

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI**

**F.C.A.M.P.No.281 OF 2016
IN/AND
F.C.A.No.241 OF 2012**

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COMMON JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

F.C.A.No.241 of 2012 was filed by the wife aggrieved by the order and decree of divorce granted by the Family Court, Secunderabad, in F.C.O.P.No.191 of 2011 at the behest of respondent/husband.

By order dated 21.08.2012, this Court restrained the respondent/husband from remarrying during the pendency of the appeal.

While so, F.C.A.M.P.No.281 of 2016 was filed by the appellant/wife along with a Memo of Compromise, signed by both the parties and their learned counsel, stating that the matter has been settled upon the intervention of elders, friends and well-wishers and that the parties hereto, the appellant/wife and the respondent/husband, have decided to annul their marriage by way of a decree of divorce based on mutual consent. It is further stated in the Memo of Compromise that a memorandum of understanding dated 02.09.2014 was made and arrived at and the relevant clauses thereof have been incorporated in paras 1 to 9 of the Memo of Compromise. A prayer is made by both the parties to record the compromise and grant a decree of divorce by mutual consent duly incorporating the terms of the compromise.

The parties produced their photo identify proofs and were duly identified by the learned counsel. They also expressed their consent to the compromise as reflected in the material placed before us when asked by this Court. As the parties already went before the Family Court, Secunderabad, and a decree of divorce by mutual consent is being substituted in the place of the decree of divorce granted by the Family Court, Secunderabad, we find no reason to insist upon the mandatory six months waiting period, which is a condition precedent to grant a decree of divorce by mutual consent.

It is stated that no appeal has been preferred against the common order passed by the Family Court, Secunderabad, insofar as it pertains to M.C.No.40 of 2011. However, in the light of the arrangement and compromise arrived at by and between the parties, the appellant/wife stated in the open Court that she would not be seeking execution of the said common order insofar as it pertains to M.C.No.40 of 2011 and that all her claims stand duly settled in terms of the conditions now being incorporated in the decree as per the Memo of Compromise.

As the parties have arrived at an understanding and have settled their differences, the appeal does not require adjudication on merits.

The appeal is accordingly allowed setting aside the common order dated 27.6.2012 insofar as it pertains to F.C.O.P.No.191 of 2011 and the decree passed thereon by the Family Court, Secunderabad, and substituting the same with a decree of divorce by mutual consent. The terms and conditions mentioned in paras 1 to 9 of the Memo of Compromise shall be read as part and parcel of this judgment and shall be incorporated in the decree of divorce by mutual consent.

F.C.A.M.P.No.281 of 2016 is accordingly ordered.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

SANJAY KUMAR, J

M. SEETHARAMA MURTI, J

Date:28.07.2016

GJ