

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

THE HON'BLE SMT. JUSTICE T.RAJANI

F.C.A.M.P.Nos.457 of 2016 and 236 of 2017
in/ and
FAMILY COURT APPEAL No.29 of 2012

24.04.2017

Between:

Aneel Nikhil Mitra

..Appellant/applicant in F.C.A.M.P.No.236 of 2017/
respondent in F.C.A.M.P.No.457 of 2016

And

Mrs.Rashida Aneel Mitra @ Rashida Raghib

..Respondent/respondent in F.C.A.M.P.No.236 of 2017/
applicant in F.C.A.M.P.No.457 of 2016

Counsel for the appellant: Mr.C.Naresh Reddy

Counsel for the respondent in appeal: Mr.Manu

The Court made the following:



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

The appellant filed F.C.O.P.No.464 of 2009 on the file of Judge, Family Court, Secunderabad, for grant of decree of divorce under Section 27(d) of the Special Marriage Act, 1954 (for short 'the Act'). The said F.C.O.P. was dismissed by the Family Court by its order, dated 15.03.2011. Feeling aggrieved thereby, the petitioner in the said F.C.O.P. filed the present appeal.

2. The respondent in the appeal has filed F.C.A.M.P.No.457 of 2016 for expediting the hearing of the appeal. In the affidavit filed in support thereof, she has stated that she is staying with her in-laws along with children and that as there is no scope of herself and her husband rejoining and leading a happy married life, she does not intend to contest the appeal. Thereafter, both the parties have filed F.C.A.M.P.No.236 of 2017 for amendment of F.C.O.P.No.464 of 2009 as the one filed for grant of decree of divorce by mutual consent by dissolving the marriage under Section 28 of the Act. Apart from amendment of pleadings, they have sought for the following amendment to the prayer in the F.C.O.P.:

"The 1st Petitioner and the 2nd Petitioner therefore pray that this Hon'ble Court be pleaded to grant:-

a) A Decree of Dissolution of marriage Dt:29.09.1997 between the 1st Petitioner and the 2nd Petitioner on the ground that both the parties have been living separately for a period of more than 2 years, that they have not been able to live together and that they have mutually agreed that their marriage should be dissolved and consequently the Marriage Certificate No.328/1997, Dt:29.09.1997, issued by the Marriage Officer, at Nagpur, be declare as null and void.

b) For any other relief the Court may deem fit and proper under the circumstances of the case."

3. At the hearing, both the parties are personally present and they have reconfirmed their resolve to separate from each other by mutual consent.

4. In the light of the above facts, F.C.A.M.P.No.236 of 2017 is allowed. Order under appeal, dated 15.03.2011, in F.C.O.P.No.464 of 2009 is set aside. F.C.O.P.No.464 of 2009 is amended as prayed for. F.C.O.P.No.464 of 2009, as amended, is decreed by granting decree of divorce by mutual consent by dissolving the marriage. The F.C.A. is, accordingly, allowed. As a sequel to allowing the F.C.A., F.C.A.M.P.No.457 of 2016 is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

T.RAJANI, J

24th April, 2017
GHN

