



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM :

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN
and
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A. No.1858 of 2021

Mahesh

...Appellant

Vs

1.Rathi @ Rajathi

...Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, to set aside the fair and decreetal order dated 09.04.2021 passed in I.A. No. 492/2020 in H.M.O.P. No. 112/2020 on the file of the Judge, Family Court, Cuddalore.

For Appellant : Mr.I.Abrar Mohamed Abdullah

For Respondent : Mrs. G.Sudha

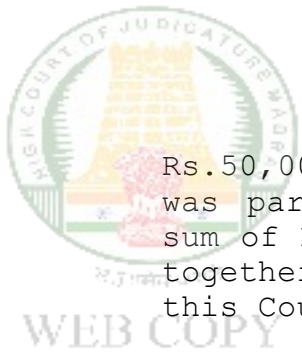
J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The matter has been heard through "Video Conference".

2.This Appeal has been filed against the fair and decreetal order dated 09.04.2021 passed in I.A. No. 492 of 2020 in H.M.O.P. No. 112 of 2020.

3.Facts of the case is that the Appellant got married to the Respondent on 20.03.2015 and out of the wedlock, a child viz., Pritu was born on 08.01.2017. However, they have been living separately for the past three years, due to disputes between them. In view of the above developments, the Appellant filed an Original Petition in H.M.O.P.No. 112 of 2020 under Section 13(1)(ia) of the Hindu Marriage Act, 1955 to dissolve the marriage. In the said H.M.O.P. No. 112 of 2020, I.A. No. 492 of 2020 has been filed by the Respondent/Wife seeking



Rs.50,000/- towards interim maintenance and the said Application was partly allowed, directing the Appellant /Husband to pay a sum of Rs.30,000/- to the Respondent and their Child viz., Pritu together. The said order dated 09.04.2021 is challenged before this Court in this Appeal.

4.Taking note of the fact that it is a family dispute, this Court called both the Parties and mediated. With the active co-operation of Mr. Abrar Mohamed Abdulla, Learned Counsel for the Appellant and Mrs. G.Sudha, Learned Counsel for the Respondent the matter has been settled.

5.When the matter is called today, both Appellant and Respondent are present before this Court and categorically declared that they are not interested to live together and agreed to dissolve the marriage dated 20.03.2015. In view of that, the Appellant agreed to pay a sum of Rs.22,50,000/- towards full and final settlement, and in this regard, a sum of Rs.10,00,000/- has already been paid, as part-payment by cash. The Appellant also agrees to pay the balance sum of Rs.12,50,000/- within a period of three months from today, i.e., 18.08.2021.

6.The Appellant shall continue to pay a sum of Rs.5,000/- to the account of the Respondent on or before 10th of every succeeding English calendar month. The educational expenses and medical expenses of the child shall be borne by the Appellant, apart from marriage expenses of the child.

7.In view of that, a joint memo of compromise dated 16.08.2021 signed by both Parties and counter-signed by their respective Counsel has been filed. A perusal of the joint memo of compromise would reflect what has been stated by Parties before this Court.

8.In view of the above, no purpose would be achieved by keeping H.M.O.P. No. 112 of 2020 on the file of the Family Court, Cuddalore. Therefore, this Court, suo motu, invokes Article 227 of the Constitution, Section 24 of the Hindu Marriage Act and Section 151 of the Code of Civil Procedure and withdraws H.M.O.P. No. 112 of 2020 to the file of Family Court, Cuddalore and grants decree of divorce by mutual consent, as per the joint memo of compromise filed by Parties. This stage is necessary to avoid unnecessary harassment to Parties and also to save money and time and Joint Memo of Compromise shall form part and parcel of this Judgment.



9. In view of that, the fair and decreetal order dated 09.04.2021 passed in I.A. No. 492 of 2020 in H.M.O.P. No. 112 of 2020 is set aside and decree of divorce by mutual consent is granted dissolving the marriage dated 20.03.2015 between the Appellant and the Respondent, as per the joint memo of compromise dated 16.08.2021.

10. With the above, this Appeal is dismissed. Both the Appellant and the Respondent shall not poison the mind of the child by giving wrong information either about the Appellant or the Respondent, for healthy growing up of the child. The Respondent shall permit the Appellant to visit the child, whenever he wants to visit and the Appellant shall not create any problem, during his visit. It is made clear the custody of the child shall be with the mother and the Appellant shall have visitation right. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Maya

To

1. The Judge,
Family Court,
Cuddalore.

+1CC to Mr.I.Abrar MD Abdullah, Advocate, Sr.No.41595

+1CC to M/s.G.Sudha, Advocate, Sr.No.41943

C.M.A.No.1858 of 2021

VSN-II (CO)

K.RK. (25.11.2021)