

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

F.C.A.Nos.252 and 253 of 2011

Date: 09.03.2018

Between:

Bantu Rambabu S/o.Somulu,
Christian, Aged 30 years,
Working as Telecom Officer, BSNL,
General Manager's Office,
Thyaga Rajapuram, Vellore, Tamilnadu,
residing at Q.No.5, BSNL Quarters,
Sainadhapuram,
Vellore-1, Tamilnadu.

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Appellant

And

Smt.Ganta Hannah Supriya,
W/o.Bantu Rambabu, Christian,
Aged about 26 years,
Residing at D.No.50-99-8,
N.E. Layout, Seethammadhara,
Visakhapatnam

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Respondent

Counsel for the Appellant : M/s. S.R.Sanku

Counsel for the Respondent: Smt.S.A.V.Ratnam

The Court made the following:

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

The appellant is common in both these appeals. As the ill-luck of the respondent would have it, she became his wife. The parties belong to Christianity religion. Their marriage was performed on 17.05.2005 at Visakhapatnam, as per the Christian Rites and Customs. After the marriage, the respondent has completed her Bachelors in Physiotherapy. The appellant has a posey of educational degrees, such as M.Tech. (Computer Science), M.B.A. E-Business, MSc.Psychology, Master of Divinity, P.G. Diploma Guidance and Counseling, P.G. Certificate from Psychological counselling, etc., but is *sans* culture and civilization. This aspect would be discussed at a later stage.

2. The matrimonial life of the parties went through rough weather, driving the respondent to filing of O.P.No.900 of 2007 under Section 10 (IX) and (X) of Divorce Act, in November, 2007. The respondent has also filed O.P.No.901 of 2007 *inter alia*, for refund of the amounts presented to the appellant and marriage expenses together, to a tune of Rs.4,20,000/- and also for return of the schedule mentioned articles worth Rs.1,77,000/- to her.

3. The primordiam of the case of the respondent is that, a few months after the marriage was consummated, the appellant felt that the respondent is a burden to him and dropped her at her parent's house in Visakhapatnam on 29.11.2005 forcibly, and went away on

02.12.2005, promising that he will return on 23.12.2005, while demanding the respondent's parents that they must give computer to him by that time. That though the appellant's demand was met, he stopped telephoning the respondent and her family members and avoided receiving their telephone calls, and he has sent a registered letter with false allegations. That due to the conduct of the appellant, the respondent had gone into depression and been hospitalized. That, several negotiations through mediators have failed and the appellant started abusing the respondent and her parents on telephone, using un-parliamentary language. That on 12.10.2007, during the I year final exams of the respondent, the appellant went to the medical college and fought with the Principal and Warden, as a result of which, the respondent could not attend the final year exam and her reputation was spoiled.

4. The appellant had filed a counter affidavit in O.P.No.900 of 2007, wherein he alleged that the respondent had intimacy with one Samuel Santhosh Kumar of Visakhapatnam, who is her classmate, that he is very much attracted towards the respondent, that the respondent suppressed her illicit intimacy with the said person and married the appellant by using her influence with the Commissioner of Police, Visakhapatnam, who provided escort of 20 policemen during their marriage and that the mother of the respondent lodged a complaint against Samuel Santhosh Kumar in IV Town Police

Station on 25.06.2004. That immediately after the marriage, the appellant and the respondent along with her sister, cousin uncle and aunt, went to one Mr.Raju, who was a commander in Visakhapatnam Steel Plant and the marriage was consummated at the guest house of the steel plant, though it ought to have been consummated at the bride's house, because, the parents of the respondent wanted to suppress the fact that she had bipolar disorder. That the Pastor Arun Kumar, colluded with the parents of the respondent and suppressed her love affair with the said Samuel Santhosh Kumar and performed the marriage of the respondent with the appellant. He further averred that he provided sophisticated life with all amenities to the respondent, but she refused to accompany him to the matrimonial house and stated that she wanted to continue her stay for some more time with her parents. That the appellant was subjected to cruelty by the respondent and the efforts made by him to bring her back, failed as she refused to join him on 17.03.2006.

5. In O.P.No.901 of 2007, the appellant has filed a counter affidavit, reiterating the same averments as made in the counter affidavit filed in O.P.No.900 of 2007.

6. On behalf of the respondent, she has examined herself as PW-1 and also examined PWs-2 and 3 and got exhibits A1-A5 marked on her side and on behalf of the appellant, he examined himself as RW-1

and got exhibits B-1 to 26 marked. Having regard to the respective pleas of the parties, the following points were framed in the O.Ps:

“O.P.No.900 of 2007: Whether the petitioner is entitled to seek dissolution of marriage?

O.P.No.901 of 2007: Whether the petitioner is entitled for return of amount of Rs.4,20,000/- + Rs.1,77,000/- as prayed for?”

