

IN THE COURT OF THE SENIOR CIVIL JUDGE AT ASIFABAD

Present:- K. Yuva Raja
Senior Civil Judge
Asifabad

Wednesday, this the 2nd day of August, 2023

H.M.O.P.No.44 of 2022

Between:

Sadu Srinivas, S/o: Bhumaiah, Age: 38 years, Occ: Agriculture,
R/o: H.No.2-50, Guntlapet, Penchikalpet mandal.

...Petitioner

//A N D//

Sadu Anitha @ Kasarla Anitha, W/o: Sadu Srinivas, Age: 32 years,
Occ: Housewife, R/o: Kasarla Sammaiah (father), Bandarupalli village,
Mulugu mandal and district.

...Respondent

This petition is coming on before me on 31.07.2023 for final hearing in the presence of Sri V. Kishore Kumar Advocate for Petitioner and Sri R. Bhikshapathi, Advocate for Respondent, and having heard and stood over for consideration till to-day, this Court delivered the following:-

:: O R D E R ::

This petition is filed under Section 9 of the Hindu Marriage Act, 1955 (in short 'the Act') praying the Court to grant decree of restitution of conjugal rights and to direct the respondent to join the conjugal society of the petitioner.

2. The averments of the petition in brief are that, the respondent is the legally wedded wife of the petitioner, their marriage was performed on 26.02.2020 at Bandarupalli village, Mulugu mandal and district as per the customs prevailed in their community and the marriage was

arranged one and nothing was given or taken at the time of marriage. After the marriage they lived happily for a period of 5 months. That the mother of the petitioner died long back, in the house of the petitioner, himself, father of the petitioner and respondent were used to live.

3. That the respondent used to quarrel with the respondent on simple household matters without any reason. During the wedlock, the respondent conceived and at 5th month pregnancy the respondent went to her parents' house for delivery. On 08.01.2022 the respondent delivered and gave birth to a female child namely Yeshaswini, knowing the same the petitioner along with his family members went to the house of parents' of the respondent, saw the baby and he also attended the cradle ceremony along with his family members and presented new clothes and other gifts.

4. That, after the delivery of one month, the respondent joined the society of the petitioner and lived for 15 days, thereafter she picked up quarrel with the respondent without any reason and went to her parents' house. The petitioner requested the respondent to join his society, but she dodged the matter on or other pretext. As such, the petitioner conducted a panchayat in the month of November, 2021 before the elders namely B. Prabhakar and others. Upon the advise of the elders, the respondent joined society of the petitioner on

14.01.2022. That the petitioner has celebrated the first birth day of his daughter, the brother of the respondent also attended te birthday function. Upon the request of the brother of the respondent, the petitioner sent the respondent with him to her parents' house along with child, at the time of going the respondent promised that she will come after three days, but she did not come. Again the pettioenr held panchayat on 06.07.2022 at the village of parents of the respondent i.e. Bandarupalli, in which an agreement was executed between the petitioner and respondent before the elders namely Smt. Sahera Banu and many others, both agreed to continue their marital life by forgetting the past. On that the respondent joined the society of the petitioner and stayed till 28.09.2022. But there is no change in the attitude of the respondent and she always used to insult the petitioner without any reason.

5. Petitioner further submits that, on 28.09.2022 paternal uncle of the respondent by name K. Odelu came to the hosue of the petitioner and took the respondent to her parents house on the occassion of Bathukamma festival by promising to come back after festival, while going the respondent taken awaya all gold and silver ornaments with her which was adorned at the time of marriage. After the festival the respondent did not come back, the petitioner made all efforts to bring back the respondent, but she refused to come and join with the conjugal society of the petitioner. Due to the absence of the respondent

the petitioner has been facing lot of difficulties in day to day life physically and mentally and also suffering with ill health and is under treatment at Kelvin hospital, Karimnagar. Since there is no option, the petitioner filed this petition for restitution of conjugal rights.

