

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE M.S.RAMESH

C.M.A.No.1323 of 2016
and
C.M.P.No.10307 of 2016

Kavitha Appellant/1st Respondent

Vs.

1.Panneerselvam1st Respondent/Petitioner
2.Ilango2nd Respondents/
2nd Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 19 of the Family Courts Act, 1984 against the decreetal order and fair order dated 29.04.2016 passed by the Family Court at Puducherry in M.O.P.No.222 of 2011, insofar as it relates to granting a decree and divorce in favour of the 1st respondent and against the appellant on the ground of cruelty.

For Appellant : Mrs.P.V.Rajeswari

For Respondent : Mrs.S.Karpagavarthini (For R1)

(R2- dispensed with vide order dated 16.08.2016)

* * * * *

JUDGMENT

(Justice R.Subbiah)

The appellant herein is the wife and the 1st respondent herein is the husband. The 1st respondent/husband filed M.O.P.No.222 of 2011 before the Family at Puducherry, for dissolution of marriage solemnized with the appellant/wife on 26.05.2010 at Kanniakoil, Pondicherry, on the ground of cruelty and adultery. On completion of trial, by order dated 29.04.2016, though the Trial Court rejected the case projected by the 1st respondent/husband on the ground of adultery under

Section 13(1)(i) of Hindu Marriage Act, the Trial Court has granted divorce on the ground of cruelty under Section 13(1)(ia) of Hindu Marriage Act. Aggrieved over the same, the present appeal has been filed by the appellant/wife.

2.Today, when the matter is taken up for consideration, it is represented by both the learned counsel appearing for the parties that the matter has been amicably settled between the parties; that the 1st respondent/husband withdrew all his allegations and accusations made against the appellant/wife in M.O.P.No.222 of 2011 as well as in the criminal complaint dated 22.06.2010 in Crime No.667 of 2010 on the file of the B9, Saravanampatti Police Station, Coimbatore District. In this regard, a Joint Memo of Compromise, dated 21.06.2017, signed by both the parties is filed before this Court. The terms of the Joint Memo of Compromise read as follows_

(i)that the party of the first part (1st respondent/husband) hereby withdraws all his allegations of cruelty and adultery etc., made against party of the 2nd part (appellant/wife) in M.O.P.No.222 of 2011 and all the allegations and accusations made in his complaint before the Saravanampatti Police Station on 22.06.2010 and agree to file a memo to that effect in the present appeal and also seek a mere declaration of nullity of the said marriage between the parties of the 1st and 2nd part, based on the present mutual settlement of all the issues between the parties.

(ii)the part of the 2nd part (appellant/wife) shall file a Memo in the appeal before this Court, giving her no objection and consent for grant of a decree of nullity of marriage solemnized on 26.05.2010 between the parties of the 1st and 2nd part.

(iii)further, the party of the 1st part (1st respondent/husband) has returned all the house hold articles and utensils viz., a wooden bureau, a wooden cot, fridge, washing machine and a mixie and other brass & stainless steel silver utensils to the party of the 2nd part (appellant/wife) and the party of the 2nd part accepted and acknowledged the receipt of the same.

(iv)whereas both the parties to the agreement have already exchanged their belongings and there shall be no further claim or accusations from each of the parties to this Memorandum of Understanding against the other party, on any account whatsoever including for

further maintenance, return of articles, right of property, at present, as well as in future.

(v) the party of the 1st part agrees not to proceed further with the criminal prosecution initiated against the party of the 2nd part which was chargesheeted and proceeded as C.C.No.1126 of 2010 on the file of the Judicial Magistrate No.II, Coimbatore, which stands subsequently withdrawn by the prosecution and closed on 12.11.2016.

(vi) that the party of the 1st part and the party of the 2nd part shall co-operate with each other until the terms agreed under this Joint Memo of Compromise are carried out in letter and spirit.

(vii) that there is no threat, coercion, undue influence or third party influence in entering into this joint memo of compromise.

(viii) that this joint memo of compromise is executed in the presence of witnesses and before the advocate for the respective parties."

3. In view of the Joint Memorandum of Compromise entered into between the parties, the Civil Miscellaneous Appeal is disposed of, by confirming the decree of divorce granted by the Family Court at Puducherry in M.O.P.No.222 of 2011 vide order dated 29.04.2016. Consequently, connected Miscellaneous Petition is closed. The Joint Memo of Compromise shall form part of the order. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssv

To,

1.The Family Court,Judge
Puducherry.

2.The Section Officer
VR Section
High Court Madras

+3 ccs to M/s.S.Karpagavarthini & Radha Advocate sr 43820

C.M.A.No.1323 of 2016

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