

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

F.C.A.No.123 of 2005

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

This appeal, under Section 19 of the Family Courts Act, 1984 is filed by the appellant-husband aggrieved by the order dated 29.11.2004 in O.P.No.175 of 2003 passed by the Family Court, Hyderabad, allowing the petition filed by the respondent-wife under Section 9 of the Hindu Marriage Act, 1955 seeking restitution of conjugal rights.

2. The respondent-wife filed the aforesaid petition against the appellant-husband stating that their marriage took place on 25.06.1997 at Hyderabad as per Hindu caste customs and rituals. It is the specific case of the respondent-wife that the appellant-husband started harassing her by developing illegal intimacy with one Ms. Rukmini. In view of the illegal intimacy with Ms. Rukmini, the appellant-husband withdrawn from her company without any reasonable excuse and started living with the said Ms. Rukmini. The appellant-husband contested the said petition by filing counter. The Court below, after considering the evidence and the material on record, through the impugned order dated 29.11.2004, allowed the said petition. Hence the present appeal.

3. Heard learned counsel for the appellant-husband and perused the impugned order and the material on

record.

4. The respondent-wife, in her deposition as P.W.1, has clearly deposed that the appellant-husband is staying with Ms. Rukmini and got two children, by name Siddha and Surya, through her. In spite of such specific allegation, there was no suggestion in contra during her cross-examination by the appellant-husband. Further, it is clear from Ex.P.1, certified copy of Passport, the name of Ms. Rukmini is shown as wife of the appellant. In view of the evidence on record, it is clear that though the marriage of the respondent with the appellant is intact, the appellant-husband has withdrawn from the company of the respondent-wife without any reasonable excuse and such a withdrawal is only on account of his illegal intimacy with Ms. Rukmini, which is also evident from Ex.P.1, copy of Passport. Therefore, in view of the reasoning assigned by the Court below in the impugned order, we do not find any merit in this appeal warranting interference by this Court.

5. Accordingly, this appeal is dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

REDDY

JUSTICE R. SUBHASH

RAO

Dr. JUSTICE B.SIVA SANKARA

29.01.2015.

Msr

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Msr