



C.M.A.No.362 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM
THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.362 of 2024

&

C.M.P.No.3956 of 2024

in

C.M.A.No.362 of 2024

Yashvardhan Shrivastav

... Appellant

Vs.

Shefali Shrivastav

.. Respondent

Civil Miscellaneous Appeal filed under Section29(4) of the Hindu Marriage Act, 1955 to set aside the fair and decreetal order dated 29.11.2023 passed in I.A.No.1 of 2022 in O.P.No.1653 of 2021 by the V Additional Family Court at Chennai and allow the above CMA.

For Appellant : Mr.Muthuchharan Sundresh
for Ms.R.Hemalatha

For Respondent : Ms.Sheila Jayaprakash

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JUDGMENT

[Order of the Court was made by M.SUNDAR, J.,]

This consent order will now dispose of the captioned 'Civil Miscellaneous Appeal' ['CMA' for the sake of brevity] and 'Civil Miscellaneous Petition' ['CMP' for the sake of brevity].

2. This consent order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 14.03.2024, which reads as follows:

'Read this in conjunction with and in continuation of earlier proceedings made in the previous listings on 21.02.2024 and 26.02.2024, which read as follows:

'Proceedings made on 21.02.2024

Mr.Muthuchharan Sundresh, learned counsel representing Ms.R.Hemalatha, learned counsel on record for appellant is before us.

2. Learned counsel submits that the captioned appeal is directed against an order dated 29.11.2023 made in I.A.No.1 of 2022 in O.P.No.1653 of 2021 on the file of the V Additional Principal Family Court, Chennai. This



'29.11.2023 order' shall be referred to as 'impugned order' and this 'V Additional Principal Family Court, Chennai' shall be referred to as 'said Family Court' both for the sake of convenience and clarity.

3. Learned counsel submits that the impugned order has been made by said Family Court in an application under Section 24 of 'The Hindu Marriage Act, 1955 (Act 25 of 1955)' (hereinafter 'HM Act' for the sake of brevity and convenience) which was taken out by the wife. Learned counsel also submits that in and by the impugned order, said Family Court partly allowed the pendente lite maintenance plea under Section 24 of HM Act by directing the husband to pay Rs.1,00,000/- per month towards interim maintenance.

4. Be that as it may, for completion of facts, we deem it appropriate to record that there are two H.M.O.Ps i.e., H.M.O.P. No.1653 of 2021 filed by wife and another is H.M.O.P. No.4654 of 2023 filed by husband both for divorce and dissolution of marriage primarily on the ground of cruelty under Section 13(1)(i-a) of HM Act. Both the HMOPs are pending is learned counsel's say.

5. Be that as it may, learned counsel pointed out that the captioned appeal has been presented in this Court under Section 28 i.e., sub-section (4) of Section 28 (to be precise) of HM Act.

6. In the light of Loganayaki's case being



Loganayaki Vs. V.Sivakumar reported in 2013(3) CTC 158 and P.T. Lakshman Kumar Vs. Bhavani reported in 2013 (3) CTC 166, the question as to whether captioned CMA should be under Section 19 of 'The Family Courts Act, 1984 (Act 66/1984)' (hereinafter 'F.C. Act' for the sake of brevity, convenience and clarity) arises. Learned counsel requests for a short accommodation in this regard. Be that as it may, as regards appeals under Section 19 of FC Act (appeals against pendente lite maintenance orders), the maintainability issue is being actively heard by this Court in a batch of matters.

7. In the next listing, captioned appeal will be in Admission Board albeit under the caption 'ADJOURNED ADMISSION'.

8. List on Monday in the Admission Board i.e., Motion List. List on 26.02.2024.'

'Proceedings made on 26.02.2024

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 21.02.2024.

2. Mr.S.Saran Prasad, learned counsel representing Ms.R.Hemalatha, counsel on record for the appellant requests for rescheduling of the captioned matter. Request acceded to.

3. List after a fortnight. List on 14.03.2024 in the Admission Board under the cause list caption



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'ADJOURNED ADMISSION'.

2. Today, Mr.Muthuchharan Sundresh, learned counsel representing Ms.R.Hemalatha, counsel on record for the appellant/ husband is before us.