7. With regard to the point in O.P.No.900 of 2007, on appreciation of oral and documentary evidence, the Family Court held that the appellant subjected the respondent to harassment mentally and physically during her stay with him, due to which, she was hospitalized for severe depression, which amounts to cruelty on the part of the appellant. As regards O.P.No.901 of 2007, the Family Court held that out of Rs.4,20,000/-, the respondent is entitled to refund of Rs.4,08,000/- with future interest @ 12% p.m. on the said amount. Feeling aggrieved by both these orders, the appellant has filed these appeals.

8. At this stage, we need to refer to the conduct of the appellant during the hearing of these cases. When we tried to counsel the appellant, he threw wild allegations against the respondent and behaved in a very unusual manner. During one of the hearings i.e. on 08.02.2018, the learned counsel for the respondent brought to our notice, that during the pendency of these appeals, the appellant has sent to the respondent's mobile, highly obscene and objectionable

comments *inter alia* attributing incest between her and her father. At her request, we have adjourned the case, to enable the respondent to file those messages as additional evidence. While adjourning the case, we have also granted a week's time to the appellant, to file counter affidavit if any, before the case was taken up for hearing. Accordingly, the respondent filed I.A.No.1 of 2018, for receiving the printouts of the SMSs as additional material papers. The counter affidavit to the said application was filed by the appellant.

9. While no specific arguments on merits were advanced by the counsel for the appellant on the findings rendered by the Court below against his client regarding mental and physical cruelty towards the respondent, the findings of the lower Court would stand relegated to back seat, if we consider the obnoxious nature of the messages sent by the appellant to the respondent. In the counter affidavit filed in I.A.No.1 of 2018, the appellant has candidly admitted that he has sent Whatsapp messages, but not the messages over facebook, as the respondent has locked the same. All the messages filed by the respondent along with I.A.No.1 of 2018, are admittedly Whatsapp messages. Therefore, they are all admitted to have been sent by the appellant. Most of these messages contain the photographs and in some of these photographs, the appellant is seen with the respondent and in some other photographs, the respondent is seen with her father and mother. The first page of Whatsapp

message contains the photograph of the appellant and the respondent and the message with all the grammatical and spelling mistakes, reads as under:

“Accusing husband as psycho at mediation center, but enjoying interrupted sexual intercourse with wild dog, own father as seen in her parents home till date”.

The messages in the other pages, read as under:

“This wild pig is just pretended till date, before church elder, that he will not grab the young man’s wife. Father enjoying uninterrupted sexual intercourse with daughter till date, young husband was denied his wife’s body till date”.

“Till date for ten years, uninterrupted sexual intercourse with father enjoying by daughter, denying husband”.

“This wild pig permanently occupied central place, dividing young couple till date for 12 years unbelievable, enjoying interrupted sexual intercourse with married daughter”.

“Daughter having uninterrupted sexual intercourse with mother, denying marriage spouses till now”.

“This aged wild pig also permanently occupied central place, dividing young couple, enjoying uninterrupted sexual intercourse with married daughter, denying both spouses, till date”.

“For father’s sexual intercourse with own daughter, marriage of Christian husband is denied”.

“Husband’s intimacy betrayed as own father wanted her for sexual intercourse with her in their home away from husband”.

“Own father driving away married husband from wife and enjoying sexual intercourse with her till now in his home”.

“Own daughter is shared for sexual intercourse with Father’s friends in house”.

Own mother having sexual intercourse with married daughter in even husbands are available in the same house”.

10. The height of perversity of the appellant is reflected in the fact that, he has not only alleged incest against the respondent's own father, but also against her mother. The conduct and behaviour of the appellant is a slur on humanity.

11. Indeed, our conscience is terribly shocked by the wildest possible allegations made by the appellant against the respondent. It is highly difficult, *nay* impossible, for any woman to bear such baseless and vituperative allegations. When we realized that these pornographic, salacious and lewd utterances emanated from a person with a flurry of educational qualifications as noted herein before, we are left speechless. It is due to this reason, that we have observed that the appellant has education, but he has no culture and civilization. What so ever the grievance a person may have, he is not expected to humiliate a woman, much less, a person who happened to be his own wife, by making such abominable allegations. This highly contumacious conduct and mal behaviour of the appellant, is sufficient for this Court to dismiss both the appeals, but not without imposing exemplary costs. Though we feel that the costs which we propose to quantify, hardly repair the damage to the honour, dignity and self esteem suffered by the respondent, we are inclined to award costs of Rs.1,00,000/-, which the appellant must pay to the respondent within one month from today, failing which, respondent is entitled to execute the same.

10. Both the appeals, are accordingly, dismissed.

11. As a sequel to the dismissal of the appeals, miscellaneous applications if any, stand dismissed as infructuous.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad,J)

Date: 09th March, 2018

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