

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO
AND
THE HON'BLE SRI JUSTICE G. RAMAKRISHNA PRASAD
C.M.A.No.563 of 2008

JUDGMENT

(Per Hon'ble Sri Justice G. Ramakrishna Prasad)

Heard the learned counsel for Appellant and Respondents.

2. The Appellant is the wife and Respondent No.1 is her husband in the present Appeal. Respondent No.1-husband filed a petition seeking divorce under Section 10(i) of Indian Divorce Act, 1869 against the Appellant-wife on the ground of Mental Cruelty.

3. After trial, the learned 1st Additional District Judge, Ongole passed a decree of divorce in favour of the Respondent No.1-husband by Order dated 26.06.2007 in Divorce Original Petition No.6 of 2004 as he successfully established Mental Cruelty against his wife. Wife filed the present Appeal challenging this Order. On the death of Respondent No.1/husband during the pendency of this Appeal, Respondent Nos.2 to 4 (wife and two daughters respectively of the Respondent No.1/husband) were brought on record as legal representatives *vide* Order dated 10.03.2017 in CMAMP No.2026 of 2016 and 292 of 2017.

4. Learned counsel for the Appellant contended that the order impugned herein is erroneous inasmuch as the learned Trial Judge

rendered a finding of Mental Cruelty against the Appellant-wife, for the reason of filing criminal cases against the husband and his family members. According to the learned counsel for the Appellant, filing of criminal cases by Appellant-wife against the Respondent No.1-husband, does not constitute Mental Cruelty.

5. This Court has gone through the order of the Trial Court. It is seen from the facts narrated therein, that the Appellant has filed C.C.No.69 of 2004 under Section 498-A IPC against the Respondent No.1-husband, his parents and his sister, which eventually ended in acquittal.

6. The second case which is narrated in the impugned order is about another criminal case filed by the Appellant against the Respondent No.1-husband in Cr.No.4 of 2005 under Section 498-A and 420 IPC and under Section 3 of Dowry Prohibition Act. While noting that ever since the C.C.No.69 of 2004 has ended in acquittal, the Appellant-wife has been living separately, this case was also dismissed.

7. The 3rd case was filed by the Appellant-wife in October, 2004 for bigamy, which also ended in dismissal for having filed a false case. Apart from these three cases, the Trial Court has also taken into account the deposition of RW.2-Brudula Ramesh, who is none other than the cousin of the Appellant herein, who categorically deposed that the Appellant demanded Rs.50,000/- from the Respondent No.1-husband for not foisting a false criminal case

against him. This fact was elicited from RW.2-Brudula Ramesh during the cross examination.

8. The instances cited by the learned 1st Additional District Judge, Ongole in the order impugned herein, in no uncertain terms establish that the Appellant acted in a cruel manner and harassed her husband by foisting false cases, which ended in acquittal.

9. This view of this Court is fortified by the ratio handed down by the Apex Court in **RANI NARASIMHA SASTRY vs. RANI SUNEELA RANI**¹. Para Nos.13 and 14 reads:

"13. In the present case, the prosecution is launched by the respondent against the appellant under Section 498-A IPC making serious allegations in which the appellant had to undergo trial which ultimately resulted in his acquittal. In the prosecution under Section 498-A IPC not only acquittal has been recorded but observations have been made that allegations of serious nature are levelled against each other. The case set up by the appellant seeking decree of divorce on the ground of cruelty has been established. With regard to proceeding initiated by the respondent under Section 498-A IPC, the High Court made the following observation in para 15: (Rani Narsimha Sastry case, SCC OnLine Hyd)

"15..... Merely because the respondent has sought for maintenance or has filed a complaint against the petitioner for the offence punishable under Section 498-A IPC, they cannot be said to be valid grounds for holding that such a recourse adopted by the respondent amounts to cruelty."

The above observation of the High Court cannot be approved. It is true that it is open for anyone to file complaint or lodge prosecution for redressal of his or her grievances and lodge a first information report for an offence also and mere lodging of complaint or FIR cannot ipso facto be treated as cruelty. But, when a person undergoes a trial in which he is acquitted of the allegation of offence under Section 498-A IPC, levelled by the wife against the husband, it cannot be accepted that no cruelty has been meted out on the husband. As per the pleadings before us, after parties having been married on 14-8-2005, they lived together only 18 months and, thereafter, they are separately living for more than a decade now.

14. In view of the forgoing discussion, we conclude that the appellant has made a ground for grant of decree of dissolution of marriage on

¹ (2020) 18 SCC 247

the ground as mentioned in Section 13(1)(i-a) of the Hindu Marriage Act, 1955”.

10. In this view of the matter, this Court confirms the findings of the 1st Additional District Judge, Ongole in Divorce Original Petition No.6 of 2004 dated 26.06.2007 to the effect that the actions and conduct of the Appellant-wife towards her husband-Respondent No.1 herein constitutes Mental Cruelty. This Court is of the view that there are no grounds to interfere in the present Appeal. Hence, the Appeal is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any pending, stand closed.

(U. DURGA PRASAD RAO, J)

(G. RAMAKRISHNA PRASAD, J)

Date:01-07-2022.
JKS

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