3.Ms.Sheila Jayaprakash, learned counsel who is before this Court submits that she has instructions to accept notice for the respondent/wife and learned counsel submits that she along with her co-counsel will file vakalatnama for respondent / wife in the Registry before the close of working hours tomorrow i.e., by 15.03.2024.

4. Notwithstanding the maintainability issue, both the aforementioned learned counsel before us, adverting to paragraph 4 of 21.02.2024 proceedings (extracted and reproduced supra) submitted that the main matter itself can be given quietus (not only the captioned CMA but HMOPs before the Family Court also) as both spouses seek divorce.

5. Elaborating on the above, Ms.Sheila Jayaprakash, learned counsel for wife submits that the wife does not want a) maintenance, b)pendente lite maintenance and c) she is not seeking return of any articles. This submission of learned counsel Ms.Sheila Jayaprakash is recorded.

6. Be that as it may, both learned counsel submit that besides the two HMOPs adverted to in paragraph 4 of 21.02.2024 proceedings, there are some other legal proceedings between the parties i.e., proceedings under Domestic Violence Act, criminal complaint etc.,. Both learned counsel submit that the parties would sign a joint memorandum of compromise wherein a quietus would be



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given to all the proceedings i.e., proceedings besides the two HMOPs adverted to / alluded to in paragraph 4 of 21.02.2024 proceedings.

7. Both learned counsel, on instructions, submit that if the captioned matter is listed on Monday i.e., 18.03.2024 a joint memorandum of compromise can be filed and both parties i.e., appellant/husband and respondent/wife would be present before this Court.

8. In the light of the narrative thus far, list captioned matter under the cause list caption 'FOR RECORDING MEMORANDUM OF COMPROMISE' in the Admission Board i.e., Motion List on Monday i.e., 18.03.2024.'

3. The aforementioned 14.03.2024 proceedings which in turn captures and reproduces proceedings made in the listing on 21.02.2024 is tell-tale qua factual matrix, circumstances of the case and the trajectory the matter has taken thus far.

4. Pursuant to the aforementioned proceedings, captioned matter is listed under the cause list caption 'FOR RECORDING MEMORANDUM OF COMPROMISE' today.

5. Today, Mr.Muthuchharan Sundresh, learned counsel appearing on behalf of counsel on record Ms.R.Hemalatha for the appellant (Mr.S.Yashvardhan Shrivastav), appellant-Mr.Yashvardhan Shrivastav,



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Ms.Sheila Jayaprakash, learned counsel on record for the respondent (Ms.Shefali Shrivastav) and respondent -Ms.Shefali Shrivastav are present in Court.

6. Both parties do not dispute the identity of each other. Both parties have produced documents for their identification and scanned reproduction of the same are as follows:





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7. Learned counsel on both sides adverting to aforementioned earlier proceedings, submitted in one voice in unison that the appellant and the respondent have arrived at an amicable settlement and the same has been reduced to writing vide a 'Memo of Joint Compromise dated 18.03.2024' [hereinafter 'said JMOC' for the sake of brevity] and a scanned reproduction of the same is as follows :



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IN THE HIGH COURT OF JUDICATURE AT MADRAS
APPELLATE JURISDICTION

C.M.A. No. 362 of 2024

For Ap.

TA. No. 102 of

In

C.M.A. No. 362 of 21

For the Appellant: **Yashwanth Kumar** For the Respondent: **Yashwanth Kumar**

Yashwanth Kumar,
122, N. 1st St., (South India),
M. V. Nagar,
South India - 600 005

Appellant

Vs.

Yashwanth Kumar,
No. 9, 1st Cross Street,
Pillai Nagar,
Korumbilai Beach Road,
19th Floor, Chennai 600 011

Respondent

MEMO OF APPOINTMENT

The above named Appellant and the Respondent state as follows:

1. The Appellant and the Respondent hereby acknowledge that, in compliance with the provisions of the Code of Civil Procedure, 1908, they have filed this application for the appointment of a Commissioner to investigate the facts and circumstances of the case, and within the jurisdiction of the High Court, it is pertinent to note that the marriage between the parties has not resulted in the birth of any children.

