

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SMT. JUSTICE T.RAJANI

FAMILY COURT APPEAL No.35 of 2017

08.02.2017

Between:

Ramesh Kumar Choudhary

..Appellant

and

Mrs.Venshia Mary

..Respondent

Counsel for the appellant: Mr.K.Amarnath Reddy

Counsel for the respondent: Mr.Swaroop Oorilla

The Court made the following:



JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This appeal is filed by the respondent/husband against the order and decree, dated 11.04.2016, in F.C.O.P.No.189 of 2014 on the file of the Judge, Family Court, Secunderabad, wherein the said O.P. filed by his wife for restitution of conjugal rights was decreed.

2. Since the facts in detail have been referred in the order under appeal, it is not necessary to repeat those facts herein. It will suffice to note that after three years of the love marriage of the parties, they started living separately. Both the parties blamed each other for their separation. The respondent examined herself as P.W.1, her sister as P.W.2 and got Exs.A-1 to A14 marked on her side. The appellant examined himself as R.W.1 and got Ex.B-1 - marriage certificate, marked on his side. On appreciation of the oral and documentary evidence, the Family Court has rejected the plea of the appellant that the respondent left his company without reasonable cause and that she was harassing him. Sub-paragraphs (xii) and (xiii) of paragraph 8 of the order under appeal, which are relevant in this context, are reproduced below.

“(xii) The rental receipts marked under A-6 also would disclose that it was the petitioner who continued in the rental accommodation even after the respondent leaving her but not the respondent continuing in it after the petitioner left to her parents' house as contended by him. The respondent also admitted in his cross-examination that he left a note on 10.12.2013 and left the matrimonial home, dropped the petitioner at her mother's place on that day as she decided to go for shopping along with her parents and he was at his friend's place after leaving the matrimonial home and not informed the petitioner about his whereabouts and not returned back on 10.12.2013. He also admitted that he was in touch with his father after his hospitalization in

2013 due to his ill-health and that he was in touch with his family. He admitted that his mother and sister met him at Mehboob College after his marriage while he was attending MBA classes. These admissions would probablise that he was influenced by his family to leave the petitioner and with an intention to put an end to the marital life with her, he deserted her on 10.12.2013. The respondent failed to show any cogent reason or mistake in the conduct of the petitioner which made him to leave her company. Thus it was he who left the conjugal society of the petitioner without any justifiable cause or reason.

(xiii) Though he contended that the petitioner was a quarrelsome lady, used to harass him and ill-treat him by picking up quarrels on petty issues and did not attend to day to day works, they appear to be not valid reasons to leave the petitioner for escaping from the marital obligations. Anyone can make such allegations to leave the other spouse if such allegations are accepted. The burden of proof lies on the respondent to prove that there is a justifiable cause or reason for leaving the conjugal society of the petitioner. The respondent had contended in his pleadings and evidence only about the petitioner refusing him to go abroad on his project work which proved to be false. His contention that he had not maintained any relations with his parents on the instruction of the petitioner proves to be false with his admissions that his sisters visited his house for tying Raakhi during the years 2011, 2012 and 2013. Thus it was not the petitioner who refused the respondent meeting his family but it was the family of the respondent who refused to mingle with the petitioner.”

3. Except his *ipse dixit* as R.W.1, no evidence was adduced by the appellant to prove that either the respondent subjected him to cruelty or that she left the matrimonial home on her own. On the contrary, the evidence adduced by the respondent proves that it is the appellant, who

dropped her at her mother's place on 10.12.2013, leaving a note and started living separately along with his parents. Ex.A-6 - rental receipts marked on behalf of the respondent, would show that she continued to live in the rental accommodation, in which both the spouses were living together till the appellant left the company of the respondent on 10.12.2013. Under these facts and circumstances of the case, we have no reason to differ with the findings of the Family Court and interfere with the decree passed by it in favour of the respondent.

4. The Family Court Appeal is, accordingly, dismissed.

5. As a sequel to dismissal of the F.C.A., F.C.A.M.P.no.47 of 2017 filed by the appellant for interim relief shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J

T.RAJANI, J

08th February, 2017
GHN