



C.M.A(MD)No.531 of 2016

WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 06.12.2022

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

**C.M.A(MD)No.531 of 2016
and
C.M.P(MD)No.6501 of 2016**

G.Bhagavathimuthu

... Appellant/Respondent

.Vs.

N.Yuvarajan

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 19(1) of the Family Courts Act, to set aside the order passed in H.M.O.P.No.161 of 2014, on the file of the Family Court, Dindigul, dated 26.02.2016 and allow this Civil Miscellaneous Appeal.

For Appellant
For Respondent

: Mrs.M.Kamalini
: Mr.N.Marimuthu
for Mr.A.Chandrakumar



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JUDGMENT

DR.G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

The wife, who has lost the divorce petition to her husband, is before this Court by way of an appeal.

2. The appellant and the respondent got married on 31.08.2011. They were not compatible and within two years of the marriage, the dispute has been reported to the All Women Police Station, Oddanchatram. Thereafter, the appellant has initiated proceedings under Domestic Violence Act against her husband and in-laws. In the said circumstances, the husband has filed a petition for divorce on the ground of cruelty. The divorce petition was contested by the appellant, however, after considering the evidence, the Family Court, Dindigul has allowed the petition and dissolved the marriage solemnized on 31.08.2011.



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3. Though the appellant has canvassed that the trial Court had erred in appreciating the evidence and has arrived at a wrong conclusion, subsequently carries more relevancy in this case. The respondent herein after getting decree of divorce has married another lady on 15.06.2016. Though the appellant has filed the appeal on 27.04.2016 with one day delay, the said appeal got numbered on 30.06.2016 and heard by the Courts on 05.07.2016. On that day, an ex-parte interim stay of the trial Court order granted. But even prior to that, the respondent has married one Sugapriya. In the said circumstances, technically there is no legal impediment for the respondent to marry with Sugapriya when there was a decree of divorce in force.

4. It is also brought to the notice of this Court that the appellant herein has filed contempt petition alleged that the respondent has solemnized the marriage with Sugapriya when her marriage with respondent was in force. The said contempt petition was considered by this Court and dismissed the same for the reason that the second marriage of the respondent with Sugapriya was after dissolving the prior marriage.



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5. The trial Court, on considering the evidence let in by the petitioner and has taken note of the criminal complaint given by the appellant to the Oddanchatram Police Station and the Domestic Violence case filed before the learned Judicial Magistrate, Dindigul as cause of cruelty, has allowed the divorce petition. This Court finds that in the Domestic Violence complaint, the appellant has not restricted against her husband and mother-in-law, but also the grand-mother of the husband also being arrayed as accused at the time of complaint was about 70 years old.

6. This Court also finds that the Sugapriya also arrayed as one of the accused in the Domestic Violence Act Case. From the records, this Court finds that the appellant has filed the Domestic violence petition against 10 persons, few are not even related or connected with husband, which clearly shows that she had malicious intention to cause harassment to her husband. Therefore, the Family Court has rightly held that the frivolous complaint before the police and the learned Judicial Magistrate which has ultimately ended an acquittal on 26.09.2019, in tantum also causing cruelty. Therefore, this Court finds there is no reason to interfere with the findings of the trial Court.



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WEB COPY 7. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

[G.J.,J.] [S.M.,J.]
06.12.2022

Index : Yes / No
Internet : Yes / No
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To

The Family Court,
Dindigul.



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and
SUNDER MOHAN,J.

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JUDGMENT MADE IN
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06.12.2022