

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI
F.C.A.M.P.No.402 OF 2016 IN F.C.A.NO.313 OF 2013
AND
F.C.A.NO.313 OF 2013**

C O M M O N O R D E R
(Per Sri Justice Sanjay Kumar)

This appeal was filed by the husband, aggrieved by the dismissal of his O.P.No.368 of 2007 on the file of the Judge, Family Court-cum-IV Additional District and Sessions Judge, Vijayawada, filed under Section 13(1)(ia) of the Hindu Marriage Act, 1955, for dissolution of his marriage with the respondent/wife by way of a divorce decree. The said O.P. was dismissed by the order dated 29.08.2012.

The appeal was admitted by this Court on 12.03.2014.

While so, the appellant/husband filed F.C.A.M.P.No.402 of 2016 in this appeal stating that the appeal may be referred to the Lok Adalat, Vijayawada, Krishna District, to record the compromise between the parties in terms of the Memo of Compromise dated 23.09.2016. The said Memo of Compromise is placed before us and reflects that it was signed by both the parties and their learned counsel. In terms of the affidavit filed in this miscellaneous petition and the said Memo of Compromise, it appears that the parties to the appeal settled their disputes amicably and reduced the terms and conditions thereof to writing in the said Memo of Compromise dated 23.09.2016. As per the said terms of compromise, the parties resolved that there was no hope of reunion and resumption of marital ties as they have been living separately for more than nine years. As regards the conditions of settlement, the Memo records that the

appellant/husband would pay a sum of Rs.1,50,000/- to the respondent/wife and the minor daughter towards past, present and future maintenance and also permanent alimony. Out of this amount, a sum of Rs.1,30,000/- was already paid by the appellant/husband and the same is duly acknowledged in the Memo. The balance amount of Rs.20,000/- was to be paid at the time of the divorce being granted. The Memo also records that the respondent/wife would not claim any maintenance in future for herself or her minor daughter and that she would take steps in the pending legal proceedings, both civil and criminal, for withdrawal thereof.

The matter was moved by way of a Lunch Motion and both the parties are present in person before the Court. They produced photo identity proofs and were also identified by their respective counsel. Both the parties stated before the Court that they were agreeable to the compromise as embodied in the Memo and would like to dissolve their marriage by way of a mutual consent divorce decree.

Sri Sai Gangadhar Chamorthy, learned counsel for the respondent/wife, further stated that a sum of Rs.20,000/-, which remained payable in terms of the Memo of Compromise, was also paid in cash to the respondent/wife.

It is stated that the custody of the minor daughter would remain with the respondent/wife and that the appellant/husband is not interested in having any visitation rights.

In the light of the aforesaid developments and as parties to the appeal have amicably decided to compromise the matter, we see no purpose served in keeping this appeal pending for

adjudication on merits. Further, as the matter is presently pending before us, we see no necessity to again send the parties to the Lok Adalat for recording a compromise. The same may as well be effected in this appeal. As it is stated that the marital relations have broken down irrevocably and the parties have been living separately for more than nine years, we find that it is a fit case to dispense with the statutory waiting period of six months to grant a decree of divorce by mutual consent.

The appeal is accordingly allowed setting aside the order dated 28.09.2012 passed in O.P.No.368 of 2007 on the file of the Judge, Family Court-cum-IV Additional District and Sessions Judge, Vijayawada, and granting a decree of divorce by mutual consent. The terms and conditions of the Memo of Compromise dated 23.09.2016 shall form part of this decree and shall be binding on the parties hitherto. However, the minor daughter of the parties would not be bound by the settlement effected by her mother as against the father and her rights in law shall remain unaffected.

F.C.A.M.P.No.402 of 2016 is ordered accordingly.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

M.SEETHARAMA MURTI,J

28TH SEPTEMBER, 2016

PGS