6. The respondent filed counter by denying the allegations made in the petition except her relationship with the petitioner and birth of child. It is further submitted that, parents of the respondent agreed to give Rs.11,50,000/- to the petitioner towards dowry, at the time of marriage her parents presented Rs.1,00,000/- cash, 11 tulas gold ornaments worth of Rs.6,00,000/- and 10 tulas of silver ornaments worth of Rs.1,00,000/- and other household articles worth of Rs.70,000/- to the petitioner towards dowry and parents of the respondent spent huge amount of Rs.4,00,000/- for performing marriage with the petitioner. After the marriage the respondent joined the conjugal society of the petitioner at Gundlapeta village, Penchikalpeta mandal, they lived happily for a period of 3 months, during their marital life the respondent conceived and gave birth to a female child by name Sadhu Yashaswini.

7. It is further contention of the respondent that, during her marital life the petitioner and his family members harassed her physically and mentally, the petitioner used to come to home in drunken condition,

used most filthiest language against the respondent and beat her indiscriminately without having any cause and threatened her at the instigation of his family members to bring remaining dowry amount of Rs.4,50,000/- and additional dowry of Rs.3,00,000/-. The petitioner neglected the respondent and their child, on that the parents of the respondent conducted panchayats at Gundlapeta village and Bondarupally village, in said panchayats the elders found the fault of the petitioner and advised him not to harass the respondent, after that the respondent joined the society of the petitioner, but the petitioner did not change his attitude and continued his harassment towards the respondent and their daughter.

8. It is further submitted that, after few months the petitioner and his family members beat the respondent indiscriminately and caused injuries. The respondent informed the same to her parents through phone, on that the parents of the respondent went to the house of the petitioner Gundlapeta village to see her daughter, at that time the petitioner and his family members threatened the father of the respondent, necked out him from the house, as such the respondent and her father returned to Bandarupally village to the house of the parents of the respondent along with her daughter. The petitioner also threatened the respondent on mobile and suspected the character of the respondent. On 06.07.2022 a panchayat held in which it was

underatken as the petitioner shall be look after the respondent and their daughter in good manner, on that the respondent went to the house of petitioner to lead her marital life with the petitioner. But, there is no change in the attitude of the petitioner towards the respondent. Due to unbearable harassment made by the petitioner and his family members the respondent's health damaged, but the petitioner did not provide any medicine and food to the respondent and their daughter, as such the respondent and her daughter suffered for a period of 2 months. On 28.10.2022 the petitioner and his family members necked out the respondent and her daughter from the house and threatened as they did not allow unless until she bring remaining dowry of Rs.4,50,000/- and additional dowry of Rs.3,00,000/- from her parents' house. Immediately the parents of the respondent brought her to their house along with her daughter.

9. It is further contention of the respondent that, on 01.11.2022 the respondent lodged a complaint at Mulugu police station against the petitioner and his family members, but the police did not take any action against them. Later, the respondent sent a copy of the report to the Superintendent of police, Mulugu by registered post, they also did not take any action. On that the respondent filed a private complaint U/Sec.200 Cr.P.C. before the Prl. Judicial Magistrate of First Class, Mulugu against the petitioner and his family members, the same was

referred to Mulugu police station, case was registered vide Cr.No.281/2022 under Secs.498-A, 323, 506 of IPC and Sec.3 & 4 DP Act by showing the petitioner and his family members as A1 to A7 and charge sheet also filed. That the respondent along with her daughter filed a maintenance case vide Crl.M.P.No.568/2022 in MC NO.26/2022 against the petitioner for seeking maintenance from the petitioner. The respondent also filed domestic violence case against the petitioner and his family members before the Prl. Judicial Magistrate of First Class, Mulugu vide DVC No.17/2022 which is pending. It is further submitted that, there is no cause of action arose to the petitioner to file the present petition and alleged cause of action is created and concocted one for the purpose of filing of this petition. Hence, prayed to dismiss the petition.

