

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

AND

HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

F.C.A. No. 306 OF 2013

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

Heard Ms. Nargis Afshan Khan, learned counsel for the petitioner, as well as Sri P.Vinod Lal, who argued on behalf of Sri Ayyori Sridhar, learned counsel on record for respondent No.1.

2. Challenge in this Family Court Appeal is the order that is rendered by the Family Court, Karimnagar, in F.C.O.P.No. 6 of 2010 dated 14.11.2011.

3. Respondent No.1 moved an application before the Family Court, Karimnagar, seeking a decree of divorce invoking the grounds of desertion and cruelty. The Family Court through the impugned order allowed the application by granting a decree of divorce. The Family Court gave a direction to the appellant herein to pay a sum of Rs.6,00,000/- to respondent No.1-wife towards permanent alimony and further directed to return the dowry amount of Rs.50,000/- and two tulas of gold to respondent No.1.

4. Making her submission, learned counsel for the appellant states that the appellant is not disputing the impugned order regarding grant of decree of divorce. However, grant of a sum of Rs.6,00,000/- towards permanent alimony and ordering to return dowry amount and gold is unjustifiable and therefore, he is challenging the order of the Family Court to that extent. Learned counsel submits that respondent No.1 was granted maintenance and she is receiving the said sum and indeed, no dowry was paid and no gold was given to the appellant and in those circumstances, awarding permanent alimony and ordering to return the dowry and gold is unjustifiable.

5. *Per contra*, the submission of learned counsel for respondent No.1 is that a sum of Rs.1,250/- was granted in favour of respondent No.1 towards maintenance and respondent No.1 is having three children and a sum of Rs.1,000/- each was granted towards their maintenance and as the children attained the age of majority, they are not receiving any amount towards maintenance. Learned counsel also submits that all the three children, who are girls, are yet to get married and respondent No.1 is looking after their welfare.

6. Contradicting the said submission, learned counsel for the appellant states that the second daughter got married. However, it is stated that the first issue i.e. first girl child is suffering from mental disorder.

7. So far as the rival claims are concerned, admittedly, the appellant though filed his counter in the original petition, failed to contest the matter subsequently. However, there is no dispute that respondent No.1 was granted a sum of Rs.1,250/- towards monthly maintenance. Also there is no material on record to show that a sum of Rs.50,000/- was given towards dowry and likewise two tulas of gold was given to the appellant. Therefore, ordering the appellant to pay the said sum and gold appears unjustifiable. Likewise, the status of the appellant was not taken into consideration for granting permanent alimony. Admittedly, there is no material on record in proof of the financial position and earnings of the appellant. Though the learned counsel for respondent No.1 states that the appellant has huge property, no evidence to that effect is produced before the Family Court. Having considered all these aspects, we are

of the view that the amount granted towards permanent alimony is liable to be reduced from Rs.6,00,000/- to Rs.5,00,000/-. Further, in the light of absence of any proof regarding payment of dowry and gold to the appellant, the same cannot be ordered to be paid to respondent No.1 by the appellant.

8. Thus, the appeal is allowed in part. The order dated 14.11.2022 rendered by the Family Court, Karimnagar, in F.C.O.P.No. 6 of 2010, to return the dowry amount of Rs.50,000/- and two tulas of gold to respondent No.1 herein by the appellant, is set aside. Likewise, the amount awarded towards permanent alimony is reduced from Rs.6,00,000/- to Rs.5,00,000/-. 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: 07.02.2023
svl/pss