

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

FAMILY COURT APPEAL No.84 OF 2010

JUDGMENT: (Per Hon'ble Dr.SA,J)

This appeal, under Section 19 (1) of the Family Courts Act, 1984, is filed by the appellant aggrieved by the order, dated 27.01.2010, passed in F.C.O.P.No.15 of 2009 by the learned Judge, Family Court-cum-Additional District Court, Adilabad, whereby, the subject F.C.O.P. filed by the respondents, , who are wife and son of the appellant, respectively, under Section 3(1) and (2) of the Muslim Woman (Protection of Rights on Divorce) Act, 1986, was allowed.

2. Heard the learned counsel for the appellant and perused the record.

3. Notice sent to the respondents to the address given in the subject F.C.O.P. returned with an endorsement 'insufficient address'.

4. The operative portion of the impugned order, dated 27.01.2010, reads as follows:

“17. In the result: Petition is allowed, with costs. Directing the respondent to pay Mehar amount of Rs.2,051/- (Rupees Two Thousand and Fifty One Only) and Iddat period amount Rs.7,000/- (Rupees Seven Thousand Only) and also Rs.75,000/- (Rupees Seventy Five Thousand Only) towards permanent alimony for the future maintenance to the petitioner No.1. The respondent is also directed to pay Rs.1,000/- (Rupees One Thousand Only) per month to the second petitioner until second petitioner complete the age of two years from the date of petition i.e., 17-02-2009.”

5. The learned counsel for the appellant/husband would contend that without there being any legally acceptable evidence, the Court below had erroneously granted the relief, as indicated above. Though the respondents filed documents to substantiate the claims made by them, they are all fabricated for the purpose of this case. The Court below erred in holding that the appellant/husband neglected the respondents, who are his wife and son, respectively, and ultimately, prayed to set aside the impugned order and dismiss the subject F.C.O.P.

6. In view of these circumstances, the points that arise for determination in this appeal are as follows:

1. *Whether the Court below is justified in granting the relief, as indicated above, in favour of the respondents?*

2. *Whether the impugned order, dated 27.01.2010, passed in F.C.O.P.No.15 of 2009 by the learned Judge, Family Court-cum-Additional District Court, Adilabad, is liable to be set aside?*
3. *To what relief?*

POINTS:

7. As seen from the material placed on record, the marriage between the appellant and the respondent No.1 took place on 14.06.2007 as per the custom prevailing in the Muslim Community. The Mehar amount was fixed at Rs.2,051/-. After marriage, both the parties lived happily for a short period. Thereafter, the appellant started demanding additional dowry. During their wedlock, they were blessed with a son (respondent No.2). After the naming ceremony i.e., Chilla Function of respondent No.2, the appellant did not take back the respondents and sent a divorce deed, dated 29.11.2008, to the respondent No.1. The respondent No.1 got issued a legal notice to the appellant requesting him to take her into his company or to settle the dispute amicably. As there is no response from the appellant, the respondents filed the subject F.C.O.P. seeking Mehar amount, Iddat period maintenance, permanent alimony and maintenance to

respondent No.2 till he completes the age of two years. The respondent No.1, to substantiate her case got examined herself as PW.1 and got marked Ex.A1-carbon copy of list of Jahaz articles, Ex.A2-legal notice, dated 02.01.2009, Ex.A3-xerox copy of Raji Pathramu and Ex.A4-Divorce Deed. On behalf of the appellant, he himself got examined as RW.1, but no documents were marked. The material placed on record on behalf of the respondents substantiates the fixation of Mehar amount at Rs.2,051/-, giving of Jahaz articles in marriage etc. The appellant, who deposed as RW.1, categorically admitted in his cross-examination that he did not send Mehar amount and Iddat period maintenance along with the divorce deed. The Court below, having considered the oral and documentary evidence on record, was pleased to grant the amounts as indicated above. Therefore, the contentions raised on behalf of the appellant do not merit consideration. The appeal is devoid of merit and is liable to be dismissed.

8. Accordingly, the appeal is dismissed confirming the order, dated 27.01.2010, passed in F.C.O.P.No.15 of 2009 by the learned Judge, Family Court-cum-Additional District Court, Adilabad.

Miscellaneous petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

NAGESH BHEEMAPAKA, J

Date: 08-11-2022
MD