

THE HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

AND

THE HON'BLE SMT.JUSTICE M.G.PRIYADARSINI

FAMILY COURT APPEAL NO.30 OF 2012

JUDGMENT:-

1. Objecting the relief granted i.e., the dissolution of marriage by a decree of divorce basing on the petition filed by the respondent-husband for such a relief, the appellant-wife has presented the present appeal. The order assailed is the one that is rendered by the Family Court, Ranga Reddy District at L.B.Nagar in O.P.No.93 of 2008, dated 11.01.2012.

2. Heard Sri N.Krishna Sumanth, learned counsel who argued on behalf of Sri Vivek Jain, learned counsel on record for the appellant and also heard Sri K.B.Ramanna Dora, learned counsel for the respondent-husband.

3. For the sake of convenience of discussion, the parties to the appeal would be referred to as that of their matrimonial status i.e., the appellant as wife and the respondent as husband.

4. The husband moved an application seeking a decree of divorce on the grounds of cruelty and desertion. The learned Judge of the Family Court, having found that the grounds urged are established by the husband, granted the relief claimed.

5. Disputing the validity of the findings given, the learned counsel for the appellant-wife argued at length that the wife never harassed her husband and did not at any time subjected him to cruelty. Learned counsel stated that it is the husband who had indeed behaved cruelly with his wife and thus, the husband should be precluded from being benefited out of his misbehaviour and cruelty. Learned counsel submitted that the husband never admitted or called his wife to the matrimonial home and therefore, the wife cannot be blamed for not residing with the husband. Learned counsel submitted that since the date of marriage and even prior to that, the behaviour of the husband was abnormal. But the wife tried to adjust herself. But this fact was not perceived by the Family Court. Learned counsel finally submitted that filing of a criminal case that her husband and his family

members subjected her to cruelty is not a ground for granting of divorce, that too, when the wife expressed her readiness to join her husband and thus, by allowing the appeal, the decree of divorce has to be set-aside.

6. The version of the husband who filed an application for grant of divorce as per his pleadings is that he has got three brothers of whom the elder brother is a Doctor, one younger brother is an Engineer and another is a Medical Practitioner. Without expecting any dowry from his wife's family, the marriage alliance was settled and his parents presented jewellery of 21.5 tulas and also clothes to his wife at the time of marriage. The marriage was solemnized on 26.06.2005. Later, Sri Satyanarayana Swamy Vratham was held at his house. On 28.06.2005, his parents hosted a reception at Hyderabad by bearing the entire expenditure. At that time, his wife behaved in a different manner and was not in a mood to receive the guests. On the next day, Sri Satyanarayana Swamy Vratham was performed at the parent's place of his wife. His wife's parents informed that they would send her after two days. Thus, his wife stayed at her parent's house on 29.06.2005 and 30.06.2005. On 01.07.2005, she along with

her mother and brother, came to his house and joined his company. She tried to avoid the consummation of marriage by stating that she is suffering from stomach ache and Headache. Further, she informed that she was not interested in marrying him. At last, after he convinced her, the marriage was consummated. However, in the morning, his wife started complaining to his parents that his conduct was not good and did not care for her sufferings. On 04.07.2005, his wife's parents came and took her away in view of Aashada Masam. On 09.07.2005, her parents invited him to Yadagirigutta. Accordingly, he went there. On 10.07.2005, himself and his wife along with his father-in-law, went to Vijayawada and visited Kanakadurga temple and returned back on the same day. His wife went to her parent's house. On 13.07.2005, he took his wife to Nellore to visit Sri Bhagawan Venkaiah Swamy temple and came back on 15.07.2005 and dropped her at her parent's house due to Aashada Masam. He later took her to Bhadrachalam on 17.07.2005. He took his wife to all those places to have understanding with each other and to lead marital life. But, his wife is in the habit of informing each and every matter at every moment to her parents by mobile. Apart from that, his wife started suspecting his

