was born to them. Immediately after marriage, petitioner

came to know that the respondent is a habitual drunkard, lost his temporary employment and is a notorious criminal caught by police many times on the allegation of theft, and in spite of her efforts, the respondent has not stopped his illegal activities. Further, the respondent used to beat her in a drunken state everyday and used to pick up quarrels and abuse her in unparliamentary language. A specific allegation was also made that the respondent has pulled her mangalsutra and demanded her to bring additional dowry, otherwise, he would see her end, and on 11.11.1998, he has sent her to her mother's house. Hence, the present petition was filed for grant of decree of divorce on the grounds of cruelty and desertion, and for permanent alimony at Rs.2,00,000/-.

Though the respondent has filed counter, he has not denied the allegations made in the petition with regard to cruelty and desertion and he has only stated that the petitioner is not entitled to any maintenance.

Before the trial Court, on behalf of the petitioner, PW.1 was examined and Exs.A1 to A4 were marked. On behalf of the respondent, RW.1 was examined, but no documents were marked.

In view of the uncontroverted allegations made against the respondent and having regard to the evidence on record, the Family Court has allowed the O.P. by

dissolving the marriage performed between the petitioner and the respondent and by directing the respondent to pay Rs.1,25,000/- towards permanent alimony to the petitioner. Aggrieved by the same, the present appeal is filed by the respondent – husband.

In this appeal, it is contended by the learned counsel for appellant – husband that though no cogent evidence was placed on record in proof of the allegations made by the petitioner, the Family Court has dissolved the marriage performed between the petitioner and the respondent.

From a perusal of the impugned order and the material on record, it is clear that specific allegations are made against the respondent with regard to cruelty i.e., he is a habitual drunkard, used to beat the petitioner in drunken state everyday and is a notorious criminal caught by police many times, and in spite of the efforts made by the petitioner, he has not stopped his illegal activities. It is also clear that except denying the grant of maintenance, the respondent has not controverted the allegations made by the petitioner against him with regard to cruelty and desertion in the counter. Hence, in view of the provision under Order VIII Rules 3 to 5 C.P.C., it is clear that such allegations are deemed to have been admitted by the respondent for the purpose of disposal of the petition. Further, from the evidence on record, it is clear that the

respondent used to beat the petitioner in drunken state every day, he pulled her mangalsutra and harassed her to bring additional dowry, otherwise he would see her end. Further, from a perusal of the contents of Ex.A1 addressed by the petitioner to the respondent, it is clear that the respondent has virtually admitted all the allegations made against him and assured the petitioner that he would mend his ways. In view of the admission made by the respondent in Ex.A1, it is true that the petitioner was harassed by the respondent as alleged above. Therefore, we are of the view that the petitioner has sufficiently proven the case on the ground of cruelty and the Family Court has rightly dissolved the marriage performed between the petitioner and the respondent.

For the aforesaid reasons, we do not find any merit in this appeal, so as to interfere with the impugned order passed by the Family Court granting divorce and permanent alimony at Rs.1,25,000/-.

Accordingly, the appeal is dismissed. Miscellaneous Petitions, if any, pending in this appeal shall stand closed. No costs.

R.SUBHASH

REDDY, J

RAO, J

February 11, 2015

MD

Dr. B. SIVA SANKARA