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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.3006 of 2021

Jestin Oliver Raj ...Appellant
Vs.
Shiny Christiya ...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 55 of the Indian Divorce Act to set aside the fair order and decreetal order passed by the Family Court Judge, Cuddalore in I.D.O.P.No.247 of 2019 dated 24.03.2021.

For Appellant : Mr.R.Raja

JUDGMENT

[Judgment of the Court was delivered by K.KALYANASUNDARAM, J.]

This Civil Miscellaneous Appeal is directed against the order of the Family Court, Cuddalore passed in I.D.O.P.No.247 of 2019 and I.A.No.967 of 2019 dated 24.03.2021.

2.The appellant and the respondent are the husband and wife. The marriage between them was solemnized on 21.01.2018 at Infant Jesus Church at Srimushnam as per the Christian customs. The respondent filed original petition seeking divorce under Section 10(1)(x) of the Divorce Act to dissolve the marriage solemnized on 21.01.2018. It is her case that at the time of marriage, her parents provided 20 sovereign of gold, vessels, furnitures and motorcycle all worth about Rs.12 Lakh as Sridhana. At the relevant time, they were informed that the appellant/husband was aged about 25 years and he was working in a private concern. Subsequently, they came to know that he was 32 years and he was also unemployed.

3.The respondent/wife made allegations of cruelty against the appellant/husband contending that on 10.03.2018, she was beaten by her husband and she suffered injuries. On 25.04.2018,



the appellant/husband gave a complaint at Sethiathope All Women Police Station through his junior paternal uncle, who was working as a police constable at Kammapuram Police Station. Subsequently, an enquiry was held, but the appellant/husband did not appear. On 07.08.2018, the respondent/wife lodged a complaint to the Chief Minister's Special Cell and the Director General of Police against the appellant/husband. In that enquiry also, the appellant has not appeared. It is also stated that when she suffered injuries inflicted by the appellant/husband, he attempted to have physical relationship against her wishes.

4.The appellant/husband, before the Trial Court in his counter, has categorically denied the allegations made against him. According to him, as per Christian customs, before the marriage, full particulars of the appellant were given to the Church and they were also read out and it was put on notice board. He further stated that when the respondent/wife was staying in her parents' house, she inflicted burn injury herself. The junior paternal uncle of the appellant/husband has no role in the events, which had taken place in their family and the appellant is ready and willing to live with the respondent/wife and prayed for dismissal of the divorce petition.

5.Interim Application was filed under Section 27 of the Hindu Marriage Act for return of the jewels and the sirdhana articles from the appellant/husband.

6.In order to establish their case, the respondent/wife examined herself as P.W.1 and produced Exs.P.1 to P.9. The appellant/husband was examined as R.W.1 and he marked Exs.R.1 to R.18.

7.The Trial Court, on appreciation of evidence adduced by the parties, held that the respondent/wife is entitled for divorce and also directed the appellant/husband to return the articles. Assailing the order, the present appeal has been filed.

8.Mr.R.Raja, learned counsel for the appellant/husband contended that the Family Court has not properly appreciated the evidence available on record and also failed to note that the respondent/wife sustained burn injury in her parental home on 26.01.2018, which was proved by the appellant through Ex.R.2. It is next contended that the appellant was working as a Senior Technician in Hofincons infotech & Industrial Services Private Limited (A Division of Qess Corp Ltd) at Chennai from the year



2019 and the same was proved through Ex.R.3. When the respondent/wife had failed to establish her case, the Family Court ought not to have granted divorce.

9. We have heard the submission of the learned counsel appearing for the appellant and perused the materials available on record.

10. In the instant case, the relationship of the parties are not in dispute and it is an admitted fact that the marriage between them was solemnized on 21.01.2018. From the perusal of the records, it is evident that there is no cordial relationship between the parties from the day one of the marriage and it was also found that the marriage was not consummated. In the evidence, P.W.1 has clearly stated that in view of the events taken place in the family, there is no possibility for reunion.

11. Though the respondent/wife sought divorce on the ground of cruelty, taking note of the undisputed facts that the marriage between the appellant and the respondent was not consummated and there is no possibility for reunion, we find no reason to interfere with the conclusion reached by the Trial Court. This appeal has no merit, hence, this appeal is liable to be dismissed.

12. In the result, this Civil Miscellaneous Appeal stands dismissed as devoid of merits. However, there will be no order as to cost.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

skn

To

1. The Family Court Judge, Cuddalore.

2. The Section Officer

V.R. Section,

Madras High Court,

Chennai.

+1 CC to Mr. R. Raja, Advocate sr 55290

C.M.A.No.3006 of 2021

NK(CO)

SP(24/01/2022)