character. While returning from Bhadrachalam, his wife informed him that she did not like him and is not interested in leading marital life with him. She used abusive language. But, he bore the insult with a fond hope that she would change her attitude in future. His wife used to make phone calls to him through mobile for every fifteen minutes, half-an-hour and even during nights questioning where he spent his time, suspecting his character. She also threatened him by stating that her father will not spare him if he moves with other woman. On 24.07.2005, when he went along with his parents to the uncle's house of his wife, at that time, his wife, her parents and her elder brother were also present and when his father informed the father of his wife about the way she spoke, his wife became wild and informed that she is not interested in his company. The paternal uncle of his wife by name Nageshwar Rao, manhandled him and threatened him and his parents with dire consequences. In order to lead marital life, he took separate residence at New Nagole and informed the same to his wife requesting her to join him. But she refused to join. On 29.08.2005, when he was alone at his residence, his father-in-law, other family members and one Narsing Das approached him and gave warning. On

09.09.2005, his wife, her brother, her sister and her uncle came and stood in front of his house, shouted and abused him and his parents in filthy language and on that, the neighbours intervened and advised them not to fight. On 11.09.2005, his parents held a meeting and his wife, her parents and other family members attended the said meeting. On his request, his relatives and locality people also came. His wife started attributing false and baseless allegations against his conduct and character. Her parents also supported her. They proclaimed that they are not interested to continue their relationship with him and his family members. They threw chairs on him and his family members and used most vulgar language. On 22.10.2005, the brothers of his wife came along with two police constables and called his parents to police station. They attended. On hearing both parties, the Inspector of Police warned the parents of his wife not to harass him and his family members and advised to send his wife to join him. The Inspector further advised the parents of his wife not to spoil the marital life of the couple. On 16.11.2005 at 11.30AM, his wife, her parents, her family members and one Deepchand and two other unknown persons forcibly entered his house and threatened him and

his parents that they would kidnap him and demanded Rs.10,00,000/-. When his parents did not agree for the same, all of them beat him and his parents mercilessly. He informed the matter to police. Immediately, police came to the spot and tried to take the family members of his wife to custody, but they accepted their mistake and stated that they would compromise the matter. However, they again started threatening. On 22.11.2005, his father gave complaint against his wife and her family members and a case was registered against them in Crime No.1274 of 2005. Afterwards, as a counter blast to the said case, his wife gave a false complaint against him and his family members and basing on which a case was registered in Crime No.318 of 2005 of Women Police Station South zone, Hyderabad for the offences punishable under Sections 498A, 406 read with 34 IPC and Sections 4 & 6 of Dowry Prohibition Act. Thus, they are residing separately since 04.07.2005. His wife stayed with him hardly for four days at his house and she finally left his company while returning from Bhadrachalam on 17.07.2005. Since then, she did not turn up. She failed to change her attitude and lead marital life.

7. Quite contradictory version projected by the wife through her counter is that, her parents gave Rs.4,00,000/- by way of cash apart from 25 tulas of gold, 2Kgs of silver and other household articles. Her husband and his parents demanded dowry of Rs.6,00,000/-, but at last, they agreed for Rs.4,00,000/-. Admitting the fact of performing Sri Satyanarayana Swamy Vratham at her husband's place and reception on 28.06.2005, the wife contended that in the reception, about 50 persons attended from her side and her relatives were served with white Rice and Sambar only which caused damage to their reputation. She stated that when the parents of her husband informed her parents that they decided to perform first night function on 01.07.2006, her parents took one double cot bed, one Sleepwell mattress along with other articles. She denied the allegation that she failed to cooperate with her husband. She contended that the trips to Yadagirigutta and Vijayawada were arranged by her parents. She admitted going to Sri Bhagwan Venkaiah Swamy Temple, Nellore, along with her husband. She stated that as the food at Nellore was not good, she was unable to eat the said food and on seeing that, her husband stated that

her parents had grown her lavishly. He abused her in filthy language and misbehaved with other lady passengers while going to Nellore and returning back to Hyderabad. In the bus-stand of Nellore also, he did ugly acts by seeing lady passengers due to which she suffered mentally. She stated that her father made arrangements for stay and darshan at Bhadrachalam and during that period also, her in-laws started abusing her that her father gave only Rs.4,00,000/- against the demand of Rs.6,00,000/- and started harassing her for additional dowry and abused her. Her husband and his parents were interested only in money and on seeing the financial status of her parent's, they came forward for marrying her. As per their pre-plan, her husband and his parents, within a span of two weeks, made her to travel for about 2500KM and during that time, they harassed her for want of additional dowry. Referring to the incident that occurred in the house of one Narender, she stated that her husband abused her in filthy language and shouted at her and when her junior paternal uncle tried to stop her husband and his family members from leaving the house, they had thrown him away and they did so intentionally. She stated that there is no occasion which arose for taking separate

