



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No. 682 of 2015

Santhanaraj ... Appellant / Petitioner

Vs.

Helen ... Respondent / Respondent

Prayer: This Appeal filed under Section 55 of Indian Divorce Act to set aside the order and decree passed dated 26.09.2013 made in I.D.O.P.No.50 of 2013 on the file of the Principal District Judge, Trichy.

For Appellant : Mr.D.Ramesh Kumar

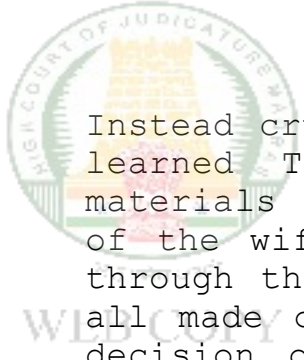
For Respondent : Mr.R.Sundar

JUDGMENT

Heard the learned counsel on either side.

2.The husband is the appellant. The marriage between the parties took place on 20.10.2008 as per Christian rites and customs. Contending that the marriage should be dissolved, the appellant herein filed I.D.O.P.No.50 of 2013 on the file of the Principal District Judge, Trichy. He filed the said petition under Section 10 (1) (x) of Indian Divorce Act, 1869. He examined himself as PW1. He marked Exs.P1 to P5. The learned Trial Judge dismissed the petition for divorce. Aggrieved by the dismissal of this petition, this appeal has been filed.

3.The appellant would fairly admit that they lived together only for a period of six months. They have been living separately ever since. No child has been born. All that the appellant could demonstrate to sustain his allegation of cruelty is that the wife used to send defamatory messages through SMS. The learned Trial Judge has given a finding that the allegation of sending of defamatory messages was not proved. Even assuming that the same stood proved, it is for the appellant to establish that the wife treated him with such cruelty as to cause a reasonable apprehension in his mind that it would be harmful or injurious to him to live with her. Such is clearly not the case. The appellant did not file I.D.O.P on the ground of desertion.



Instead cruelty was pleaded as a ground for seeking divorce. The learned Trial Judge after a thorough consideration of the materials on record came to the finding that cruelty on the part of the wife was not established. This Court independently went through the materials on record. The case of cruelty is not at all made out. Therefore I see no ground to interfere with the decision of the learned Trial Judge. This Civil Miscellaneous Appeal is without any merit. It stands dismissed. No costs.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge, Trichy.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.R.Sundar , Advocate in SR No. 85237
+ 1 cc TO Mr.D.Ramesh Kumar , Advocate in SR No. 85126

tsg

AE/KKR/SAR2/15.11.2017/2P/5C

C.M.A. (MD) No.682 of 2015
02.11.2017