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APHC010486742006



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3545]

WEDNESDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT**THE HONOURABLE SRI JUSTICE BATTU DEVANAND****THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA****FAMILY COURT APPEAL (FCA) NO: 148/2006****Between:**

1. SURAPANENI GIRIJA, W/O. SURAPANENI LAXMI NARAYANA
HOUSEWIFE R/O.D.NO.51-3-18, NEAR PANCHAYAT OFFICE,
GUNADALA, VIJAYAWADA.

...APPELLANT**AND**

1. SURAPANENI LAXMI NARAYANA, S/o. Abhimanyudu presently working
as Security Officer In Pratyusha Chemicals & Fertilizers, Parwada Mandal,
E. Bonangi, Visakhapatnam-531021.

...RESPONDENT**Counsel for the Appellant:**

1. NARESH BYRAPANENI

Counsel for the Respondent:

1. P ARAVINDA

2. Y V KISHORE

THE HONOURABLE SRI JUSTICE BATTU DEVANAND
&
THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

F.C.A. No.148 of 2006

JUDGMENT: *(Per Hon'ble Sri Justice A. Hari Haranadha Sarma)*

Introductory:-

The petitioner in OP No.26 of 2001 on the file of the Family Court-cum-IV Additional District and Sessions Judge, Vijayawada, feeling aggrieved by the dismissal of her application filed in terms of Section 13(1) (ia) Hindu Marriage Act, 1955 for dissolution of her marriage dated 23.02.1975 with the respondent, filed the present appeal questioning the propriety and sustainability of the decree and judgment dated 29.03.2006.

2. The appellant/ petitioner is the wife and the respondent is her husband.
3. For the sake of convenience, parties will be herein after referred to as the petitioner and the respondent, as and how they are referred in the impugned orders.

Case of the Petitioner :-

4. [i] Marriage between the petitioner and the respondent was performed on 23.02.1975 at Tirupathi. Since the respondent was working as Telephone

Operator in Indian Air-Force at Srinagar, the petitioner joined the respondent at Sringar but in no time she could find that the respondent is addicted to all vices, like drinking, gambling, mutka, betting and lottery etc.. He started bringing pressure on the petitioner demanding money, used to come late and neglected her several ways and several occasions. Request of the petitioner and the elders did not yield any result but resulted in subjecting her to physical cruelty of strangulating her with a saree and her life could be saved due to the intervention of house owner.

[ii] The petitioner lived in helpless condition for about 4 months at Sringar and suffered manhandling and the same was ended in throwing out her from the house. She came back to her mother's house.

[iii] Intervention of elders and negotiations of relatives has restored the stay of the petitioner with the respondent for some time, but driving her to go back to her parental home became routine for number of times. During wed lock, the petitioner and the respondents were blessed with the children by name Manoj and Vinod.

[iv] Respondent persisted in his adamance and harassment against the petitioner and he has resigned to his service in 1998; spent all the retirement benefits for his vices. The petitioner and the respondent stayed at Visakhapatnam for 6 years, there was attack even with acid to deface the

petitioner and then she had to shift her residence to Vijayawada. Whenever the respondent visits the home, he was repeating the harassment.

[v] Having decided that it is not safe for her to live together, she is constrained to resort to legal process.

[vi] The petitioner in her plea further added about the demands for property and selling of her properties given by her parents, attack on the children, demand for handing over jewellery, hurting the children even physically and forcing the children to sign on some stamped papers etc. Thus, she claimed that 26 years of her matrimonial journey proved to be a misery and having found absolutely no chances for living together, she is constrained to pray for dissolution of marriage and decree for divorce.

Case of the respondent:-

5. [i] Petition allegations are false. Petitioner is none other than the daughter of his paternal aunt, there were no means for family of the petitioner to pay anything. Hence, all the allegations as to presentations, demands for money etc., are all false.

[ii] The respondent worked in defence department and it is mandatory for the wives of defence personnel to be members of wives welfare association. Had there been ill treatment, there should have been some complaints, therefore, the version of the petitioner is a creation.

[iii] The humble means of the respondent was the cause for the displeasure of the petitioner. After his discharge from the defence department, the respondent purchased a lorry in the name of the petitioner out of the retirement benefits and started transportation business. But the same was not profitable. Hence, he sold away the lorry in 1991.

[iv] Thereafter, he joined in private firms and worked for M/s.Varn Motors from 1.11.1994 to 31.07.1997.

[v] He got educated the children with the limited resources available.

