

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

TR.CMP.No.762 of 2015

and

M.P.No.1 of 2015

Abirami Nachammai

.. Petitioner

vs

Karthik @ Nagappan Natarajan

.. Respondent

Prayer: Petition filed under Section 24 of CPC to withdraw and transfer HMOP No.3271 of 2015 pending on the file of the learned Principal Judge, Family Court, Chennai and to transfer the same to the file of the learned Subordinate Judge, Devakottai.

For Petitioner : Mr.R.Thirumalai

For Respondent : M/s.A.Sujatha

ORDER

The above petition has been filed to withdraw the Petition in HMOP No.3271 of 2015 pending on the file of the learned Principal Judge, Family Court, Chennai and to transfer the same to the learned Subordinate Judge's Court, Devakottai.

2. This petition was referred for mediation to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, by the order of this Court, dated 28.10.2015.

3. A communication, dated 05.01.2016 of the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, enclosing a copy of its Mediation Report, dated 14.12.2015, has been received, and in the said Mediation Report, it is stated as follows:-

" Both the parties and their counsels present. The parties have settled the matter amicably as per the terms cited in the Mediation Agreement which is enclosed herewith. Hence the matter is placed before the Hon'ble Court."

4. As the parties have arrived at a settlement in terms of the Mediation Agreement dated 14.12.2015, this petition is listed today for passing orders in terms of the said Mediation Agreement.

<https://hcservices.ecourts.gov.in/hcservices/>

5. The Mediation Agreement, dated 08.12.2014 signed by the parties and their respective counsel, reads as follows:-

"Both sides, out of their own volition and without any pressure or coercion from any side have agreed as follows:

1. That the Petitioner and the respondent got married on 12/06/2013 and the marriage was solemnized at No.123, Amman Sannithi, Karaikudi in accordance with the Hindu rites and customs. The Petitioner and the respondent are Hindus and are governed by Hindu Marriage Act.

2. That the petitioner lodged a complaint with the District Protection Officer, Ponnammallee and the complaint was then transferred to Dindigul where it was made as CrI.M.P.4750/2014 on the files of Judicial Magistrate 2, Dindigul and in this Cr.M.P. the respondent herein was directed to pay a monthly maintenance of Rs.6000/- (Rupees Six Thousand only) to this Petitioner from the Month of April, 2015.

3. That this Petitioner filed a private complaint against the respondent on the files of Judicial Magistrate 2, Dindigul under Sec.200 & 190 (a) of Cr.P.C. which came to be numbered as Cr.M.P.No.5631 of 2014 for the offences under sections 498 A, 406 and 506 (i) of I.P.C and Sec.4 of Dowry Prohibition Act, 1961. This proceeding is in summons stage.

4. That this Petitioner filed an Original Petition in H.M.O.P.No.69 of 2015 against the respondent on the court of Sub-Judge at Devakottai under Section 13 (1)(1A) of the Hindu Marriage Act, 1955 praying for a Decree of Divorce for the dissolution of the marriage solemnised on 12/06/2013 and this petition is pending.

5. That the Respondent filed an Original Petition in H.M.O.P.No.3271 of 2015 against the petitioner on the files of Principal Family Court, Chennai under Section 9 of Hindu Marriages Act, 1955 for restitution of conjugal rights and this petition is pending and the proceedings were stayed by the Order of this Hon'ble Court on 28/10/2015 made in M.P.No.1 of 2015 filed in the above Tr.CMP No.762 of 2015 filed by the petitioner before the High Court.

6. That owing to the incompatibility of temperaments between the Petitioner and Respondent they could not get on well in matrimonial life. They have also not been able to live together.

7. That the Petitioner and the Respondent have been living separately for more than one year and the marriage between them has irretrievably broken down.

8. That there are no children born out of the marriage between the Petitioner and the Respondent.

9. That the Petitioner and the Respondent have now realized and understood that no useful purpose would be served in continuing the litigations and wanted to sort out difference in getting themselves separated. Further now, on the directions of the Hon'ble High Court of Madras passed on 28.10.2015 in Tr.CMP.No.762/2015, the Petitioner and the Respondent have agreed to compromise the matter and reached out a settlement on the following terms.

a. That both the Petitioner and the Respondent hereby voluntarily and out of free will, consent and volition, without any threat or coercion or undue influence mutually agree and consent with each other for dissolution of their marriage taken place on 12/06/2013 solemnized at No.123, Amman Sannithi, Karaikudi by Decree of Divorce.

b. That the Petitioner waives and relieves the Respondent from paying permanent alimony and as such both the petitioner and the Respondent do not make any further claim, right, maintenance/permanent alimony as against each other.