10. To prove his case, the petitioner got examined himself as PW1 and Ex. P1 is marked. No representation on behalf of respondent. Hence, cross examination of the PW1 is treated as nil. Despite giving several adjournments no representation made on behalf of respondent. It appears that the respondent is not ready to proceed with the case. Hence, evidence on respondent side is closed.

11. Heard the learned counsel for the petitioner. Perused the record.

12. Now the point for consideration is:-

“Whether the petitioner is entitled for restitution of conjugal rights directing the respondent to join his society as prayed for”?

POINT:

13. To prove his case, the petitioner got examined himself as PW1. The testimony of PW.1 goes to show that his marriage was performed with the respondent on 26.02.2020, they lived happily for a period of five months, during their marital life they blessed with one daughter by name Yeshaswini. Thereafter, the respondent started to quarrel with the petitioner on petty issues and went to her parents' house. The petitioner several times requested to come to his house, but the respondent refused to join the society of the petitioner. Panchayat s were held before the caste elders at the house of the petitioner and respondents, in which elders advised the respondent to join the society of the petitioner and continued their peaceful marital life and document also executed. But the respondent used to join the society of the petitioner, lived for some period and again went to her parents house. Finally, on 28.09.2022 the respondent went to her parents house on the occasion of Bathukamma festival along with their daughter and she took all her gold and silver ornaments with her, but she did not returned after the festival.

14. The respondent filed counter by denying the allegations of the petition averments and further submitted that, parents of the respondent agreed to give Rs.11,50,000/- to the petitioner towards dowry, at the time of marriage her parents presented Rs.1,00,000/- cash, 11 tulas gold ornaments worth of Rs.6,00,000/- and 10 tulas of silver ornaments worth of Rs.1,00,000/- and other household articles worth of Rs.70,000/- to the petitioner towards dowry. The petitioner used to harass the respondent physically and mentally at the instigation of his family members for remaining dowry of Rs.4,50,000/- and additional dowry of Rs.3,00,000/-. She submitted in her counter that panchayats also conducted before the elders in which the elders found the fault of the petitioner, as per the advise of the elders the respondent used to join the society of the petitioner, but there was no change in the attitude of the petitioner. Finally on 28.10.2022 the petitioner and his family members necked out the respondent and her daughter from the house, on that she came to her parents house and lodged a complaint before the police station Mulugu, but the police did not take any action against them. Later, the respondent sent a copy of the report to the Superintendent of police, Mulugu by registered post, they also did not take any action. On that the respondent filed a private complaint U/Sec.200 Cr.P.C. before the Prl. Judicial Magistrate of First Class, Mulugu against the petitioner and his family members, the same was referred to Mulugu police station, case was registered vide

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15. The pleadings of the petitioner and the testimony of PW.1 goes to show that the petitioner filed the petition for decree of restitution of conjugal rights, directing the respondent to join the conjugal society of the petitioner. Though the respondent filed her counter, but she did not come forward to prove her contention by adducing her evidence, despite granting sufficient adjournments to depose her evidence.

16. In view of the above said facts, this Court holds that it is a fit case to direct the respondent to join the conjugal society of the petitioner as prayed for. Thus, the point is answered in favour of the petitioner.

17. **IN THE RESULT**, the petition is allowed without costs, granting decree of restitution of conjugal rights, by directing the respondent to join the conjugal society of the petitioner within two months from the

date of order, failing which the petitioner is at liberty to take appropriate steps according to Law.

Typed to my dictation by the Stenographer, corrected and pronounced by me in the open Court on this the 2nd day of August, 2023.

SENIOR CIVIL JUDGE
ASIFABAD_

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For Petitioner:

PW1: Sadu Srinivas (Petitioner)

For Respondent:

-None-

EXHIBITS MARKED

For Petitioner:

Ex.P1: Marriage photo.

For Respondent:

-Nil-

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