IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

FRIDAY, THE TENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

HONOURABLE SRI JUSTICE RAVI NATH TILHARI

AND

HONOURABLE SRI JUSTICE NYAPATHY VIJAY

I.A.No.2 of 2025

IN

CIVIL MISCELLANEOUS APPEAL No.632 of 2024

Between:

Damarla Jyothi, W/o. Kodidasu Udaya Babu, Age 30 years, R/o.D.No.16-22, Damarlavari Street, Ipurupalem, Chirala Mandal, Bapatla District.

...Petitioner/Appellant

AND

Kodidasu Udaya Babu @ Udaya Siva Naga Babu, S/o. late Sambasiva Rao, Age 38 years, R/o. D.No.7-369, Behind Sri Gopala Krishna Theater, Near Ramalayam, Mangalagiri, Tadikonda Mandal, Guntur District.

...Respondent/ Respondent

Petition under Section 114 R/w Order 47 Rule 1 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the

High Court may be pleased to review the order dated 1.10.2024 in CMA.No.632 of 2024.

Counsel for the Appellant : Sri N.Bharath Simha Reddy

Counsel for the Respondent : None Appeared

The Court made the following: ORDER

Heard Sri N.Bharath Simha Reddy, learned counsel for the petitioner.

2. I.A.No.2 of 2025 has been filed by the appellant-wife for review of our judgment dated 01.10.2024 in C.M.A.No.632 of 2024 by which the appeal was dismissed as not maintainable.

3. On 01.10.2024, this appeal was dismissed on the ground that, since the appellant consented for grant of divorce, parties also compromised and the wife had also withdrawn the settled amount, the appeal was not maintainable, observing that no appeal lies against the consent decree.

4. Learned counsel for the petitioner submits that the divorce decree could not be granted on compromise or consent. In such matters the consent is immaterial. He placed reliance in **Sanjeeta Das v. Tapan Kumar Mohanty {2010 AIR SCW 5683}**. So, it is submitted that the judgment dated 01.10.2024 suffers from error apparent and deserves to be reviewed.

5. We have considered the submissions advanced and perused the material on record.

6. In **Sanjeeta Das** (supra) the Hon'ble Apex Court has laid down that the Hindu Marriage can be dissolved only on any of the grounds plainly and clearly enumerated under Section 13 of the Hindu Marriage Act (in short 'the Act'). The law does not permit the purchase of a decree of divorce for consideration, with or without the consent of the other side unless the contesting parties proceed under Section 13B of the Act.

7. Para Nos.5 to 7 of **Sanjeeta Das** (supra) are as follows:

"5. These two orders passed by the High Court, by which it purported to grant a decree of divorce for dissolution of the respondent's marriage with the appellant are now before us in appeal and plainly speaking we are unable to put any meaning to the order of the High Court. The marriage between the respondent and the appellant was admittedly solemnized in accordance with the Hindu religious rites. A Hindu marriage can be dissolved only on any of the grounds plainly and clearly enumerated under Section 13 of the Hindu Marriage Act. The law does not permit the purchase of a decree of divorce for consideration, with or without the consent of the other side.

6. Learned counsel appearing for the respondent urged us not to interfere in the matter submitting that the respondent and the appellant had lived together barely for four months. He stated that the marriage had taken place on April 29, 1994 and from August 24, 1994 they are living separately. He also tried to argue that the order of the High Court was passed with the consent of the parties and for that reason also this Court should not interfere in the matter. We are not prepared to accept the submission for a moment. First, there is nothing to indicate that the order was passed with the consent of the appellant. All that is said in the order is as under:

"On consideration of such affidavit and the submission of the learned counsel appearing for the parties, we dispose both these appeals with the following directions"

(Emphasis added)

7. The affidavit referred to in the order is the one filed by the respondent and consideration of submission of counsel for the parties does not indicate that the appellant had given her consent for dissolution of her marriage with the respondent on payment of Rs.10,00,000.00 (rupees ten lakhs only). Secondly, and more importantly, the consent of the parties is of no relevance in the matter. No court can assume jurisdiction to dissolve a Hindu marriage simply on the basis of the consent of the parties de hors the grounds

enumerated under Section 13 of the Act, unless of course the consenting parties proceed under Section 13B of the Act."

8. The appeal was dismissed, considering only that, the wife consented for divorce after the compromise and accepting and withdrawing the amount, so the appeal was not maintainable. Any other aspect was not considered. The grant of divorce was on merits. So appeal was maintainable.

9. I.A.No.2 of 2025 is allowed. We recall the order dated 01.10.2024. CMA.No.632 of 2024 is restored to original number.

Sd/- S.V.S.R.MURTHY
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Civil Judge (Senior Division), Mangalagiri, Guntur District.
2. One CC to Sri N.Bharath Simha Reddy, Advocate [OPUC]
3. **Three CD Copies**

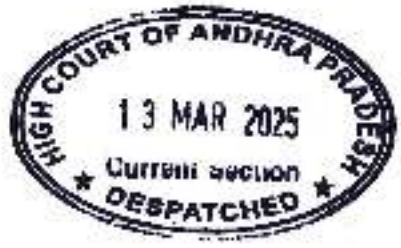
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HIGH COURT

DATED:10/01/2025

ORDER

I.A.No.2 of 2025 in CMA.No.632 of 2024



ALLOWING THE APPLICATION