

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

FCA.MP.NO.704 OF 2017 IN FCA.NO.169 OF 2017 AND F.C.A.NO.169
OF 2017

ORAL ORDER (Per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide petition in FCA.MP.No.704 of 2017, petitioner/appellant seek direction thereby to grant a decree of divorce by mutual consent dissolving the marriage between the petitioner/appellant and the respondent, by recording the terms made in the joint memorandum of compromise.

The appellant – husband, filed petition in HMOP.No.193 of 2013 on the file of XIV Additional District and Sessions Judge – cum – Additional Family Judge, Vijayawada, seeking divorce from the respondent – wife on the grounds of cruelty and desertion. The said petition was dismissed vide order dated 16-03-2016.

Being aggrieved, the appellant filed the present appeal. During the pendency of the appeal, the appellant and the respondent entered into settlement. As per the settlement, the appellant agreed to pay an amount of Rs.4,00,000/- (Rupees four lakhs only) towards full and final settlement as permanent alimony. The appellant also agreed that the subject matter of suit property in O.S.No.313 of 2011 shall be transferred in the name of respondent and she shall bear all the expenses for that purpose. The respondent agreed to withdraw the case in D.V.C.No.144 of 2014.

The respondent also agreed that in CrI.Rc.No.1406 of 2016, filed by the appellant against the order and decree dated 16.3.2016 in M.C.No.28/2012, she would file a memo before this court in the said criminal revision with regard to full and final settlement and that she will

not object for allowing of the said criminal revision by setting aside the order dated 16.03.2016 passed by the trial court in M.C.No.28 of 2012.

Both the parties, who are personally present before this court and their respective counsel submit that all the terms and conditions of compromise have been complied with by both the parties except M.C.No.28 of 2012 mentioned above. They state that no dispute whatsoever is pending between the parties, therefore, they jointly state that marriage dated 23.12.2009 may be dissolved with mutual consent of the parties.

Keeping in view the averments made in the petition in FCA.MP.NO.704 of 2017 in FCA.NO.169 OF 2017 and the amendment allowed by this court vide FCA.MP.NO.705 OF 2017 in FCA.No.169 of 2017, the petition for divorce on mutual consent deserves to be allowed.

The affidavit filed in FCA.MP.NO.704 OF 2017 in FCA.NO.169 OF 2017 and the copy of the joint memo filed by the petitioner/appellant and the respondent, shall form part of this order.

As agreed by the parties, we hereby expunge all the allegations made by the parties against each other during the pendency of HMOP.No.193 of 2013 and FCA.No.169 of 2017 and any other proceedings.

In view of the above, the impugned order dated 16-03-2016 passed by the court of XIV Additional District and Sessions Judge – cum – Additional Family Judge, Vijayawada in HMOP.No.193 of 2013, is hereby set aside and the appeal is allowed in terms of the compromise entered into between the parties.

Consequently, by allowing petition in FCA.MP.NO.704 of 2017, marriage dated 23.12.2009 between the appellant and the respondent is hereby dissolved by mutual consent.

Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

SURESH KUMAR KAIT,J

U.DURGA PRASD RAO,J

DATE:11—12—2017

AVS

