

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1867 of 2019

P.Matheswari

... Appellant

Vs

S.Rishidharan

... Respondent

PRAYER: Civil Miscellaneous Appeal filed against the fair and decretal order passed in I.A.No.437 of 2018 in O.P.No.2695 of 2017 on the file of the learned V Additional Family Court, Chennai.

For appellant : Ms.B.Poonkhulali
For respondents : Mr.R.Balachandran

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

This Civil Miscellaneous Appeal is at the instance of the respondent in I.A.No.437 of 2018 and the challenge is to the order dated 27 September 2018, directing the respondent to pay interim maintenance at the rate of Rs.12,000/- per month to the appellant with effect from 26 December 2017.

2. The matrimonial original petition in H.M.O.P.No.25 of 2016 was instituted by the respondent before the Family Court, Trichy. The petition was filed for a decree dissolving the marriage of the parties solemnized on 30 November 2014. The original petition was transferred to the Court of V Additional Family Court, Chennai and it was renumbered as O.P.No.2695 of 2017.

3. Before the Trial Court, the respondent filed an application in I.A.No.437 of 2018, invoking section 24 of the Hindu Marriage Act. The respondent prayed for an order directing the appellant to pay interim maintenance @ Rs.60,000/- p.m., besides the litigation expenses. The Trial Court on a consideration of the entire materials and documents available on record, directed the appellant to pay a sum of Rs.12,000/- p.m.

towards interim maintenance. Since the amount was not sufficient, the appellant has come up with this appeal.

4. The parties to the proceedings appeared before us on 12 September 2019. We have discussed the issue with the parties at length. The parties finally agreed to settle the matter. The respondent agreed to pay a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) to the appellant in full and final satisfaction of the claim. The parties have decided to file a joint petition for divorce before the Trial Court and to withdraw all the pending criminal cases.

5. The parties filed a joint memo of compromise dated 13 September 2019, setting out the terms of compromise.

6. The memo dated 13 September 2019, read as follows:-

The above Civil Miscellaneous Appeal has been filed by the appellant herein seeking enhancement of the interim maintenance amount ordered by the Hon'ble Judge of the V Additional Family Court, Chennai in I.A.No.437 of 2018 in O.P.No.2695 of 2017 vide order dated 27.09.2018.

2. The appellant and the respondent, who had temporarily come down to Chennai, (collectively referred to as "parties") appeared before the Hon'ble High Court of Madras on 12.09.2019 in the above mentioned CMA, and upon counselling and mediation by the Hon'ble Judges, have agreed to settle all issues between them amicably on the following terms and conditions:-

a) The respondent herein shall pay the appellant a sum of INR 50,00,000/- (Indian Rupees Fifty Lakhs) as full and final settlement of all claims of the past, present and future in the following manner:

1. The respondent shall pay a sum of INR 10,00,000/- (Indian Rupees Ten Lakhs only) on this day, i.e. 13.09.2019 vide NEFT/RTGS Transfer in favour of the appellant;

2. The respondent shall pay the remaining sum of INR 40,00,000/- (Indian Rupees Forty lakhs only) in instalments on or before 60 days from the present date to the appellant i.e. On or before 15 November, 2019.

b) The respondent shall withdraw O.P.No.2695 of 2017 filed by him for divorce

and pending on the file of the V Additional Family Court, Chennai and not press the same.

c) The appellant and the respondent shall take immediate steps to file a petition for divorce by mutual consent recording these terms and conditions and expedite the same if necessary, by filing the necessary petitions to waive the waiting period of 6 months once the total payment of Rs.50 lakhs is completed on or before 15 November 2019.

d) The appellant shall withdraw DVC No.446 of 2017 pending on the file of the Additional Mahila Judge, Egmore, Chennai, on or before the date of recording evidence in the mutual consent petition.

e) The parties undertake to present a copy of this compromise memo and the final order in the present proceedings and if required, and file a separate compromise memo, before the Madurai Bench of the Hon'ble Madras High Court in order to dispose the criminal original petitions filed by the respondent and his family members to quash C.C.No.91 of 2016 pending on the file of the Hon'ble Court of Judicial Magistrate, Additional Mahila Court, Trichirapalli viz., CrI.O.P.No.19428 of 2016, CrI.O.P.No.22429 of 2016 and CrI.O.P.No.1111 of 2017 and the appellant shall have no objection towards quashing C.C.No.91 of 2016 in view of this compromise. The same shall be done on or before the date of recording evidence in the mutual consent petition.

f) Parties undertake not to disturb each other or file any additional petitions against each other during the pendency of the mutual consent divorce proceedings or thereafter.

g) The parties agree not to precipitate any issue against each other and part amicably as per the valuable counselling of this Hon'ble Court without any further acrimony.

h) The parties undertake to cooperate with their counsels and complete the mutual consent divorce proceedings and complete all other formalities necessary to give proper effect to this deed of compromise as

expeditiously as possible.

