

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH  
and  
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

C.M.A.No.4544 of 2019  
and  
C.M.P.No.25729 of 2019

M.S.Shrikrishna  
S/o.R.Mohanasundaram ... Appellant/respondent/Petitioner

Vs

S.Divya  
D/o.O.A.K.Sivabalan ... Respondent/Petitioner/Respondent

Civil Miscellaneous Appeal filed u/s.19(1) of Family Courts Act against the order dated 08.07.2019 passed in I.A.No.4203 of 2018 in O.P.No.1348 of 2014 on the file of II Additional Judge, Family Court, Chennai.

For Petitioner : Mr.E.D.Sethupathi  
For Respondent : Mr.V.Neethidurai

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JUDGMENT

[Judgment of this Court was made by R.SUBBIAH, J]

The present appeal has been filed against the order dated 08.07.2019 passed in I.A.No.4203 of 2018 in O.P.No.1348 of 2014 on the file of learned II Additional Judge, Family Court, Chennai.

2. Petitioner and respondent are husband and wife. Petitioner/ husband filed O.P.No.1348 of 2014 on the file of Principal Family Court, Chennai, seeking divorce. Respondent/wife filed I.A.No.2328 of 2014 in O.P.No.1348 of 2014 on the file of learned II Additional Judge, Family Court, Chennai, seeking interim maintenance. Court below, under order dated 01.11.2017, passed an ex parte order directing petitioner/husband to pay a sum of Rs.12,000/- p.m. to respondent/wife as interim maintenance. Petitioner/husband filed I.A.No.4203 of 2018 in I.A.No.2382 of 2014 in O.P.No.1348 of 2014 on the file of learned II Additional Judge, Family Court, Chennai, praying to set the ex parte order dated 01.11.2017.

Court below, under the impugned order, dismissed such petition on the ground that the petition was filed after a period 30 days without a petition seeking condonation of delay. Challenging such order, the present appeal has been filed.

3. Heard learned counsel for petitioner and learned counsel for respondent.

4. Learned counsel on either side submits that pending appeal, the matter was referred to Mediation Centre and both parties have arrived at a settlement before the Mediation Centre and a Settlement Agreement was also entered into between parties. Learned counsel for petitioner submits that since the parties have arrived at a settlement, the appeal may be dismissed.

5. The Settlement Agreement dated 27.02.2020, signed by both parties as also their respective counsel, reads as follows:

'SETTLEMENT AGREEMENT'

This SETTLEMENT AGREEMENT entered into on 27/02/2020 between

M.S.Shrikrishna,  
S/o.R.Mohanasundaram,  
Plot No.102, 1<sup>st</sup> Floor,  
7<sup>th</sup> Main Road, Swaminathan Nagar,  
Kottivakkam, Chennai - 41. .... Petitioner

AND

S.Divya,  
D/o.O.A.K.Sivabalan,  
No.G-4, Amudham Colony,  
South Boag Road,  
T.Nagar, Chennai - 17. .... Respondent

WHEREAS

1. Disputes and differences had arisen between the Parties hereto and CMA No.4544 of 2019 was filed on 01/11/2019 before the Hon'ble Justices M.M.Sundresh and Krishnan Ramasamy.

2.The matter was referred to mediation vide an order dated 02/12/2019 passed by Hon'ble Justices M.M.Sundresh and Krishnan Ramasamy.

3.The parties agreed that V.Gandhimathi would act as their Mediator.

4. Several meetings were held during the process of Mediation from 19.12.2019 to 20.02.2019 and the parties have with the assistance of the Mediator voluntarily arrived at an amicable solution resolving the above mentioned disputes and differences.

5. The parties hereto confirm and declare that they have voluntarily and of their own free will arrived at this Settlement Agreement in the presence of the Mediator.

6. The following settlement has been arrived at between the Parties hereto:

A. The petitioner had filed petition for divorce against the respondent and the same is pending before the Hon'ble II Addl. Family Court at Chennai in O.P.No.1348 of 2014 and the respondent also filed four IA's in above O.P.No.1348 of 2014, IA No.2382/2014 for interim maintenance and other IA's for return of sreedhana articles, permanent alimony and legal expenses for conducting cases and in the IA No.2382/2014 the petitioner was set exparte and exparte order was passed against the petitioner on 01/11/2017 and the petitioner had filed set aside petition in IA No.4203/2018 and the same was dismissed on 08/07/2019 and aggrieved by the same the petitioner had preferred the above CMA No.4544/2019 before the Hon'ble High Court, Madras and the same is pending before the Mediation Center, High Court, Madras. The respondent had filed EP No.80 of 2019 for execution of the order passed in IA No.2382/2014 and the same pending before the Hon'ble II Addl. Family Court at Chennai and the MC No.416 of 2017 filed by the respondent herein is still pending before the Hon'ble II Addl. Family Court at Chennai.

