

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE N. BALAYOGI**

F.C.A.No.184 of 2017

JUDGMENT : (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

With the consent of learned counsel for the parties, we hereby dispose of the present appeal.

2. The instant appeal is filed on the ground that the learned Judge of the Court below ought not to have relied upon the evidence of PWs.1 and 2 without any documentary evidence and not to have allowed F.C.O.P.No.1025 of 2011 in favour of the respondent. Further, the Court below ought to have considered the fact that there are no specific averments of desertion in the petition. The Court below also ought to have considered that the respondent did not prove the desertion upon which F.C.O.P.No.1025 of 2011 was filed for seeking dissolution of marriage.

3. Pursuant to order, dated 03.08.2017, the appellant and respondent are appeared in person before this Court. This Court interacted with the parties and subsequently asked the appellant/husband as to why he filed the present appeal. His answer is that it is a love marriage and he does not want to lose his wife. Whereas, the respondent/wife said that at any cost she does not want to live or stay with the appellant as he neglected to care throughout his

life and deserted her even without paying any amount for her maintenance.

4. We have verified from the appellant, who has fairly conceded that after 2005 when the respondent was staying alone he did not send any amount for her maintenance.

5. The case of the respondent herein is that after the marriage her parents paid him Rs.1,00,000/- towards household articles and the Court below has not relied upon her contention on the ground that there is no such evidence to prove the said contention. The contention of the respondent is considered to be true, the said amount of Rs.1,00,000/- paid towards household articles, but that cannot be construed as payment of dowry. During the evidence of PW.1, she stated that the appellant has disappeared from the month of December 2005 and his whereabouts were not known, as such she vacated the house and took shelter in the house of her parents. The appellant, however, denied the said contention that he left the company of the respondent without intimation. However, during evidence of RW.1, the appellant in his cross-examination admitted that he was working in Sri Sai Hospital as Lab Technician till 2008 and from 2008 to 2010 he worked at Kurnool and the summons in C.C.No.219 of 2010 were served on him at his village Julekal of Mahabubnagar District.

6. The above fact clearly established that the appellant left the company of the respondent. More over, the appellant has not paid any

maintenance amount nor bothered even to find out the whereabouts of the respondent that where she was staying and under what conditions during the said period.

7. Accordingly, it is established that the appellant had left the company of the respondent in the year 2008 and till date of filing the counter in F.C.O.P.No.1025 of 2011 and has been residing away from the respondent for more than three years till the date of filing of the divorce petition without any cause or reason.

8. In view of the above, the contention that the appellant had deserted the respondent willfully without any valid reason and has been living separately for more than three years till filing the divorce petition is established. The evidence of PW.2 discloses that the appellant and his parents were demanding additional dowry amount or else to transfer the property in the name of the appellant or his mother, for which they refused.

9. It is pertinent to mention here that during the course of cross-examination, the appellant admitted that the parents of the respondent gave her a house at Vanasthalipuram, where now she is residing. Thus, it is established that the appellant had deserted the respondent to put pressure on her for getting transfer the property in his name or family members.

10. In view of the above discussion, we find no discrepancy or perversity in the order, dated 27.12.2016, passed in F.C.O.P.No.1025 of 2011. We find no merit in the instant appeal.

11. The appeal is dismissed accordingly.

12. Miscellaneous petitions pending, if any, shall stand closed.

SURESH KUMAR KAIT, J

N. BALAYOGI, J

29th August 2017.
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