[Signature]

[Signature]



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2. Regrettably, subsequent to their marriage, irreconcilable differences arose between the Appellant and the Respondent, leading to a breakdown of their matrimonial relationship. This unfortunate circumstance prompted the Respondent to initiate legal proceedings by filing O.P. No. 1653 of 2021 on the file of the Learned V Addl. Judge, Family Court at Chennai seeking dissolution of the marriage, citing grounds of cruelty.

3. Concurrently, in the aforementioned O.P. No.1653 of 2021, the Respondent herein had filed I.A. 1 of 2021, seeking the grant of interim maintenance. The Learned V Addl. Judge, Family Court by its order dated 29.09.2023 directed the Appellant to provide interim maintenance of Rs1 lakh per month.

4. Dissatisfied with the order concerning interim maintenance, the Appellant herein has filed this present appeal challenging the said order of the Learned V Addl. Judge, Family Court.

5. While this was so, the Appellant herein filed an O.P. 4654 of 2023 seeking divorce on grounds of cruelty. Both petitions, namely O.P.1653 of 2021 and O.P. 4654 of 2023, are currently pending adjudication before the Learned V Additional Judge, Family Court at Chennai.

6. Despite the genuine and concerted efforts undertaken by both the appellant and the respondent to reconcile and salvage their marital relationship, regrettably, no discernible improvement or reconciliation has been achieved. Consequently, after careful deliberation and with the utmost consideration for their respective dignity and peace of mind, the parties have mutually agreed to part ways amicably. This decision reflects their earnest desire to bring closure to their marital union in a manner that preserves their integrity and well-being.

7. In furtherance of the same, both the Appellant and the Respondent agree to the following conditions:



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• **Dissolution of Marriage by Consent of Both Parties:**

The marriage solemnized between the Appellant and Respondent in accordance with Hindu rites and customs on 10.06.2018, at the Taj Coromandel Hotel, located on Nungambakkam High Road, Chennai 600034, shall be dissolved by decree of divorce.

• **Waiver of Maintenance Claims:**

The Respondent hereby irrevocably waives all claims for maintenance, whether past, present, or future, whether civil or criminal, including the monthly sum of Rs1 lakh as ordered in I.A. No. 1 of 2021. Furthermore, the Respondent undertakes not to pursue any further claims for maintenance or alimony against the appellant.

• **Distribution of Personal Articles and Jewels:**

Both the Appellant and the Respondent have taken possession of their respective personal articles and jewels, and hereby mutually agree not to assert any further claims against each other for the return of the same.

• **Withdrawal of Legal Proceedings and Complaints:**

Both the Appellant and the Respondent, hereby affirm their mutual commitment to resolving their disputes in a manner that fosters peace and finality. In furtherance of this objective, the parties agree to withdraw, refrain from pressing, and provide unequivocal acquittance from all legal proceedings initiated against each other across various forums as expeditiously as possible. The comprehensive list of proceedings subject to withdrawal and cessation is as follows:



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1. O.P. No. 1653 of 2021 titled Shafali Shrivastav vs. Yashvardhan Shrivastav Before the V Addl. Family Court at Chennai.

2. OP No. 4654 of 2023 titled Yashvardhan Shrivastav vs. Shafali Shrivastav Before the V Addl. Family Court at Chennai.

3. DV.No.05 of 2023 titled Shafali Shrivastav vs. Yashvardhan Shrivastav before the Judicial Magistrate Additional Mahila Court (JAC) Alandur, Chennai presently under transfer to District Muzil Camp Judicial Magistrate Court, Shezhingsalur-600119.

4. C.M.A. No. 362 of 2024 titled Yashvardhan Shrivastav vs. Shafali Shrivastav before The High Court of Madras at Chennai.

5. Ref. No. B4 P.S. CSR No.35/2023 dated 12.03.2023 Police Complaints by Shafali Shrivastav against Yashvardhan Shrivastav in B4 High Court Police Station, Chennai.

6. Ref. No. J6 P.S. CSR No.438/2023 dated 03.05.2023 Police Complaints by Shafali Shrivastav against Yashvardhan Shrivastav in J6 Thirusangamam Police Station, Chennai.