residence. She denied happening of any incident as alleged regarding taking of Narsing Das and creating nuisance. Admitting that herself, her brother and her sister and also her uncle approached the house of the petitioner on 09.09.2005, she stated that her father- in- law did not allow them inside the house and abused them. She stated that prior to the marriage, the parents of her husband informed that her husband is doing finance business, however, subsequently, she came to know that her husband is sitting idle without any work and income. She contended that a meeting was held in the chambers of one senior advocate by name Sri P.Narsimha Reddy and in that meeting, her husband and his parents agreed to return back all the dowry, gold and silver ornaments in the form of cash of Rs.10,00,000/- within one month, but failed to keep up the promise.

8. Making his submission that it is the appellant who is at fault, learned counsel for the respondent-husband contended that the appellant-wife behaved in an abnormal manner humiliating her husband and insulted him. Learned counsel stated that she never expressed her intention to reside with

her husband at any point of time and though number of attempts were made by him to take her to marital fold, due to the adamant attitude exhibited by the wife, he could not succeed. Learned counsel stated that there is no reason for the respondent-husband to foist a false case against his wife and her family members and basing on the incident occurred where he was beaten blue and black and his parents were also beaten, a complaint was lodged basing on which a case was registered. Learned counsel stated that subsequently, as a counter blast to the said case, the appellant-wife gave complaint to police that she was harassed demanding additional dowry and indeed, no such demand was ever made. Learned counsel finally states that as the marriage was irretrievably broken down that too, due to the cruelty on part of the wife, the Family Court has rightly granted decree of divorce which needs no interference.

9. Record discloses that subjecting the evidence of PWs1 to 3, RWs 1 & 2, Exs.P1 to P25 and Exs.R1 to R4 to scrutiny, learned Judge of the Family Court came to a conclusion that the husband established the grounds urged i.e. the cruelty

and desertion and therefore, he is entitled to a decree of divorce as prayed for.

10. By all the material that is brought on record, it is clear that the couple did not lead happy marital life for more than ten days. Thereafter, series of incidents happened during which each party blamed other and finally, the rivalry resulted in lodging criminal cases against each other. However, in the meantime, the appellant-wife gave birth to a child and the said child is residing with the appellant-wife. Though the ground of cruelty on part of the wife is not established in clear terms, what we can find through all the evidence that is brought on record is that the appellant-wife has deserted her husband without justifiable cause. Though she contended that there was a demand of additional dowry and for that sake, she was made to move and travel for about 2500KM during initial days of marriage, the said version cannot be accepted to be true in the light of the fact that there is no necessity for taking her to different places for subjecting her to harassment. That apart, the version of the wife itself is that the arrangements to travel to such places i.e. Vijayawada

and Bhadrachalam were made by her father only. When the evidence brought on record by both the parties is perused, we are of the view that the Family Court came to a just conclusion that the marriage is irretrievably broken down and there are no chances for reconciliation. The learned Judge of the trial Court, taking into consideration each and every aspect of the case, has come to a conclusion that the appellant-wife has deserted the respondent-husband. So far as the ground regarding cruelty is concerned, we are unable to concur with the observations made that the respondent-husband succeeded in establishing the said ground. There is no requirement that both the grounds are to be established. In the case on hand, the respondent-husband has established that without justifiable cause, the wife started living with her parents deserting him. Therefore, this Court is of the view that the ultimate conclusion arrived at by the learned Judge of the Family Court needs no interference.

11. Thus, with the above observations, the Appeal stands dismissed confirming the decree passed in O.P.No.93 of 2008, dated 11.01.2012, by the Family Court, Ranga Reddy District

at L.B.Nagar, by which divorce was granted dissolving the marriage that was solemnized between the appellant-wife and the respondent-husband. No order as to costs.

12. Miscellaneous petitions, if any pending, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

JUSTICE M.G.PRIYADARSINI

Dt.20.02.2023

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