



C.M.A.(MD)Nos.394 and 395 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.12.2024

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

C.M.A.(MD)Nos.394 and 395 of 2020

C.M.A.(MD)No.394 of 2020:-

G.Thamaraikannan

... Appellant

Vs.

M.Umamaheswari

... Respondent

Prayer : Civil Miscellaneous Appeal is filed under section 28(1) of the Hindu Marriage Act r/w. Section 19 of the Family Court Act, to set aside the order passed in the common fair and decretal order dated 29.05.2020 in H.M.O.P.No.59 of 2019 on the file of the Family Court, Ramanathapuram and allow the present civil miscellaneous appeal.

For Appellant : Mr.T.Sakthi Kumaran

For Respondent : Mr.M.Thirunavukkarasu

C.M.A.(MD)No.395 of 2020:-

G.Thamaraikannan

... Appellant



C.M.A.(MD)Nos.394 and 395 of 2020

Vs.

M.Umamaheswari

... Respondent

Prayer : Civil Miscellaneous Appeal is filed under section 28(1) of the Hindu Marriage Act r/w. Section 19 of the Family Court Act, to set aside the order passed in the common fair and decretal order dated 29.05.2020 in H.M.O.P.No.133 of 2019 on the file of the Family Court, Ramanathapuram and allow the present civil miscellaneous appeal.

For Appellant : Mr.T.Sakthi Kumaran

For Respondent : Mr.M.Thirunavukkarasu

COMMON JUDGMENT

(Judgment of the court was delivered by G.R.Swaminathan, J.)

Heard both sides.

2.Thamaraikannan, the appellant herein got married to Umamaheswari on 01.09.2011 at Thangam Mahal, Ramanathapuram as per Hindu and rites and customs. No child was born through the wedlock. The marital relationship between the parties came under strain. Thamaraikannan filed H.M.O.P.No.59 of 2019 before the Family Court, Ramanathapuram seeking divorce. Umamaheswari filed



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H.M.O.P.No.133 of 2019 seeking restitution of conjugal rights. While the divorce OP was dismissed, the petition for restitution of conjugal rights was allowed vide common order dated 29.05.2020. Challenging the same, Thamaraikannan filed these civil miscellaneous appeals.

3.During the pendency of these appeals, the parties negotiated between themselves and an amicable solution was arrived at. Thamaraikannan had earlier filed C.R.P.(MD)No.1733 of 2024 to quash the proceedings in D.V.C.No.25 of 2024 filed by Umamaheshwari on the file of Judicial Magistrate - Additional Mahila Court, Ramanathapuram. The said civil revision petition was disposed of on 12.09.2024 in the following terms:-

“Heard both sides.

2.This civil revision petition has been filed to quash the proceedings in DVC No.25 of 2024 on the file of the Judicial Magistrate / Additional Mahila Court, Ramanathapuram. It was submitted that the parties are locked in quite a few litigations. It was suggested that the issues can be amicably resolved. Pursuant to the efforts taken by the learned counsel on either side, all the outstanding issues have been amicably resolved. A joint memo of compromise dated 12.09.2024 signed



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by the parties as well as the respective counsel has been filed. This civil revision is disposed of in terms of the aforesaid compromise in the following terms :

a) The petitioner herein acknowledges that he has to pay a sum of Rs.56.00 lakhs along with a gold chain weighing nine sovereigns to the respondent/wife.

b) The petitioner has paid a sum of Rs.6.00 lakhs today by way of cash to the respondent in my presence. He has to pay the balance amount of Rs.50.00 lakhs to the respondent on or before 20.12.2024. This sum shall represent the permanent alimony payable to the respondent. On receipt of the said amount, the respondent herein shall not have any further claim against her husband and it shall be towards full and final settlement.

c) The gold chain weighing nine sovereigns will be given to the respondent on or before 22.10.2024 by the petitioner.

d) The proceedings in DVC No.25 of 2024 on the file of the Judicial Magistrate / Additional Mahila Court, Ramanathapuram, Crl A No.56 of 2023 on the file of the Principal District Court, Ramanathapuram, C.C No.223 of 2022 on the file of the Judicial Magistrate Court / Additional Mahila Court, Ramanathapuram shall stand stayed till 20.12.2024.



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e) Upon compliance of the terms of compromise memo by the petitioner herein and filing of memo to that effect before the concerned courts, all the aforesaid proceedings will stand terminated.

f) The proceedings in DVC No.25 of 2024 on the file of the Judicial Magistrate / Additional Mahila Court, Ramanathapuram shall be closed.

g) Crl A No.56 of 2023 on the file of the Principal District Court, Ramanathapuram will stand allowed by setting aside the judgment and sentence imposed vide judgment dated 13.10.2023 in C.C No.263 of 2019 on the file of the Judicial Magistrate / Additional Mahila Court, Ramanathapuram (C.C 234 of 2017 was transferred and renumbered as C.C No.263 of 2019 to Judicial Magistrate / Additional Mahila Court, Ramanathapuram).

h) C.C No.223 of 2022 on the file of the Judicial Magistrate Court / Additional Mahila Court, Ramanathapuram will stand quashed.

i) If the petitioner herein fails to adhere to the undertaking given before this Court by failing to pay Rs. 50.00 lakhs to the respondent within 20.12.2024, the proceedings now put on hold will stand automatically revived



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and will be taken to their logical conclusions. The payment already made will stand forfeited in favour of the respondent.

j) The petitioner herein filed CMA (MD) Nos.394 & 395 of 2020 before the Hon'ble Division Bench of this Court. CMA (MD) No.394 of 2020 arose out of HMOP No.59 of 2019 on the file of the Family Court, Ramanathapuram. It was a O.P for dissolution of marriage and it was dismissed. The respondent filed HMOP No.133 of 2019 on the file of the Family Court, Ramanathapuram for restitution of conjugal rights and it was allowed. Questioning the same, the petitioner Thamaraikannan filed CMA (MD) No.395 of 2020 before the Hon'ble Division Bench. Once the petitioner fulfills the terms of compromise, the parties herein shall move the Hon'ble Division Bench for dissolving their marriage by mutual consent.

k) The respondent gives up her right to receive maintenance in terms of the order passed in MC No.8 of 2017 on the file of the Chief Judicial Magistrate Court, Ramanathapuram.

l) The joint compromise memo filed by the parties herein shall form part of this order.

3.This civil revision petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.”



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4.It is submitted by the learned counsel appearing for Umamaheshwari that the terms earlier arrived at had been fully settled. Umamaheshwari has no further claim against Thamaraikannan.

5.Thamaraikannan also withdraws the allegations made against Umamaheshwari in H.MO.P.No.59 of 2019 and in the counter filed in H.M.O.P.No.133 of 2019.

6.The parties are remaining separate from each other since 2016. The marital relationship has suffered an irretrievable breakdown. There is absolutely no possibility of reunion. The parties have also filed joint memo of compromise dated 18.12.2024. It has been signed by the respective counsel also.

7.In view of the above, the marriage that was solemnized between the appellant and the respondent on 01.09.2011 at Thangam Mahal, Ramanathapuram is dissolved by a decree of divorce by mutual consent.



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8.These civil miscellaneous appeals are disposed of accordingly.

No costs.

(G.R.S. J.,) & (R.P. J.,)
19.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 20.12.2024

To:-

The Family Court,
Ramanathapuram.



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**G.R.SWAMINATHAN, J.
and
R.POORNIMA, J.**

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