

HON' BLE SRI JUSTICE SURESH KUMAR KAIT

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HON' BLE SRI JUSTICE T. AMARNATH GOUD

I.A.No. 2 of 2018 in F.C.A.No. 386 of 2018

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F.C.A.No. 386 of 2018

JUDGMENT:- (ORAL)

(Per Hon' ble Sri Justice Suresh Kumar Kait)

This application is filed seeking to condone the delay of 809 days in filing the appeal against the order and decree dated 10.12.2015 in F.C.O.P.No. 110 of 2015 passed by the Judge, Family Court-cum-V Additional District & Sessions Court, Visakhapatnam whereby the trial Court granted divorce under Section 10-A of the Divorce Act dissolving the marriage between the appellant and the respondent.

It is averred in the affidavit filed in support of the application that the appellant – wife obtained certified copy of the order passed by the trial Court and requested her advocate in Hyderabad for filing the appeal. Since she is a poor woman and does not have money and even by virtue of the impugned order dated 10.12.2015 in F.C.O.P.No. 110 of 2015, the respondent did not choose to pay maintenance to her and her child till 19.01.2018, due to which, the delay has caused.

It is not in dispute that the marriage between the appellant and the respondent was dissolved by mutual consent. With regard to the delay in filing the appeal, there

is no proper explanation as to when certified copy of the decree was received and when fraud was played by the respondent.

The settled law is that day to day delay has to be explained. Since no satisfactory explanation is forth-coming with regard to the inordinate delay of 809 days, we are not inclined to condone the delay.

Hence, I.A.No. 2 of 2018 is dismissed. Consequently, the appeal is rejected. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

07.09.2018

bcj

SURESH KUMAR KAIT, J

T. AMARNATH GOUD, J

