

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2016

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Cr1.O.P.Nos.26096 of 2015 and 25935 of 2016
and M.P.No.1 of 2015 in Cr1.O.P.No.26096 of 2015

Cr1.O.P.No.26096 of 2015:

1.Raghavan Warriier
2.Sathi Narayanan
3.Savitha Warriier ... Petitioners /Respondents 2,3&4

Vs

Archana Mulayath ... Respondent/Complainant

Cr1.O.P.No.25935 of 2016:

Chaitanya Warriier ... Petitioner /Respondent

Vs

Archana Mulayath ... Respondent /Complainant

Criminal Original Petitions filed under Section 482
Cr.P.C. to call for the records and quash the proceedings in
M.C.No.40 of 2015 on the file of learned XXIII Metropolitan
Magistrate, Saidapet, Chennai.

For Petitioners: Mr.M.Rajan,
in both the petitions.

For respondent : Mr.T.K.S.Gandhi,
in both the petitions.

COMMON ORDER

The present criminal original petitions have been filed
to call for the records and quash the proceedings in M.C.No.40
of 2015 on the file of learned XXIII Metropolitan Magistrate,
Saidapet, Chennai.

2. Earlier, at the request of both the parties, both the petitions were referred to mediation centre and in the mediation centre, both the parties have entered into a memorandum of compromise on 5.10.2016. The terms of the said Memorandum of Compromise reads as follows:-

" 1. Both parties have entered into a Memorandum of Compromise on 05.10.2016.

2. Affidavit in support has been filed by the respondent confirming the Memorandum of Compromise and for quashing the proceedings pending on the file of XXIII Metropolitan Magistrate Court, at Saidapet in M.C.No.40/2015.

3. Petition under Section 13-B of Hindu Marriage Act has been filed in O.P.No.3889/2016 in the Court of Hon'ble Principal Judge, Family Court, Chennai for dissolving the marriage between the petitioner and respondent solemnized at Paremekkavu Temple, Thrissur, Kerala, which was registered before the Office of the Local Registrar of Thrissur Corporation, Thirussur under Registration/Folio No.677/2013/Certificate No.8587/2013 dated 27.03.2013 by a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act.

4. The respondent has confirmed that the petitioner shall pay Rs.10,00,000/- (Rupees Ten Lakhs only) towards permanent alimony to the respondent and the respondent shall not claim any other alimony or maintenance or compensation or any other relief from the petitioner either now or in future even in changed circumstances. A Demand Draft duly crossed for Rs.5,00,000/- (Rupees Five Lakhs only) bearing No.738150 dated 03.10.2016 drawn on Federal Bank in favour of respondent was handed over to the respondent on 05.10.2016 and the balance amount of Rs.5,00,000/- (Rupees Five Lakhs only) shall be paid upon obtaining final date of decree of divorce by mutual consent.

5. The respondent has no objection to the proceedings being quashed against the petitioner and against the in-laws namely petitioner's father Sri.Raghavan Warriar, his aunt Mrs.Sathi Narayanan and his sister Mrs.Savitha Warriar in M.C.No.40 of 2015 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai."

Today, when the matter was taken up for consideration, the learned counsel on either side submitted that the parties have amicably settled the matter before the Mediation Centre and a memorandum of compromise was also filed to that effect before this Court. The terms of the said memorandum of compromise are as follows:-

MEMORANDUM OF COMPROMISE

"1. The party of the First Part and the party of the Second Part herein have agreed to resolve their disputes and seek for a decree of divorce by mutual consent of their marriage under Section 13-B of the Hindu Marriage Act.

2. The party of the SECOND PART shall pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) towards permanent alimony to the party of the First Part.

3. The party of the SECOND PART shall initially pay 50% of the permanent alimony i.e. Rs.5,00,000/- (Rupees Five Lakhs only) by crossed Account Payee Demand Draft drawn on The Federal Bank Ltd., Tripunithura Branch, bearing No.738150 dated 03.10.2016 in favour of Mrs.Archana Mulayath, payable at Chennai the party of the First Part herein at the time of filing petitions, both for grant of divorce by mutual consent under Section 13-B of the Hindu Marriage Act before the Family Court, Chennai and Memorandum of Compromise before this Hon'ble Court for quashing the proceedings in M.C.No.40 of 2015 on the file of XXIII Metropolitan Magistrate Court, Saidapet, Chennai and an affidavit by the party of the First part before the Hon'ble Madras High court confirming that the party of the First part has no objection to the proceedings being quashed against the party of the Second part as well as in M.C.No.40 of 2015 pending on the file of XXIII Metropolitan Magistrate Court, Saidapet, Chennai, by the Hon'ble Madras High Court. The party of the Second part undertakes to pay the balance amount of Rs.5,00,000/- (Rupees Five Lakhs only) at the time of grant of divorce by the Family Court, Chennai.

4. The party of the First part in consideration of the above agreement shall consent/s for decree of divorce by mutual consent to be filed before the Family Court, Chennai.

5. The party of the First Part and the party of the Second Part hereby declare that they will not prefer any civil/criminal cases against each other in future.

6. The aforesaid amount of Rs.10,00,000/- (Rupees Ten Lakhs only) is the full and final settlement towards permanent alimony and the party of the First Part shall not claim any other alimony or maintenance or compensation or any other relief from the party of the Second Part either now or in future even in changed circumstances.

7. The party of the First Part shall withdraw the complaint M.C.No.40 of 2015 pending on the file of XXIII Metropolitan Magistrate Court, Saidapet, Chennai, and any other complaints, cases/disputes filed by her against the (1)PARTY OF THE SECOND PART (2)his father Sri Raghavan Warriar (3)his aunt Mrs.Sathi Narayanan and (4)his sister Mrs.Savita Warriar as SETTLED AND NOT PRESSED. The party of the Second Part shall withdraw all complaints, if any against the PARTY OF THE FIRST PART as not pressed.

8. The parties hereto hereby declare that they have received back all their respective articles from each other and that there is no further claim by either of them against the other.

9. The Parties of the First Part and the Second Part hereby declare that on dissolution of their marriage by grant of divorce by mutual consent by the Hon'ble Family Court, they are entitled to lead their lives independently in future. The parties undertake that they shall not interfere with the life and affairs of the other party in any manner after grant of divorce decree.

10. The parties hereby declare and confirm that they have obtained independent legal advice and are executing this deed out of their own free will and without any threat or coercion."

Thus, the learned counsel for the respective parties pleaded that the said compromise may be recorded and both the cases may be closed.

3. Therefore, recording the said memorandum of compromise, the proceedings in M.C.No.40 of 2015 pending on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai, are quashed and both the criminal original petitions are disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The XXIII Metropolitan Magistrate,
Saidapet, Chennai.

2.-Do- Thro The Chief Metropolitan Magistrate,
Egmore, Chennai.

+2cc to Mr.M.Rajan, Advocate Sr.74377

Crl.O.P.Nos.26096 of 2015 and
25935 of 2016

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srg 06/01/2017

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