

High Court for the State of Telangana

The Hon'ble Sri Justice Raghvendra Singh Chauhan

and

The Hon'ble Sri Justice T.Amarnath Goud

Family Court Appeal No.59 of 2006

Date: 27-02-2019

Between:

B.Venkata Viswanath

...Appellant

and

Daita Kalyani

...Respondent

Counsel for the appellant: Ms. G. Sudha

**Counsel for the respondent: Mr. T. Damodar
Rep. by Ms. B.Vidyullatha**

The Court made the following:

Judgment: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

The appellant, Mr. B. Venkata Viswanath, is partly aggrieved by the Judgment dated 27-03-2006 passed by the Family Court, Hyderabad, whereby the learned Family Court has not only granted a divorce in favour of the respondent-wife, Daita Kalyani, but has also granted her a permanent alimony of Rs.15 lakhs. The appellant is not aggrieved by the grant of divorce, but, is aggrieved by the grant of permanent alimony of Rs.15 lakhs to the respondent- wife.

Briefly stated, the facts of the case are that, on 29-11-2002, the appellant and the respondent were married at Hyderabad, in accordance with the Hindu rites and customs. According to the respondent- wife, from day one of her marriage, the marriage was on the rocks. For, she was subjected to both mental and physical cruelty by the appellant- husband. The couple stayed in India for about nine months. Thereafter, the appellant migrated to the United States as he was employed there as a software engineer. Subsequently, on 15-08-2003, the respondent also joined the appellant- husband in the United States. They stayed in Jackson in the United States. However, according

to the respondent- wife, her life became even more miserable during her stay with the appellant- husband in the United States. According to her, despite her best effort, the marriage was never consummated. In fact, she was sexually abused by the appellant and was subjected to physical assault. Therefore, she left the company of the appellant and returned to her parental house in Hyderabad. Consequently, she filed a divorce petition against the appellant under Section 13 (1) (ia) of the Hindu Marriage Act, 1955.

In order to support her case, the respondent- wife examined herself as PW.1, and submitted twenty eight documents. On the other hand, the appellant- husband did not examine any witness. In fact, he never appeared before the Court to contest the case. However, he submitted forty documents.

As mentioned herein above, by judgment dated 27-03-2006, the learned Family Court not only granted the divorce in favour of the respondent- wife, but also granted an amount of Rs.15 lakhs as permanent alimony to her. Hence, this appeal before this Court.

Ms. G. Sudha, the learned Counsel for the appellant, has pleaded that the learned Family Court has not discussed any evidence and has not given any reason for granting a permanent alimony of Rs.15 lakhs in favour of the respondent- wife. Considering the fact that the appellant is an unemployed young man, the permanent alimony of Rs.15 lakhs is too high an amount. Moreover, in pursuance of this Court's interim order dated 28-04-2006, the appellant had already deposited a sum of Rs.6 lakhs. The same should be taken by this Court as a reasonable amount for permanent alimony in favour of the respondent. Therefore, the impugned judgment deserves to be modified by this Court vis-à-vis permanent alimony.

On the other hand, Mr. T. Damodar, the counsel representing Mrs. B.Vidyullatha, the learned counsel for the respondent- wife, has pleaded that, in fact, the learned family court has not only considered the evidence produced by the respondent- wife, but has also given cogent reasons for granting the respondent a permanent alimony of Rs.15 lakhs. Therefore, the impugned judgment does not deserve to be modified by this Court *qua* the permanent alimony.

Heard the learned Counsel for the parties and perused the impugned judgment.

It is, indeed, trite to state that while deciding the issue of permanent alimony, the courts are required to consider certain factors such as, the financial status of both the parties, the earning capacity of the husband, and the lifestyle that the wife led while she was staying with the husband. For, she may be required to maintain the same lifestyle even after getting divorce from the husband.

A bare perusal of the impugned judgment clearly reveals that while considering point No.4, the learned family court has clearly noticed that the respondent- wife is not working. The learned trial court has also noticed the fact that the respondent- wife was staying with the appellant-husband in the United States. According to Ex.R.29, the appellant- husband was working as a software engineer with the Soft Tech Source, a division of Ramesh Sarva, CPA, a company located in Jackson, USA. According to the appellant's salary certificate, he was earning an annual salary of \$ 60,000/-. According to the learned Family Court, the

said amount is equivalent to Rs.27 lakhs. Considering these factors, the learned Family Court granted a permanent alimony of Rs.15 lakhs to the respondent- wife. Therefore, the contention raised by the learned Counsel for the appellant that the learned Family Court has neither assessed the evidence, nor given any reasons for granting a permanent alimony of Rs.15 lakhs is belied by the impugned judgment. For, a bare perusal of the judgment clearly reveals that the learned family court has discussed the entire evidence, and given cogent reasons for granting a permanent alimony of Rs.15 lakhs to the respondent- wife.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned judgment. This appeal, being devoid of merit is hereby dismissed.

Furthermore, it is made clear that the amount of Rs.6 lakhs, admittedly, deposited by the appellant- husband, in pursuance of this Court's interim order dated 28-04-2008, shall be released forthwith in favour of the respondent- wife. The appellant is directed to deposit the remaining amount of Rs.9 lakhs along with interest @ 9% p.a., from 08-11-2005 *i.e.*, the date of filing of the divorce petition till the date of

realization before the family court within a period of one month from the date of receiving a certified copy of this order.

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

(Raghvendra Singh Chauhan, J)

(T.Amarnath Goud, J)

Dt: 27th February, 2019
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