7. Since the parties have settled the matter amicably, there is no need for a factual adjudication of the matrimonial proceedings. We direct the parties to adhere to the terms and conditions stated in the memo of compromise by filing a joint petition for divorce before the Family Court and initiate appropriate proceedings for withdrawal of the criminal proceedings in C.C.No.91 of 2016 pending before the Judicial Magistrate, Additional Mahila Court, Trichy, and the related criminal proceedings in Crl.O.P.Nos.19428 of 2016, 22429 of 2016 and 1111 of 2017, pending before the Madurai Bench of the Madras High Court. We also permit the parties to file appropriate application before the Family Court to dispense with the mandatory period for passing a decree of divorce by mutual consent. We hope that the Family Court would pass appropriate orders taking into account the spirit of the settlement made by the parties.

8. The Civil Miscellaneous Appeal is disposed of. No costs.

* Enclosed along with Xerox copy of Memo of Compromise

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

tar
To

1. The V Additional Family Court, Chennai

2. The Judicial Magistrate, Additional Mahila Court
Trichy.

Copy to

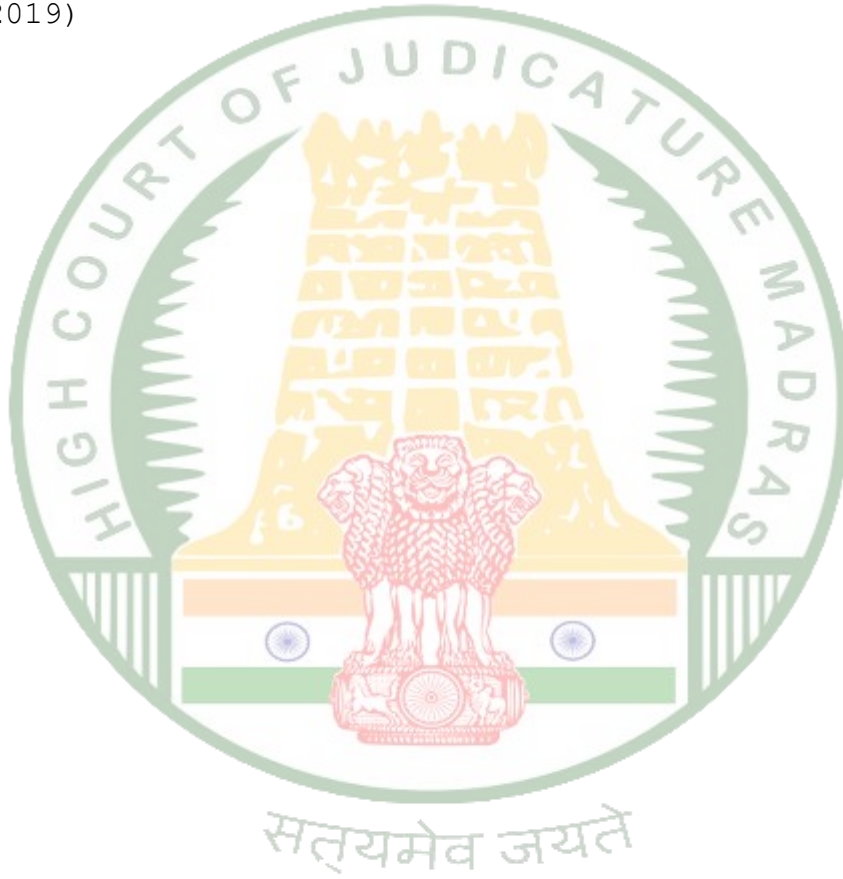
1. The Section officer
VR Section
High Court, Madras 104.

2. The Section officer
Criminal Section
Madurai Bench
Madras High Court
Madurai

+1 CC to Ms.B.Poonkhulali, Advocate sr 80386
+2 CCS to Mr.R.Balachandran, Advocate sr 80024

C.M.A.No.1867 of 2019

AD (CO)
SP (22/11/2019)



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