c. That the Petitioner hereunto agrees to withdraw the proceedings in CrI.M.P.No.4750/2014 before 2nd Judicial Magistrate, Dingigul and the other proceedings in CrI.M.P.No.5631 of 2014 before 2nd Judicial Magistrate, Dindigul.

d. That the Respondent hereunto agrees to withdraw the proceedings in H.M.O.P.No.3271/2015 on the files of the Principal Family Judge at Chennai.

e. That both the Petitioner and the Respondent agree and state that they do not have any Claim/s of whatsoever in any nature either past, present or future as against each other.

f. That the Petitioner and the Respondent hereby agree and undertake that they will not interfere/disturb with the lives of each other in future in any manner.

g. That the Petitioner hereby agree that she has taken away all the ornaments and her belongings from the Respondent and the Petitioner will not make any further claim in this regard.

h. That considering the hardship and present inability to come down to Chennai, both Petitioner and Respondent hereunto agree to have a video-conferencing

for evidencing this joint memo of compromise and to further ascertain and confirm their free will, consent and satisfaction on the terms and to facilitate the procedure to get the marriage solemnized on 12/06/2013 at Karaikudi dissolved by a Decree of Divorce.

Therefore, the Petitioner and the Respondent respectfully pray to this Hon'ble High Court may be pleased to dispose of the above Tr.C.M.P. as under:

- (i) Allow the Mediation Agreement entered between the Petitioner and the Respondent and
- (ii) Grant Decree of Divorce in H.M.O.P.No.69 of 2015 on the file of Court of Sub-Judge at Devakottai for the dissolution of the marriage between the Petitioner and the Respondent taken place on 12/06/2013 and solemnized at No.123, Amman Sannithi, Karaikudi in terms of this Compromise memo in the interest of justice and equity.

6. When the matter is taken up today for hearing, the petitioner-Abirami Nachammai is present in Court along with her father and the respondent is represented by his Power of Attorney Agent, viz., his father - Mr.Natarajan.

7. As per the compromise entered into between the parties as stated above, the petitioner has now come forward with a petition seeking direction for the facilitation of video conferencing involving the petitioner and the respondent for dissolution of their marriage. Since at present the respondent is residing at Brisbane in Australia and that he cannot come here to appear before the Court for granting the decree of divorce, the above petition has been filed.

8. Heard both sides.

9. Since the Sub Court, Devakottai where the petitioner has filed H.M.O.P.No.69 of 2015 seeking decree of divorce may not have the facility, for video conferencing seeking concurrence of the respondent for granting the same as per the agreement entered into between the parties, both parties agree that the said HMOP pending before the Sub Court, Devakottai be transferred to the file of the learned Principal Judge, Family Court, Chennai where the respondent has filed a petition in H.M.O.P.No.3271 of 2015 seeking conjugal rights, along with the records.

10. In view of the above submission, the compromise entered into between the parties before the Mediation Centre is recorded. As agreed by both parties, the HMOP No.69 of 2015 filed by the petitioner/wife pending on the file of the Sub Court, Devakottai shall be transferred to the file of the learned Principal Judge, Family Court, Chennai and tagged along with HMOP No.3271 of 2015 filed by the respondent/husband. It is further directed that the learned Principal Judge, Family Court, Chennai shall fix a date for having a video conferencing with the husband, who is residing in Brisbane at Australia for getting his

concurrence as per the mediation agreement and pass suitable orders. The direction petition filed by the petitioner is permitted to the limited extent as stated above.

11. Registry is directed to communicate this order to both the Courts immediately and on receipt of the bundles from the other Court, the learned Principal Judge, Family Court, Chennai is directed to fix a date for video conferencing within a period of two weeks from the date of receipt of the bundles and accordingly pass orders.

12. In terms of the settlement arrived at between the parties, which is recorded under the Mediation Agreement, dated 14.12.2015 in terms of the Mediation Report, dated 14.12.2015 before the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, this petition is disposed of, recording the terms of the Mediation Agreement, dated 14.12.2015. The terms of the Mediation Agreement and the Mediation Report, dated 14.12.2015 of the Mediation Centre shall form part of this order. Consequently, the connected miscellaneous petition is closed.

13. Both parties, in view of the settlement arrived at between the parties and for the benevolent task taken up by the Mediation Centre, in settling the matter had volunteered to pay a sum of Rs.10,000/- [Rupees ten thousand only] each to the Mediation Centre, High Court, Madras and the same shall be paid by them within a period of two weeks from the date of receipt of a copy of this order.

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Sd/-
Assistant Registrar (CS II)
/TRUE COPY/
Sub-Assistant Registrar

To

1. The Principal Judge,
Family Court,
Chennai

2. The Subordinate Judge,
Devakottai.

+3CC to MR.R.THIKRUMALAI, Advocate SR.NO.1667

TR CMP.No.762 of 2015

SVI [CO]

MK : 05/02/2016