

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

AND

HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

F.C.A. No.80 OF 2022

JUDGMENT: *(Per Hon'ble Dr. Justice Chillakur Sumalatha)*

Heard Sri T.Sudhakar, learned counsel for the appellant and Ms.Bhargavi, learned counsel, who argued on behalf of Sri Aadesh Varma, learned counsel on record for the respondent.

2. Challenge in this Family Court Appeal is the order that is rendered by the Principal Family Court, Hyderabad, in O.P.No.787 of 2017, dated 08.12.2021.

3. The appellant moved an application under Section 13(1)(ia) of the Hindu Marriage Act, seeking the Court to dissolve the marriage that was solemnized between him and the respondent by granting a decree of divorce. The Principal Family Court, through the impugned order dated 08.12.2021 gave a finding to the effect that the appellant failed to establish sufficient and cogent grounds of cruelty seeking dissolution of marriage. Thereby the Family Court

dismissed the petition and aggrieved by the same, the appellant is before this Court.

4. Making his submission, learned counsel for the appellant contends that the appellant married the respondent as per Hindu rites and customs and by the date of marriage itself, the appellant, who met with an accident, lost his leg below knee. Learned counsel states that though the couple led married life for some time, they were not blessed with any children, therefore, the couple adopted a girl and started looking after the said girl. Subsequently, they were blessed with a girl child. Thereafter, the respondent without taking care of the appellant and the children started to leave home early in the morning and used to come home late at night. Learned counsel submits that the respondent totally neglected the family and though mediations were held in that regard, no fruitful results could be yielded. Learned counsel submits that whenever the appellant used to question the respondent, she used to dial '100' and used to call the Police making the life of the appellant miserable and, therefore, the appellant filed a petition for grant of a decree of divorce. But

the Family Court negated his request through the impugned order dated 08.12.2021. Learned counsel, therefore, seeks this Court to allow the appeal by dissolving the marriage.

5. On the other hand, the contention of learned counsel for the respondent is that the respondent, being a dutiful wife, used to perform all the household duties and she looked after the appellant and their children well. Learned counsel states that the respondent, for the sake of livelihood, started working as a Teacher for which the appellant objected. Learned counsel for the respondent states that in the pleadings itself, i.e., in the petition itself, the appellant made a mention that he ordered the respondent not to go out to work, as that would tarnish the image of the family and that statement itself establishes the high handed attitude of the appellant. Learned counsel also submits that after performing all the household duties, the respondent used to leave the house to work as a Teacher, but her efforts were not taken into consideration at any time by the appellant and, finally, he moved an application for grant of a decree of divorce.

6. We have perused the entire record, including the evidence produced. As rightly contended by learned counsel for the respondent, the appellant made a mention in his petition itself that the respondent, without his permission and the permission of his family members, started doing job as a Teacher at Scholars School and though himself and his family members tried to convince the respondent that no women from their family will work and their family is having high reputation and value in the society and due to doing job by the respondent, the family image in the society would be tarnished, but the respondent refused to leave the job. This narration, at Para No.5 of the pleadings of the appellant in the petition, as rightly projected by learned counsel for the respondent, is highly objectionable. No customary practice is shown by the appellant to hold that in the clan or community, from which the appellant hails, no women would perform their duties by going out or for the purpose of doing job. An act of a woman going out for the purpose of doing job cannot be termed to be cruel on part of the other contacting party to the marriage. It is not the case of the appellant that he is an

earning person and was looking after the family well with his earnings. By the pleadings itself, it shows that the appellant became differently abled as he met with accident. Therefore, we are of the view that the respondent going out for doing a job for the purpose of livelihood of the family ought to have been appreciated by the appellant and he ought not to have moved an application for grant of a decree of divorce on the ground of cruelty. That apart, no other convincing grounds, as rightly observed by the learned Judge of the Principal Family Court, are projected, so as to grant a decree of divorce. Though Section 13 of the Hindu Marriage Act makes a mention that cruelty is a ground for dissolution of marriage, the word 'cruelty' is nowhere defined under the Hindu Marriage Act. The word 'cruelty' has to be referred to in with respect of the acts that are performed by one of the contacting party to the marriage towards the opposite party or to the family members. In the case on hand, no grounds whatsoever are projected so as to hold that the acts of the respondent can be termed to be cruel either on the part of the appellant or on the part of his family members. Trivial issues between the

spouses cannot be termed to be cruel acts or the behavior as cruel.

7. Having considered the submissions made across the Bench by both the contesting parties and also after going through all the material available on record, including the evidence, both oral and documentary, produced by the parties, this Bench comes to a conclusion that there are no grounds to interfere with the well reasoned order rendered by the Principal Family Court, Hyderabad in O.P.No.787 of 2017 dated 08.12.2021.

8. Resultantly, the Family Court Appeal stands dismissed. No order as to costs.

9. As a sequel, pending miscellaneous applications, if any, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

SMT.JUSTICE M.G. PRIYADARSINI

Date: 25.01.2023

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