

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. Nos.416 and 417 of 2018
and C.M.P.Nos.10879 and 10880 of 2018

P.Sathishkumar

.. Petitioner

Vs.

S.Induja @ Indumathi

.. Respondent

Prayer in Tr.C.M.P.No.416 of 2018: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P. No.107 of 2017 pending on the file of the Sub Court, Udumalpet and to transfer the same to the file of the Principal District and Sessions Court, Tiruppur, to be tried along with G.W.O.P.No.58 of 2018.

Prayer in Tr.C.M.P.No.417 of 2018: Petition is filed under Section 24 of C.P.C., to withdraw O.S.No.53 of 2018 pending on the file of the Sub Court, Udumalpet and to transfer the same to the file of the Principal District and Sessions Court, Tiruppur, to be tried along with G.W.O.P.No.58 of 2018.

For Petitioner : Mr.R.D.Ashok
For Respondent : Mr.N.Umapathi

C O M M O N O R D E R

Tr.C.M.P.No.416 of 2018 is filed to withdraw H.M.O.P. No.107 of 2017 pending on the file of the Sub Court, Udumalpet and to transfer the same to the file of the Principal District and Sessions Court, Tiruppur, to be tried along with G.W.O.P.No.58 of 2018.

Tr.C.M.P.No.417 of 2018 is filed to withdraw O.S.No.53 of 2018 pending on the file of the Sub Court, Udumalpet and to transfer the same to the file of the Principal District and Sessions Court, Tiruppur, to be tried along with G.W.O.P.No.58 of 2018.

2.The petitioner is the husband and respondent is the wife. The marriage between the petitioner and respondent was conducted on 15.09.2011 as per Hindu rites and customs. In the wedlock, a female child was born. Due to difference of opinion between the petitioner and respondent, both of them are living separately for more than five years. Earlier, the petitioner filed H.M.O.P.No.120 of 2013 on the file of the Sub Court, Udumalpet, for restitution of conjugal rights, against the respondent. The said H.M.O.P. was decreed on 25.03.2014.

The respondent did not join him and petitioner filed H.M.O.P.No.107 of 2017 for annulment of marriage between the petitioner and respondent on the file of the Sub Court, Udumalpet, against the respondent. The respondent filed O.S.No.53 of 2018 on the file of Sub Court, Udumalpet, seeking maintenance for herself and her minor daughter. The petitioner filed G.W.O.P.No.58 of 2018 on the file of the Principal District and Sessions Court, Tiruppur, for a declaration that he is the guardian of his minor daughter and for permanent custody of her. The above two petitions and suit are pending before the respective Courts. In the circumstances, the petitioner has come out with the present two Tr.C.M.Ps. for transfer of H.M.O.P.No.107 of 2017 and O.S.No.53 of 2018 pending on the file of the Sub Court, Udumalpet, to the file of the Principal District and Sessions Court, Tiruppur, to be tried along with G.W.O.P.No.58 of 2018 filed by the petitioner.

3. When the matter is taken up for hearing, the petitioner and respondent along with her mother appeared before this Court and submitted that there is no possibility of living together as husband and wife and all the matters between them were settled amicably and prayed for dissolving the marriage conducted between them on 15.09.2011. The petitioner has offered to settle two acres of agricultural land in favour of minor child and deposit Rs.5,00,000/- in fixed deposit in the name of minor till she completes 18 years. Petitioner also offered to pay a sum of Rs.5,00,000/- to the respondent as full and final settlement of all her claim. The respondent after consulting her mother and other elders in the family agreed for the same.

4. Both the petitioner and respondent filed joint memo of compromise dated 02.08.2018. Both the parties and their respective counsel submitted that the parties have signed the joint memo of compromise voluntarily without any compulsion and coercion by any body. Further, it is made clear that both the parties have withdrawn the allegations made against each other.

5. Being satisfied that the matter has been amicably settled, joint memo of compromise is recorded. H.M.O.P.No.107 of 2017 filed by the petitioner and O.S.No.53 of 2018 filed by the respondent, both pending on the file of Sub Court, Udumalpet, G.W.O.P.No.58 of 2018 filed by husband pending on the file of the Principal District and Sessions Court, Tiruppur are ordered to be withdrawn to the file of this Court by invoking power under Article 227 of the Constitution of India. H.M.O.P.No.107 of 2017 pending on the file of the Sub Court, Udumalpet, filed by the petitioner/husband for annulment of marriage between the petitioner and respondent is treated as petition under Section 13B of Hindu Marriage Act and decree dissolving the marriage between the petitioner and respondent is granted by mutual consent of both the parties.

This order is passed by exercising extraordinary discretionary power of this Court under Article 227 of the Constitution of India. This Court, by the order dated 08.07.2015 made in Tr.C.M.P.No.353 of 2015 passed order granting divorce by mutual consent by withdrawing O.P.No.4195 of 2014 filed by husband. Earlier, I had occasion to consider similar issue and by order dated 31.07.2018, granted decree of divorce by mutual consent in the H.M.O.P.No.112 of 2017 filed by husband for restitution of conjugal rights after withdrawing the same to this Court. The other two cases; G.W.O.P.No.58 of 2018 and O.S.No.53 of 2018 are dismissed as withdrawn.

6. With the above direction, Tr.C.M.P.No.416 of 2018 is closed. H.M.O.P.No.107 of 2017 is treated as petition under Section 13B of the Hindu Marriage Act and divorce is granted by mutual consent. G.W.O.P.No.58 of 2018 filed by the petitioner pending on the file of the Principal District and Sessions Court, Tiruppur and O.S.No.53 of 2018 filed by the respondent pending on the file of the Sub Court, Udumalpet, are dismissed as withdrawn. In view of the order passed in Tr.C.M.P.No.416 of 2018, no separate order is necessary in Tr.C.M.P.No.417 of 2018. Accordingly, Tr.C.M.P.No.417 of 2018 is closed. The joint memo of compromise is recorded and shall form part of this order. If the petitioner fails to comply any one of the conditions mentioned in memo of compromise, this order will stand recalled. No costs. Consequently, connected Miscellaneous Petitions are closed.

Post the matter in the month of November, 2018 for reporting compliance.

**Xerox copy of Joint Compromise Memo
filed by the Petitioner and Respondent
herewith enclosed**

Sd/-

Assistant Registrar (CS-IX)

// True Copy//

Sub Assistant Registrar

To

- 1.The Subordinate Judge, Udumalpet.
- 2.The Principal District and Sessions Judge Tiruppur.
- 3 The Section Officer, Judicial Section,
High Court, Madras

+1 cc to MR.K.CHANDRASEKARAN, Advocate SR.No.53636

Tr.C.M.P. Nos.416 and 417 of 2018
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kj

SMI/20.08.2018

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