



C.M.A.(MD)No.201 and 202 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.09.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

and

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

C.M.A.(MD)Nos.201 and 202 of 2017 and
C.M.P.(MD) Nos. 2466 and 2468 of 2017

M.S.Vignesh Babu

.. Appellant/Claimant
in both cases

Vs.

M.Saraswathi

.. Respondent/Respondent
in both cases

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section 19(1) of the Family Courts Act, 1984, against the common order, dated 04.02.2017, in H.M.O.P.Nos.526 and 604 of 2012 on the file of the Family Court, Madurai,

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In both cases

For Appellant : Mr.M.Solaisamy

For Respondent : Mr.K.Govindarajan

COMMON JUDGMENT

J.NISHA BANU, J.
and
N.ANAND VENKATESH, J.

These appeals arise against the common order passed by the Family Court, Madurai, dismissing H.M.O.P.No.526 of 2012, which was filed for annulment of the marriage between the appellant and the respondent under Section 12(1)(c) of the Hindu Marriage Act (hereinafter referred to as 'the Act') and allowing H.M.O.P.No.604 of 2022 filed for restitution of conjugal rights under Section 9 of the Act, through order, dated 04.02.2017.

2. The petitioner/appellant filed the petition seeking annulment of marriage on the ground that his consent was obtained by force and he was threatened by using the police force and after conducting marriage



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forcefully, he was forcibly taken to Chennai in a car and was locked in a house. Therefore, according to the petitioner/appellant, the marriage is a nullity in the eye of law.

3. The respondent filed a counter and took a stand that she and the petitioner/appellant worked together in a software company and both of them developed relationship and deep understanding. Both of them were deputed to Singapore and they stayed together in the same room. They lived as husband and wife for more than six months at Singapore. During the interregnum period, the respondent underwent abortion in order to avoid embarrassment to both the families before the marriage. Even after returning back from Singapore, both of them were continuing with the relationship till the year 2012. All of a sudden, the husband started evading the respondent and was toeing the line of his parents, who had started looking for a bride for him. Immediately, a complaint was given before the concerned police and an enquiry was conducted and at that point of time, the appellant/husband told the police that he is willing to



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marry the respondent. Accordingly, the marriage took place at Mariamman Kovil, Theppakulam, Madurai and it was also registered before the concerned authority on 14.09.2012.

3. The respondent/wife took a stand that the ground raised by the husband is unsustainable and hence sought for the dismissal of the petition. The respondent also filed a petition for restitution of conjugal rights in H.M.O.P.No.604 of 2012.

4. The Family Court, heard both the petitions together, after recording evidence and on taking into consideration the facts and circumstances of the case and after appreciating the evidence, came to a conclusion that the marriage was properly solemnized between the parties and there was no ground for annulling the marriage. Consequently, the petition filed for restitution of conjugal rights was allowed. Aggrieved by the same, the husband has filed the above appeals.



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5. Hear Mr.M.Solaisamy, learned counsel appearing for the appellant/husband and Mr.K.Govindarajan, learned counsel appearing for the respondent/wife.

6. The main ground on which the appellant sought for annulling the marriage is that his consent was obtained under threat and he never agreed to marry the respondent. On carefully going through the evidence, it is seen that the appellant and the respondent had a relationship even before the marriage. They worked in a Software Company and their relationship started in the year 2007 onwards. Both of them were deputed to Singapore by the Software Company. However, the appellant in the proof affidavit did not even state anything about the deputation made to Singapore. Only during the cross-examination, he admitted the deputation made to Singapore. They stayed in Singapore for nearly six months. They did have physical relationship and the same is substantiated by Ex.R2, wherein the Manager of the Company had sent an e-mail on 25.11.2008 regarding the appellant and the respondent staying in the same room at



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Singapore. If the appellant and the respondent had stayed in the same room at Singapore, it is not necessary to hunt for evidence to prove that they had physical relationship. This is in view of the fact that separate rooms were given to the gents and ladies working in the Software Company and inspite of the same, the appellant and the respondent had chosen to stay in the same room. This issue has been properly addressed by the Court below and the Court below has commented upon the suppression of this vital fact by the appellant, which was put against him. The respondent examined herself as R.W-1 and she had deposed that she had sexual relationship with the appellant while they were in Singapore. Her evidence has not been dislodged during the cross-examination. Obviously there was an understanding between the parties to get married at some point of time and that is the reason why both of them had moved very closely right through and were staying in the same room at Singapore.

7.The criminal complaint given by the respondent against the



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appellant has been blown out of proportion. The respondent was forced to give a criminal complaint since the appellant, all of a sudden, started evading her and the respondent got an impression that she is being deceived by the appellant. That by itself does not lead to a conclusion that the marriage was solemnized under threat and the appellant was forced to marry the respondent. Even when the appellant was produced before this Court at the time of hearing the HCP, he never made a statement as if he was compelled or threatened to marry the respondent. Hence, it was more an afterthought on the part of the husband/appellant to allege that the marriage was solemnized under threat.

8. The Court below has also taken into consideration the deposition of P.W-2, who is the father of the appellant. On appreciating the evidence and the relevant document, the Court below has come to a conclusion that the father of the appellant never seriously pursued with the criminal complaint and if really the marriage was conducted under threat and some police officers were also involved, the father of the appellant would not



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have let it go so lightly and serious steps would have been taken to take action against the concerned parties and also the police officials.

9. In the considered view of this Court, the marriage between the appellant and the respondent has been properly solemnized and it has also been registered on 14.09.2012 (Ex.R7). Hence, there is no question of declaring the marriage as a nullity as claimed by the appellant.

10. Insofar as the claim made by the respondent/wife seeking for restitution of conjugal rights, sufficient grounds were made out by the respondent and there was absolutely no valid reason for the appellant to withdraw himself from the conjugal relationship. Hence, this Court does not find any ground to interfere with the order passed in favour of the respondent for restitution of conjugal rights.

11. The above discussion leads to the only conclusion that there are absolutely no merits in these appeals and there are no grounds to interfere



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with the order passed by the Court below and as a result, both these Civil Miscellaneous Appeals stand dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

[J.N.B., J.] [N.A.V., J.]
29.09.2022

Index : Yes/No
Internet : Yes
PJJ

To
The Judge,
Family Court,
Madurai.

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**Judgment made in
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