



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)Nos.272 & 273 of 2016
and
CMP(MD)No.3801 of 2016

Jehova Immanuvel Roche ... Appellant in both CMAs

Vs.

Jose Infant Puvani ... Respondent in both CMAs

Common Prayer: Civil Miscellaneous Appeals are filed under Section 55 of the Indian Divorce Act, 1869 to set aside the decree and judgment dated 15.12.2015 passed in D.O.P.Nos.247 of 2013 and 251 of 2014 on the file of the 4th Additional District Court, Tirunelveli.

For Appellant : Mr.M.Senthil Kumar

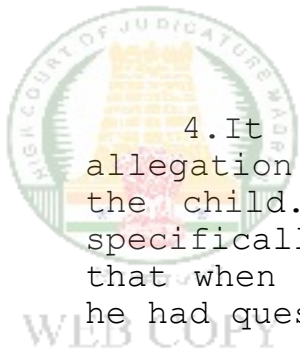
For Respondent : Mr.D.Nallathambi

COMMON JUDGMENT

The appellant is the husband. The respondent is the wife. They got married on 09.10.2010 as per Christian rites and customs at Valliyoor. A male child Roche was born. The appellant is employed at Singapore. The respondent also lived at Singapore for a while. Thereafter, the respondent returned to India. The husband filed IDOP.No.247 of 2013 seeking restitution of conjugal rights. The respondent wife filed IDOP.No.251 of 2014 seeking dissolution of marriage. Both petitions were tried together. The appellant examined himself as RW.1. The respondent herein examined herself as PW.1. The learned Trial Judge dismissed IDOP.No.247 of 2013 and allowed IDOP.No.251 of 2014. Aggrieved by the same, these appeals have been filed.

2.Heard the learned counsel on either side.

3.It is submitted by the learned counsel appearing for the appellant that his instructions are that the respondent wife had already remarried. His grievance is that the minor child Roche is now residing with the maternal grand parents. He prays that some workable arrangements should be made with regard to the custody of the child.



4.It is seen that the respondent herein made a specific allegation that the appellant herein suspected the very paternity of the child. She had deposed to that effect. This was not specifically challenged during the cross examination. It is true that when the husband was cross examined, he denied the stand that he had questioned the paternity of the minor child.

5.The learned Trial Judge has given a finding that the allegation of the wife appears to be more probable. The respondent herein had also marked evidence to show that the appellant wanted to go in for a fresh marriage and he advertised in Tamilmatrimony.com. Taking all these circumstances, the learned Trial Judge came to the conclusion that the apprehension nurtured by the wife that it would be harmful for her to live with the husband is justified.

6.This Court is of the view that the finding of the Trial Court is justified and that it does not call for any interference. The reasons assigned by the learned Trial Judge for granting divorce in favour of the wife are justified and sound. More than anything else, the subsequent developments are also to be taken note of. The respondent herein had contracted remarriage. Therefore, no purpose will be served by allowing these appeals. Both the appeals stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The IV Additional District Judge,
4th Additional District Court, Tirunelveli.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.D.NALLATHAMBI,Advocate,SR. 89930

+1cc to Mr.M.SENTHILKUMAR,Advocate,SR. 90157

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