



C.M.A.(MD)No.125 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **05.01.2024**

CORAM:

THE HON'BLE MR.JUSTICE **P. DHANABAL**

C.M.A.(MD)No.125 of 2014

J.Anto John Bridget

...Appellant

Vs.

A.R.Sujanth Milton

...Respondent

PRAYER: This Civil Miscellaneous Appeal filed under Section 55 of the Indian Divorce Act, to allow the civil miscellaneous appeal sofar as the consequential relief such as maintenance, compensation, returning of jewellery as admitted by the respondent, house hold articles as provided by the parents of the petitioner and the dowry amount as given forthwith in addition to the relief as granted in IDOP No.204 of 2013 by the learned District Judge at Nagercoil dated 04.12.2013 of dissolving the marriage solemnised on 16.04.2012 at Vavarai, Kanyakumari District on the ground of cruelty.

For Appellant : Mr.S.Palani Velayutham

For Respondent : No appearance



C.M.A.(MD)No.125 of 2014

WEB COPY

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the order passed in IDOP No.204 of 2013 by the learned District Judge at Nagercoil dated 04.12.2013, which has been filed by the appellant / wife for dissolving the marriage between the appellant / wife and the respondent / husband, which was solemnized on 16.04.2012 at Vavarai, Kanyakumari District under Section 10(1)(ix) and (x) of the Indian Divorce Act, 1869.

2. The brief facts of the petition before the trial Court are as follows:-

The marriage between the appellant / wife and the respondent / husband was solemnized on 16.04.2012 at CSI Christian Church, Vavarai, Kanyakumari District. After a few months from the date of marriage, the respondent / husband used to pick up quarrel with the appellant / wife and wanted money for dowry of Rs.5,00,000/- and he has assaulted the appellant / wife due to demand of dowry. The respondent / husband also



C.M.A.(MD)No.125 of 2014

WEB COPY

attempted to commit murder by pouring kerosene on the appellant / wife, when the appellant / wife was pregnant. The respondent / husband has kept 17 sovereigns of gold ornaments of the appellant / wife in his custody. In all, the respondent / husband caused cruelty to the appellant. Hence, the appellant / wife sent a notice on 08.05.2013 calling upon the respondent / husband to file a petition for dissolving their marriage. After receipt of notice, the respondent / husband sent a reply notice with false averments and refused to file a joint petition for dissolution of marriage.

3. Before the trial Court, the respondent / husband has not appeared even after the notice was served and was set as ex-parte. On the side of the appellant, she herself examined as PW1 and marked Exs.P1 to P6.

4. After evaluating the oral and documentary evidence adduced by the petitioner, the trial Court has allowed the petition and dissolved the marriage solemnized between the appellant and the respondent on 16.04.2012. As against the order passed by the trial Court, the appellant has filed the present appeal on the ground that with regard to the



C.M.A.(MD)No.125 of 2014

WEB COPY

contention that respondent / husband has received a sum of Rs.3,25,000/- as dowry and the gold ornaments belonging to the appellant / wife are in the custody of the respondent, no order was passed to return those articles to the appellant / wife.

5. The learned counsel appearing for the appellant would contend that the respondent has demanded dowry and also has custody of the gold jewels of the appellant and inspite of that, the trial Court failed to order for return of the gold ornaments under the custody of the respondent / husband. Hence, the appellant / wife filed this appeal.

6. Heard the learned counsel appearing for the appellant. There is no representation for the respondent, though somany notices have been issued to him.

7. After hearing appellant / petitioner's side and upon perusing the documents including the order of the Tribunal by this Court, the point for determination in this appeal is whether the appeal has to be allowed or not.



C.M.A.(MD)No.125 of 2014

WEB COPY

8. This appeal has been filed by the appellant / petitioner wife as against the order passed by the learned District Judge at Nagercoil in IDOP No.204 of 2013 dated 04.12.2013, for dissolution of the marriage between the parties. In order to prove the case of the appellant / petitioner wife, she herself examined as PW1 and marked Exs.P1 to P6. The respondent / respondent husband was set as ex-parte before the trial Court. The trial Court has allowed the petition and dissolved the marriage between the appellant and the respondent. In spite of that, the appellant / wife has preferred this appeal on the ground that the trial Court has failed to order for return of gold ornaments of the appellant / petitioner wife under the custody of the respondent / respondent husband.

9. On careful perusal of the petition before the trial Court, there is a pleading that some of the jewels are under the custody of the respondent / respondent husband and no evidence was produced by the appellant / petitioner wife before the trial Court with regard to the jewels and dowry money. Moreover, there is no prayer prayed for return of jewels, which were under the custody of the respondent / respondent husband.



C.M.A.(MD)No.125 of 2014

WEB COPY

Therefore, without any prayer, the appellant cannot seek any such relief and the trial Court, taking into consideration of all the pleadings and the evidence adduced by the petitioner correctly dissolved the marriage by granting divorce. Since there is no prayer with regard to return of jewels, the trial Court has not passed any order for the same. Therefore, there is no infirmity found in the order of the trial Court and this Court has no warrant to interfere with the order of the trial Court.

10. In view of the aforesaid discussions, this Court is of the opinion that the this appeal has no merits and deserves to be dismissed. Accordingly, this civil miscellaneous appeal is dismissed. The order dated 04.12.2013 passed in IDOP No.204 of 2013 by the learned District Judge at Nagercoil is confirmed. No costs.

05.01.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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C.M.A.(MD)No.125 of 2014

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TO:-

- 1.The District Judge at Nagercoil.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD)No.125 of 2014

P. DHANABAL, J.

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Judgment made in
C.M.A.(MD)No.125 of 2014

Dated:
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