

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SMT JUSTICE T. RAJANI

FCA.Nos.23 of 2014 and 436 and 437 of 2013

DATED: 18.04.2017

Between

Smt. Virothi Gayatri Devi.

...APPELLANT

And

Sri Virothi Tirupathi Rao.

...RESPONDENT

COUNSEL FOR THE APPELLANT: SRI M.V. RAJA RAM

COUNSEL FOR THE RESPONDENT: SRI C. RAGHU



THE COURT MADE THE FOLLOWING:

COMMON JUDGMENT: (*per the Hon'ble Sri Justice C.V. Nagarjuna Reddy*)

The unsuccessful petitioner in OP.Nos.1365, 1367 and 1369 of 2009 on the file of the Additional Family Judge, Visakhapatnam filed these appeals.

2. FCA.No.436 of 2013 is filed against the common order dated 12.08.2013 in OP.No.1365 of 2009 filed for dissolution of marriage of the appellant with the respondent. FCA.No.437 of 2013 is filed against the common order dated 12.08.2013 in OP.No.1367 of 2009 filed for return of Dowry, Gold and Silver articles besides other gifts. FCA.No.23 of 2014 is filed against the common order dated 12.08.2013 in OP.No.1369 of 2009 for grant of permanent alimony of Rs.25 lakhs or in the alternative, for award of maintenance at Rs.25,000/- per month during her life time.

3. During the hearing of the appeals, the Court has taken the initiative for the parties to negotiate for an out of Court settlement. The respondent alleged that after the dismissal of the aforementioned OP's by the Family Court, the appellant went to the extent of contracting second marriage, though her marriage with the respondent is subsisting. However, this has been stoutly denied by the appellant. It has also come to light that the respondent has given a police report based on which prosecution has been launched against the appellant, her mother and another person. However, the parties have agreed to get separated by way of mutual consent without prejudice to their other legal rights. Accordingly, they have filed a joint memo dated 12.04.2017 containing their signatures as well as that of their respective counsel. The joint memo, *inter alia*, contains the following clauses under the head "mutual understanding":

1. The petitioner/appellant shall also withdraw F.C.A.No.437 of 2013 and F.C.A.No.23 of 2014.
2. The respondent herein shall not prosecute the case against the petitioner/appellant herein in C.C.No.433/2016 on the file

of III Metropolitan Magistrate at Visakhapatnam. The respondent shall file appropriate application before the said court that he is not intending to prosecute the petitioner/appellant herein except against others. However the respondent is at liberty to prosecute the other accused in C.C.No.433/2016.

3. All the allegations that are made against each other only which are the subject matter of this appeal are hereby withdrawn without prejudice to the right of the respondent to prosecute the other accused in C.C.No.433/2016.

4. The FCOP 75/2017 filed by the Respondents shall also be withdrawn by filing a proper Memo.

4. At the hearing, both the parties along with their counsel are present. They have prayed for disposal of the cases by granting divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955 subject to the terms of the joint memo referred to and reproduced above in part.

Accordingly, FCA.No.436 of 2013 is allowed and the marriage between the parties is dissolved by mutual consent under Section 13B of the Hindu Marriage Act, 1955. FCA.Nos.437 of 2013 and 23 of 2014 are dismissed.

As a sequel to the disposal of the appeals, FCAMP.Nos.369 of 2015 and 273 of 2016 in FCA.No.436 of 2013 shall stand disposed of as infructuous; FCAMP.No.364 of 2015 in FCA.No.437 of 2013 and FCAMP.No.363 of 2015 in FCA.No.23 of 2014 shall stand dismissed as infructuous.

JUSTICE C.V. NAGARJUNA REDDY

JUSTICE T. RAJANI

Date: 18.04.2017
LSK/DSK