

THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

Civil Miscellaneous Appeal No. 456 of 2015

JUDGMENT : [Per the Hon'ble Sri Justice Sanjay Kumar]

This Civil Miscellaneous Appeal under Section 28 of the Hindu Marriage Act, 1955 (for brevity, 'Act of 1955') arises out of the order dated 1.5.2015 passed by the learned II Additional Senior Civil Judge, Nandyal, dismissing O.P.No.77 of 2012 filed for dissolution of the marriage between the parties by way of a decree of divorce under Section 13(1)(ia) read with Section 19 of the Act of 1955.

2. Aggrieved by the said order the petitioner-husband filed this appeal. While so, C.M.A. M.P. No.428 of 2017 was filed by him therein stating that the parties had settled the matter out of Court and praying that the compromise between the parties may be recorded so that the C.M.A. may be disposed of by granting a decree of divorce dissolving the marriage between the parties. In the affidavit filed in support of the petition, the appellant-husband stated that on the advice of the village elders he and the respondent-wife agreed to live separately by obtaining a decree of divorce and, accordingly, an agreement was executed on 17.12.2016 recording the terms and conditions decided upon between the parties. The said terms and conditions were reiterated in the affidavit and read to the effect that the respondent-wife agreed to withdraw the civil suit, O.S.No.179 of 2013, filed by her against the appellant-husband for return of the dowry amount and

gold ornaments; that the respondent-wife agreed to withdraw the criminal case in C.C.No.352 of 2013 filed under Section 498-A I.P.C.; that the respondent-wife agreed to relinquish all her rights in the properties possessed by the appellant-husband and his father; and the appellant-husband agreed to pay a sum of Rs.11,00,000/- to the respondent-wife towards maintenance and permanent alimony and out of the said amount, a sum of Rs.3,52,000/- was paid in cash on 17.12.2016; a sum of Rs.1,48,000/- was paid through D.D.No. 653639 dated 16.12.2016 drawn on Karur Vysya Bank, Nandyal; and the balance of Rs.6,00,000/- was paid to the respondent-wife on 19.3.2017 in cash. Therefore, the stated amounts have been paid and acknowledged by the respondent-wife.

3. Sri S.Lakshminarayana Reddy, learned counsel for the appellant-husband, submitted that in the light of the aforestated compromise, the C.M.A. may be disposed of in terms of the prayer made in the C.M.A. M.P.

4. Sri B.S. Reddy, learned counsel for the respondent-wife, states that he has no objection and acknowledges the receipt of the amounts as mentioned supra.

5. The appellant-husband and the respondent-wife are present in person and produced their photo I.D. proof in the form of Aadhar cards. Having verified the same and ascertained from the parties that they have no objection to the appeal being disposed of in terms of the memorandum of compromise as set out in the supporting affidavit, the order dated 1.5.2015 passed by the learned II Additional Senior Civil Judge, Nandyal in O.P. No.77 of 2012 is set aside. The said O.P. is disposed of dissolving the

marriage between the appellant-husband and the respondent-wife by way of a decree of divorce. It is stated that C.C. No. 352 of 2013 was already closed on 4.1.2017. That being so, as the respondent-wife has already been paid the amounts promised towards maintenance and permanent alimony, there remains only the withdrawal of the suit in O.S.No.179 of 2013 filed by her. Subject to complying with this requirement, C.M.A. M.P. No.428 of 2017 is ordered and the C.M.A. is disposed of.

6. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.



SANJAY KUMAR, J

N. BALAYOGI, J.

Date:30.03.2017

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