

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2016

C O R A M

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.12 of 2016
and C.M.P.No.45 of 2016

S.Nandakumar ...Appellant/Petitioner

Vs

R.Chandrakala ... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 (Central Act No.66 of 1984) against the order passed in I.A.No.124 of 2011 in O.P.No.1026 of 2012 dated 31.08.2015 on the file of I Additional Family Court, Chennai.

For appellant ... Mr.A.Kandasamy
For respondent ... M/S.R.T.Shyamala

JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR, J.)

This appeal has been filed by the Husband questioning the correctness of the order of the I Additional Family Court, Chennai, directing him to pay interim maintenance, totalling a sum of Rs.10,000/- per month to his wife and daughter.

2. The appellant and the respondent got married on 27.08.2004. The husband filed H.M.O.P.No.1026 of 2012 under Section 9 of Hindu Marriage Act, 1955 seeking to restore the conjugal rights with the respondent/wife. According to the appellant/husband, the respondent/wife left the matrimonial home frequently and stayed with her parents and used to assault him in filthy words.

3. In the said H.M.O.P.No.1026 of 2012, the wife has filed affidavit stating among other things that the appellant/husband did not like the female child and started beating her and hence, she stayed with her parents. She also filed I.A.No.124 of 2011 seeking direction to the appellant/husband to pay interim maintenance and also litigation expenses. In the said I.A., husband/appellant herein filed counter affidavit denying the

averments made by the wife/respondent and stated that he never had an occasion of ill-treating his wife and never sent her out from the matrimonial home. He also stated that he wants to live a happy life with his wife/respondent and for the said reason only, he filed H.M.O.P., seeking restitution of conjugal rights and not divorce.

4. After perusing the averments made on both sides, the First Additional Family Court, Chennai, allowed I.A.No.1415 of 2012, on the following terms:-

" 11. In the result, this petition is partly allowed by directing the respondent to pay a sum of Rs.6,000/- per month to the petitioner and Rs.4,000/- per month to her daughter Baby Joshitha totalling a sum of Rs.10,000/- per month towards their interim maintenance from the date of filing of this petition viz., 8.9.2011 till the disposal of the main petition. The interim maintenance amount should be paid on or before 5th of every English Calendar month. The respondent is directed to pay a sum of Rs.5,000/- to the petitioner towards litigation expenses. No costs."

5. As against the said order dated 31.08.2015, this C.M.A., has been filed by the appellant/husband. Be that as it may, now, by the goodwill of the counsel on record on both sides viz., Mr.A.Kandasamy and Ms.R.T.Shyamala, the parties have come to an amicable settlement solving the dispute by way of mediation and conciliation among themselves and with the help of their counsel. The terms of compromise have been reduced into writing in the memo of compromise dated 15.02.2016 and the same has been duly signed by the appellant and the respondent and their respective counsel, which reads as under:-

"1. The Marriage between them took place on 27.08.2004, in accordance with the Hindu rites and customs at Ram Nayak Kalyana Mandapam, T.H.Road, Washermenpet, Chennai-21. Out of Wedlock, a female child N.Joshitha was born on 03.07.2007.

2. Due to misunderstandings the respondent in the above appeal gave two false complaints on 28.03.2010 and 21.09.2010 before the All Women Police Station, Avadi, for which enquiry was held and she was advised to live happily but the respondent left the matrimonial home.

3. The appellant filed Petition u/s.9 of the Hindu Marriage Act filed in O.P.No.1026 of 2012, on the file of the I Addl.Family Court,

Chennai. Pending the above petition, the respondent filed I.A.No.124 of 2012 in O.P.No.1026 of 2012 seeking interim maintenance.

4. The Learned first Addl. Principal Judge, Family Court, Chennai, allowed the interim petition filed by the respondent/wife by directing the appellant/husband to pay some of Rs.6,000/- to the wife and Rs.4,000/- to the minor N.Joshitha from 08.09.2011.

5. Against the said order rendered by the learned First Addl.Principal Judge, Family Court, Chennai, the appellant filed the above appeal.

6. Now that the appellant and the respondent have shed all their egos and differences of opinion have decided to live together and would like to withdraw the above appeal filed by the appellant herein. Both parties and their respective counsel have signed the memo of compromise entered into between them.

It is therefore prayed that the above Hon'ble Court may be pleased to record the memo of compromise and the above appeal may be disposed of in the light of the above compromise memo.
Dated at Chennai on this 15th day of February 2016. "

6. The compromise memo is recorded and it shall form part and parcel of the order in the above C.M.A. This Civil Miscellaneous Appeal is disposed of in terms of the memo of compromise. No costs. Consequently, connected CMP is closed.

*The Xerox Copy of Memo of Compromise enclosed herein.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Presiding Officer,
The First Additional Family Court,
Chennai.

+lcc to M/S.M.Srividhya, Advocate Sr.9580

C.M.A.No.12 of 2016

ug[col]
srg 24/03/2016



WEB COPY