B. The respondent gave a police complaint against the petitioner and his family members and the same is registered in Crime No.6 of 2013 before the Inspector of Police, W-19 All Women Police Station, Adyar, Chennai and subsequently charge sheet was filed and pending in C.C.No.173/2014 before the Learned Judicial Magistrate, Alandur and the petitioner filed Crl.O.P.No.8228/2018 for quash the CC No.173/2014 before the Hon'ble High Court, Madras and the same is pending and the Complaint under the Domestic Violence Act is pending before the Learned XVIII Metropolitan Magistrate, Saidapet in M.P.No.77/2013 and the same was dismissed for default for non appearance of the respondent herein.

C. The petitioner agree to withdraw the above said OP No.1348/2014 filed by him and respondent agree to withdraw the above said I.A's and to not proceed with the above said Criminal Complaint in C.C.No.173/2014 before the Learned Judicial Magistrate, Alandur and the MC No.416/2017 pending before the Hon'ble II

Additional Family Court, Chennai and the respondent also agrees to give her consent for quashing the CC No.173/2014 for which Crl.OP.No.8228/2018 was filed by the petitioner before the Hon'ble High Court, Madras and what are the complaints pending in all the courts which were filed by the respondent.

D. The respondent agrees to receive an amount of Rs.12,00,000/- (Rupees Twelve lakhs only) as full and final settlement and the Petitioner had paid an amount of Rs.5,00,000/- to the respondent by way of cash while filing HMOP No.3385/2015 under Section 13(b) of Hindu Marriage Act (on the file of Hon'ble II Addl. Family Court, Chennai) and the same was withdrawn by the respondent, amount of Rs.5,00,000/- was now in the hands of the respondent. The parties have filed a fresh petition under Section 13(b) of Hindu Marriage Act before the Family Court, Chennai in Sr.No.1071/2020 and at the date of taking evidence in the Sec.13(b) petition for mutual divorce the Petitioner will pay the balance amount of Rs.7,00,000/- (Rupees Seven Lakhs Only) to the respondent by way of DD No.510117 dated 07/02/2020 drawn on ICICI Bank, Cenotaph Road branch and the respondent agreed to receive said money as full and final settlement as agreed and further both the parties will not claim in any kind of remedy which in future under the law or any manner.

7. By signing this Agreement the Parties hereto state that they have no further claims or demands against each other with respect to CMA No.4544 of 2019 and all disputes and differences in this regard have been amicably settled by the Parties hereto through the process of Mediation.'

Recording the Settlement Agreement dated 27.02.2020, the Civil Miscellaneous Appeal is disposed of. The Settlement Agreement shall form part of the records. No costs. Connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gm

To

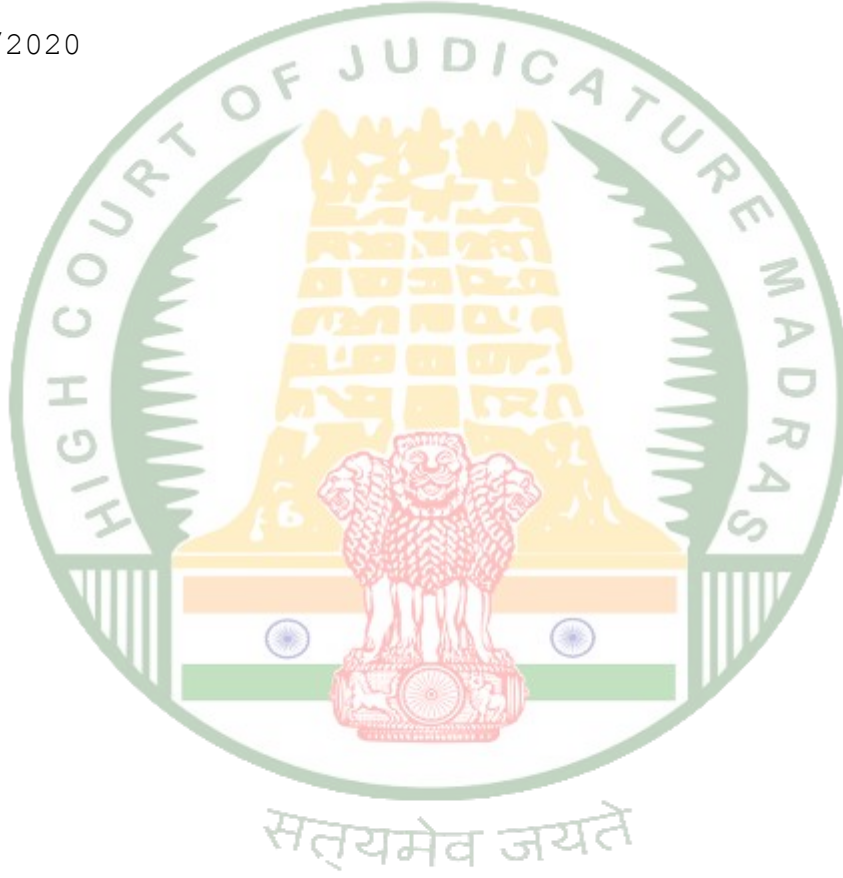
1. The II Additional Judge,  
Family Court,  
Chennai.

2. The Section Officer,  
VR Section,  
High Court, Madras

C.M.A.No.4544 of 2019

AK

MRP 29/05/2020



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