

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.04.2019

Coram

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
and

THE HONOURABLE MR. JUSTICE C.SARAVANAN

C.M.A.No. 2294 of 2017
and
Crl.O.P.No.25819 of 2011

J.Kuppuraj

.. Appellant in
both cases

vs.

P.Sasikala

.. Respondent in
C.M.A.No.2294 of 2017

1.Sasikala

2.Minor Gopia @ Gokelavani

rep. by her mother Sasikala R1

.. Respondents in
Crl.O.P.No.25819 of 2011

Prayer in C.M.A.No.2294 of 2017: Appeal filed under Section 19 of the Family Courts Act, 1984 against the fair and decretal order dated 26.02.2013 passed by the Family Judge, Salem in F.C.O.P.No.287 of 2009.

Prayer in Crl.O.P.No.25819 of 2011: Petition filed under Section 482 Cr.P.C. against the judgment dated 23.09.2011 in C.R.P.No.25 of 2011 passed by the Additional District Judge, Fast Track Court No.II, Salem, confirming the judgment dated 03.05.2011 in M.C.No.16 of 2010 passed by the Judicial Magistrate No.II and Special Magistrate for Sandalwood Cases, Athur.

For Appellant/

Petitioner

:

Mr.M.Ravi in both cases

For Respondents

:

Mr.E.Kannadasan in both cases

COMMON JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The Civil Miscellaneous Appeal is directed against the order dated 26.02.2013 passed by the Family Judge, Salem in F.C.O.P.No.287 of 2009.

2.The Criminal Original Petition is filed against the judgment dated 23.09.2011 in C.R.P.No.25 of 2011 passed by the Additional District Judge, Fast Track Court No.II, Salem, confirming the judgment dated 03.05.2011 in M.C.No.16 of 2010 passed by the Judicial Magistrate No.II and Special Magistrate for Sandalwood Cases, Athur.

3.Heard the learned counsel appearing for the parties. Today, a memo of compromise dated 12.04.2019 duly signed by the parties and attested by their respective counsel, has been filed. The memo of compromise reads as under:

1.The petitioner (husband) had filed O.P.No.287 of 2009 before the Hon'ble Family Court, Salem, for dissolution of marriage, which was dismissed on 26.02.2013 against which the present appeal in C.M.A.No.2294 of 2017 preferred by the petitioner is pending on the file of this Hon'ble High Court.

2.The respondent had filed O.P.No.294/2011 before the Hon'ble Family Court, Salem for restitution of conjugal rights, which was dismissed on 22.01.2013 and no appeal was filed by the respondent herein against such order. The respondent along with Minor Kokilavani @ Gopika had also filed MC No.16/2010 under Sec. 125 of Cr.P.C. before the learned Judicial Magistrate II Court, Attur for her maintenance as well as for the maintenance of Minor Kokilavani @ Gopika born out of the wedlock between the parties. The learned Judicial Magistrate II Court, Attur by order dated 03.05.2011, allowed the petition and ordered payment of monthly maintenance of Rs.3,000/- to each of the respondents by the petitioner. The petitioner preferred CRP No.25 of 2011 against the said judgment and the learned Additional District Judge, Fast Track Court II, Salem by judgment dated 23.09.2011 dismissed the Revision Petition and hence the petitioner preferred CrI.O.P.No.25819 of 2011 on the file of this Hon'ble Court.

3.The parties herein submit that after series of negotiations between the parties, the parties herein agreed to settle the matter amicably and finally for dissolution of their marriage, on the following terms:

(i)The petitioner herein agrees to pay a sum of Rs.2,50,000/- in favour of the respondent and another sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) to their daughter Minor Kokilavani @ Gopika represented by the respondent, towards full and final settlement of maintenance to the respondent

and the child respectively. Further the respondent undertakes that she either on her behalf or on behalf of the child will not claim any past, present, future maintenance, alimony or any other claim in any form whatsoever, from the petitioner.

(ii) The petitioner and the respondent herein having agreed that they will take possession of their belongings including all valuable items and will not make any claim against each other in regard to their belongings including all valuable items, have accordingly taken all their belongings including jewels and all valuable items on 19.12.2018 and neither of them have any claim against each other. The petitioner and the respondent hereby undertake that they will not stake any claim against the other in regard to their jewels, valuables or for any other item.

(iii) The parties herein agrees to dissolve marriage held between them on 31.08.2005 at Salem.

(iv) The custody of the child shall be with the respondent and the petitioner will have visitation rights on the first and third Sundays of every month and on festival days and the respondent will extend her fullest cooperation in this regard and the petitioner undertakes that he will not disturb the respondent and the child in any manner on any other day, without the consent of the respondent.

(v) The parties herein i.e. The petitioner and the respondent on her behalf and on behalf of Minor Kokilavani @ Gopika in the capacity of her natural guardian agrees to close the matter in CrI.O.P.No.25819 of 2011 by recording this memo of compromise and the respondent agrees that she and her daughter Minor Kokilavani @ Gopika shall not make any claim for past, present or future maintenance or any other claim in any form whatsoever from the petitioner. The amount of Rs.2,50,000/- due to himself shall be deposited in a nationalised bank till she attained majority. The mother shall have right to withdraw the interest alone for the upkeep of her daughter.

4. In pursuance of the above said compromise agreement, the petitioner had on this day handed over a demand drafts drawn on State Bank of India, Thalaivasal Branch, Salem vide (i) demand draft No.135008 dated 08.04.2019 for Rs.2,50,000/- in favour of the respondent (P.Sasikala) and another (ii) demand draft No.135007 dated 08.04.2019 for Rs.2,50,000/- in favour of Minor Kokilavani @ Gopika (Kokilavani) represented by her natural guardian and her mother i.e. Respondent herein on 08.04.2019 and had ensured that respondent had taken possession of all her belongings including all her valuable items and likewise the respondent had also handed over all the belongings of the petitioner including all his valuable items to the petitioner on 19.12.2018 and thus the prerequisite terms mutually agreed upon have been fully complied with, by both the parties.

In these circumstances it is prayed that this Hon'ble Court may be pleased to record this memo of compromise and to allow the appeal by setting aside the order dated 26.02.2013 passed in O.P.No.287 of 2009 on the file of Family Court, Salem and to pass appropriate orders for dissolution of the marriage held on 31.08.2005 at Salem and also dismiss the claim of maintenance ordered in CRP No.25 of 2011 between the petitioner and the respondent and pass such further or other orders as this Hon'ble Court may deem fit and proper and thus render justice.

4. The memo of compromise dated 12.04.2019 is taken on record. The Civil Miscellaneous Appeal and the Criminal Original Petition stand disposed of in terms of the memo of compromise. The memo of compromise dated 12.04.2019 shall form part of the decree. No costs.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge,
Family Court, Salem.

2. The Additional District Judge,
Fast Track Court No.II, Salem.

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3.The Judicial Magistrate No.II and
Special Magistrate for Sandalwood Cases,
Athur.

+1cc to Mr.M.Ravi, Advocate, S.R.No.37460 & 37461
+1cc to Mr.E.Kannadasan, Advocate, S.R.No.37033

C.M.A.No. 2294 of 2017
and CrI.O.P.No.25819 of 2011

KAN(CO)

RRS (27/04/2019)



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