

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

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**F.C.A.MP.No.314 of 2016 in F.C.A.No.177 of 2012, F.C.A.No.177
of 2012 and F.C.A.No.173 of 2012**

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COMMON ORDER: (Per Hon'ble Sri Justice Sanjay
Kumar)

These two appeals under Section 19 of the Family Courts Act, 1984 were filed by the husband aggrieved by the common order dated 17.02.2012 passed by the Family Court, Secunderabad, in F.C.O.P.No.408 of 2010 and F.C.O.P.No.472 of 2010. F.C.O.P.No.408 of 2010 was filed by the appellant/husband seeking dissolution of his marriage with the respondent/wife under Sections 12(1)(c) and 13(1)(ia) and (iii) of the Hindu Marriage Act, 1955. F.C.O.P.No.472 of 2010 was filed by the respondent/wife under Sections 9 and 26 of the Hindu Marriage Act seeking restitution of conjugal rights and for custody of the minor daughter.

By the order under appeal, the Family Court dismissed F.C.O.P.No.408 of 2010 and allowed F.C.O.P.No.472 of 2010 directing the appellant/husband to take back the wife to the matrimonial home and also granted visitation rights to the respondent/wife.

By interim order dated 24.04.2012 passed in F.C.A.No.173 of 2012, this Court granted stay of the judgment and decree under appeal.

While so, the appellant/husband filed F.C.A.M.P.No.314 of 2016 in F.C.A.No.177 of 2012 stating that the parties had settled the matter out of Court and entered into a memorandum of compromise. The petition is supported by the affidavit of the

appellant/husband stating that the parties had settled the dispute amicably and embodied the terms and conditions of the compromise in the memorandum which was signed by them and their learned counsel and praying that an order may be passed recording the said compromise and to dissolve the marriage of the parties.

Perusal of the memorandum of compromise dated 10.08.2016 reflects the following terms and conditions:

- i. Both the parties have decided and have come to the conclusion that their marriage has broken down irretrievably, that there is no possibility of re-union between them and that the same shall be dissolved by a decree of divorce.
- ii. The parties are blessed with a daughter on 09-01-2001 who is named as Miss Deepali Kola. It is agreed between the parties that the custody of the daughter shall continue to remain with the appellant. The respondent undertakes not to file any case for custody of the child and shall not interfere in the lives of each other.
- iii. The appellant has paid to the respondent a sum of Rs.5,00,000/- (rupees five lakhs only) through manager's cheque No.029959, dated 09-08-2016, drawn on M/s.HDFC Bank, West Marredpally branch, Secunderabad, receipt of which the respondent hereby admits and acknowledges, towards full and final settlement of all her claims of alimony and maintenance including the past, present and future maintenance.
- iv. The respondent shall not be entitled to file any case or make any claim against the appellant or the daughter under any circumstances.
- v. The parties have already taken their respective personal belongings from each other and there is no dispute in that regard and both of them declare that they shall not have any claim of whatsoever nature against each other in future.
- vi. The parties have come to the present arrangement and understanding without any force from anybody and with their free will and consent.

The parties are present in person before this Court

and produced their photo identity proof. Learned counsel appearing for the parties also identified their respective clients.

When asked by the Court, both the parties signified their consent to the passing of a decree of divorce in terms of the compromise arrived at between them. We also had occasion to speak to the minor daughter of the parties, Deepali Kola, who will remain in the custody of her father. The respondent/wife however stated that as the minor daughter would be at Mumbai where she is pursuing her schooling, it would be necessary to keep the respondent/wife informed as and when there is any change in the telephone/cell phone number of the minor daughter. The respondent/wife would further state that she may be given liberty to speak to her minor daughter whenever she desires. The appellant/husband states that he has no objection to both these conditions which have not been mentioned in the memorandum of compromise.

The demand draft for Rs.5,00,000/- (Rupees Five Lakhs only) is handed over to the respondent/wife by the appellant/husband in Court and its receipt is duly acknowledged by the respondent/wife and her learned counsel.

In the light of the afore-stated circumstances, we are of the opinion that there is no purpose served in keeping these appeals pending and adjudicating them on merits. As the parties have already come to the conclusion that their marriage requires to be dissolved, we pass a decree of divorce on the mutual consent of both the parties. However, given the peculiar circumstances of the case, we dispense with the mandatory waiting period of six months. The terms and conditions of the compromise as set out supra shall form part of the decree of divorce and shall be binding on the parties.

The appeals are disposed of accordingly.
F.C.A.M.P.No.314 of 2016 is ordered. No order as to
costs.

SANJAY KUMAR, J

M. SEETHARAMA MURTI, J

11.08.2016
Vjl