

THE HONOURABLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.NO.1371 OF 2018

JUDGMENT: {Per the Hon'ble Sri Justice Raghvendra Singh Chauhan}

Mr. B.Shashi Bushan Rao, learned counsel for the appellant, submits that by judgment dated 14.08.2018, the appellant and his family members were acquitted for the offence under Section 498-A of the Indian Penal Code by the Additional Judicial Magistrate of First Class, Sangareddy. Despite this fact being brought to the notice of the learned Family Court, the Principle District Judge, Medak at Sangareddy, the fact has not been noticed by the learned Judge. Thus, the learned Judge is unjustified in dismissing the divorce petition by judgment dated 29.08.2018 in Divorce O.P.No.525 of 2013.

In catena of cases, the Hon'ble Supreme Court has opined that in case a contention was raised by a party, but is not recorded by the learned Court, the party should file a review petition before the concerned Court rather than raising the said plea before the appellate Court. For, the appellate Court is not in a position to discover whether the said plea was actually raised before the concerned Court or not.

Once this fact was pointed out by the learned counsel for the appellant, he seeks the permission to withdraw the present appeal, with the liberty to file the review petition before the concerned Family Court.

Hence, this appeal is dismissed as withdrawn with the liberty as sought for.

There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAGHVENDRA SINGH CHAUHAN, J)

(T.AMARNATH GOUD, J)

4th January 2019
RRB

