

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

THE HON'BLE SMT. JUSTICE T.RAJANI

FAMILY COURT APPEAL No.151 of 2017

10.04.2017

Between:

Mrs.Lavanya

..Appellant

And

R.Kannan @ P.R.Kannan

..Respondent

Counsel for the appellant: Mr.D.Seshasayana Reddy

Counsel for the respondent: --

The Court made the following:



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

This Family Court Appeal arises out of order and decree, dated 23.09.2016, in F.C.O.P.No.83 of 2015 on the file of the Judge, Family Court-cum-V Additional District Judge's Court, Tirupati.

2. The respondent filed the aforesaid F.C.O.P. under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights. He pleaded that his marriage with the appellant was solemnized on 21.02.2008 as per Hindu rites; that they were blessed with two children *viz.*, Harshitha aged four years and Mithulram aged 2 ½ years; that on the instigation of her parents and brothers, the appellant started misbehaving with the respondent; that her parents and brothers exploited the respondent's soft nature and ill-treated him and that the appellant left the matrimonial home on 16.12.2010 along with all her jewellery on the pretext of attending her younger brother's marriage and did not bring back the jewellery. He further pleaded that on 10.04.2011, the appellant picked up quarrel with him, without any just cause and after attempting to assault him, she left the matrimonial home, without his permission.

3. The appellant filed counter-affidavit in the F.C.O.P., wherein she alleged that the respondent along with his relatives used to harass her without any cause; that in February, 2011 on the advice of his sister, the respondent tried to kill the appellant with electric shock through refrigerator and luckily she escaped; that a mediation was held through one Subrmayam Pillai at Chennai, who advised the respondent not to harass the appellant, but on the next day, the brother of the respondent asked the appellant and her parents to come to Chennai on the ground that the respondent is not willing to lead marital life with the appellant and that they intended to perform marriage of the respondent with another woman and that the brother of the respondent *viz.*,

Deenadayalan beat the father of the appellant in the mediation and threatened them with dire consequences. She further alleged that due to the assault by the respondent, she sustained bleeding injuries on her hands on 10.04.2011 and thereafter, she was necked out of the respondent's house.

4. Based on the respective pleadings of the parties, the Family Court framed the following points for consideration:

(i) Whether the petitioner (respondent herein) is entitled to seek restitution of conjugal rights?

(ii) To what relief?

The respondent examined himself as P.W.1 and marked Exs.A-1 to A-3. The appellant examined herself as R.W.1 and marked Exs.B-1 and B-2. On appreciation of the oral and documentary evidence, the Family Court has decreed the F.C.O.P.

5. We have perused the order under appeal and also the record to the extent it is available before us.

6. While, appreciating the oral evidence, the Family Court has observed that in her evidence given as R.W.1, the appellant herself admitted that the respondent is a gentleman. At the hearing, Mr.D.Seshasayana Reddy, learned counsel for the appellant, has not disputed the correctness of this finding. He has, however, added that the respondent is under the influence of his parents and other family members, who have been subjecting the appellant to harassment. The Family Court has rendered a finding that since the respondent is gainfully employed in a private company at Chennai and living separately from his family members, there is no scope for interference by the parents and other relatives of the respondent with the family affairs of the appellant and the respondent. The Family Court has also observed that

even during the counselling conducted by it, the appellant failed to show any just cause for living separately from the respondent. In the light of these findings of the Family Court, based on the evidence as well as the counselling conducted by it, we have no reason to interfere with the order under Appeal.

6. For the aforementioned reasons, we do not find any merit in this Family Court Appeal and the same is, accordingly, dismissed.

7. As a sequel to dismissal of the appeal, F.C.A.M.P.No.198 of 2017 filed by the appellant for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

T.RAJANI, J

10th April, 2017
GHN