7. Ref. No. R.O.No. 66/DCPFB/Comp/2023 dated 27.06.2023 Police Complaint by Shafali Shrivastav against Yashvardhan Shrivastav before Asst. Commissioner of Police, Camp Office, High Court Range, Chennai-104.

8. Unregistered Police Complaint dated 20.09.2023 by Yashvardhan Shrivastav against Shafali Shrivastav in B4 High Court Police Station, Chennai.

In furtherance, both the Appellant and the Respondent solemnly undertake not to initiate any future litigations, whether civil or



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criminal, against each other or their respective family members, for any reason whatsoever.

8. Both the Appellant and the Respondent, unequivocally affirm that the filing of the present Petition is an act undertaken entirely of their own free will and consent. At no point, there has been any undue influence or coercion exerted upon us. The decision to file this joint compromise memo reflects the mutual agreement and understanding, reached through open and transparent discussions aimed at resolving their disputes amicably. This assertion of voluntary action underscores the intent and their commitment to the terms set forth herein.

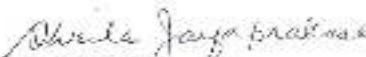
It is therefore most humbly prayed that this Hon'ble Court may be pleased to take this joint compromise memo filed by the parties on record and dissolve the marriage solemnized between the appellant and the respondent according to Hindu rites and customs on 10.06.2015 at the Taj Coromandel Hotel, Nungambakkam High Road, Chennai 600032 vide a decree of divorce on the terms and conditions mentioned herein which may form a part of the decree and pass any such further orders as may be deemed fit and necessary in the interest of justice.

Dated at Chennai on this the 18th Day of March 2024.


Appellant


Respondent


Counsel for Appellant


Counsel for Respondent



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C.M.A.No.362 of 2024

**IN THE HIGH COURT OF
JUDICATURE AT MADRAS**

(APPELLATE JURISDICTION)

C.M.A. No. 362 of 2024

Against

I.A. No. 1 of 2021

In

O.P. No. 1653 of 2021

Yashvardhan Shrivastav,

Appellant

Vs.

Shefali Shrivastav

Respondent



MEMO OF JOINT COMPROMISE

M/s.

R Hemlatha
(Counsel for the Appellant)

Sheila Jayaprakash
(Counsel for the Respondent)



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8. This Bench had a brief interaction with Mr.Yashvardhan Shrivastav- appellant and Ms.Shefali Shrivastav-respondent. Both litigants after confirming that signatures in aforementioned JMOC are their signatures affirmed that they have signed the aforementioned said JMOC on their own volition, free will and submitted with solemnity that they would abide by the said JMOC in letter and spirit.

9. Though obvious we make it clear that vide this consent /compromise decree the marriage solemnized between Mr.Yashvardhan Shrivastav (appellant) and Ms.Shefali Shrivastav (respondent) on 10.06.2015 according to Hindu Rites and Customs in Chennai [Taj Coromandel Hotel, Nungambakkam High Court, Chennai – 600 032] stands dissolved.

10. If this consent/compromise decree / order or hard copy of the same downloaded from the office website of Madras High Court [to be noted, uploaded version in Madras High Court website is watermarked and QR Coded] or Certified copy is produced before any Court including the Family Court in which HMOPs are pending or Police Station/s or Police/ other Authorities such Courts / Police Station/s/Police/otherAuthorities shall



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make suitable orders to give closure to the proceedings before them and also act on the same within the bounds of law.

11. Captioned CMA , CMP and/or any other proceedings adverted to in the aforementioned said JMOC will stand disposed of in terms of aforementioned said JMOC which will now form part of the decree. There shall be no order as to costs.

12. Before parting with the matter, this Court places on record its appreciation for learned counsel on both sides for the fairness and equanimity with which the matter has been approached.

(M.S.,J.)

(K.G.T.,J.)

18.03.2024

Index : No

Neutral Citation : No

gpa

P.S. I: *Upload forthwith*

P.S.II : *All concerned including the Registry, High Court, Madras, to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.*



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1. V Additional Family Court at Chennai
2. The Section Officer
V.R.Section
High Court, Madras.



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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

gpa

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18.03.2024