[vi] While referring to his contribution made for the upliftment of the family, the respondent asserted that he has been dutiful, whereas the petitioner/wife was always against the respondent and his parents and the humiliation faced by his parents in the hands of the petitioner has exposed his father to mentally breakdown. The petitioner developed a phobia towards the financial status of the respondent and developed a feeling of insult to be the wife of the ex-service man. She is fond to lead lavish life with modern facilities. Their elder son Manoj, began an earning member and sending moneys, the petitioner developed antipathy and superiority complex over the respondent and developed ill-will towards the respondent, even tutored the children against the respondent with an intent isolate the respondent from the rest of the Family to have the entire financial benefits of his sons, she has poisoned and spoiled the minds of the children, telling bad about the respondent. Elder sister of the petitioner, one

Savithri has managed the innocence of the sons of the respondent adding lies. The respondent was an excellent employee and award winner. The allegations contra as to drunken nature etc., are all invented. He has no adverse interest against the petitioner. At any point of time, during 26years of marital journey, there are no merits in the petition and petition is liable to be dismissed.

Evidence:-

6. During the enquiry, the petitioner has taken witness stand as PW.1 and got one Vallabhaneni Bapaiah said to be resident of Ballary, examined as PW.2, whose evidence is subsequently given up. Further, one of the relatives of the petitioner, one S.Ramakrishna was examined as PW.3. No documents got marked on behalf of the petitioner.

7. For the respondent, he has taken witness stand as RW.1. S.Venkata Narayana, cousin of the respondent was examined as RW.2. A villager of Lankelapalem, one S.Srinivasa Rao was examined as RW.3. Family friend of both the parties, one K.Rajeswari was examined as RW.4. Colleague of respondent in defence service, one Siva Venkata Ramakrishna Rao was examined as RW.5. One K.Venkata Ratnam was examined as RW.6 and one J.Siva Nageswari, another family friend at Delhi was examined as RW.7. Respondent was got marked Ex.B1 to Ex.B26, documents.

Order of Family Court:-

8. After addressing the points as to entitlement of the petitioner for dissolution of marriage and decree of divorce, learned Family Court dismissed the application.

Arguments in the Appeal:-

9. Heard learned counsel for the appellant/petitioner and the respondent did not choose to appear despite giving sufficient opportunity.

10. Learned counsel for the appellant/petitioner continuously reported ready on 30.04.2020, 14.05.2020, 28.08.2023, 10.09.2025 and finally on 08.10.2025, but there is no representation for the respondent. Although Vakalath was filed for the respondent, none chose to advance the arguments for respondent despite specific directions by this Court. Hence, this Court constrained to proceed with the reference to the material available, particularly the observations in the impugned orders and their propriety and sustainability thereof taking aid of Order 41 Rule 17 (2) of C.P.C.

11. On perusal of the material available on record, the points that arise for determination in this appeal are:

- 1) *Whether the decree and judgment dated 29.03.2006 passed by the learned Family Court-cum-IV Additional and District Judge, Vijayawada, dismissing the application filed for dissolution of marriage is proper or*

whether requires any interference. If so, on what grounds? And whether the appellant/petitioner-wife is entitled for decree of dissolution of marriage/divorce?

2) *What is the result of the appeal?*

Point No.1 :-

12. **Facts not in dispute:-**

- 1) *Marriage performed on 22.3.1975 between the parties.*
- 2) *There was around 26 years of marital journey, with wear and tear.*
- 3) *Parties are blessed with two children.*
- 4) *Parties are living separately for quite a long time.*

13. **Whether the petitioner was subjected to cruelty driving her to opt for dissolution of marriage:-**

[i] In the pleadings the petitioner has asserted about the cruelty suffered by her both physically and mentally, in evidence she has reiterated the same. The respondent in his pleadings denied the allegations levelled against him and asserted about his good behaviour.

[ii] The incidents narrated by the petitioner are matters of personal knowledge alone and might have happened between the petitioner and the respondent alone substantially if not all. Circumstances and the evidence

relating to the conduct of the parties all through will drive one to infer the probabilities of truth in the allegations.

[iii] The evidence of third parties, on behalf of the petitioner is that of the PW.3 and on behalf of the respondent is that of RW.2 to RW.6.

[iv] The evidence of respondent and the petitioner as RW.1 and PW.1, being the parties, may be self serving one. But the evidence of RW.2 to 6 and PW.3 is third party evidence, the same would throw a reasonable light to assess the credibility and probability of truth in the stand of both the parties.

[v] PW.3 is one Rama Krishna Rao, said to be the husband of elder sister of the petitioner. He has stated about the petitioner complaining about the erratic conduct of the respondent in taking drinks, playing cards, mukta, purchasing lottery tickets etc., and harassing her demanding for dowry and continuing his harassment wherever they stayed. Further, the respondent used to canvass with the relatives that the petitioner is a lady without conduct and not properly brought up, damaging the reputation of the family etc.; the respondent using filthy and unprintable language. During the cross-examination of PW.3, it is elicited that he got acquaintance with the respondent prior to the marriage for some time, during that time, there were no bad habits to the respondent. It is also elicited that they are relatives by the time of marriage and no dowry was paid; PW.3 did not meet the respondent at his place after the respondent securing job. He did not go to Visakhapatnam after the respondent setting up his residence,

after leaving his job. He does not know whether the respondent did any job at Visakhapatnam. PW.3 does not know about the personal life of the petitioner and the respondent, he used to reside at various places. He does not know whether the petitioner had got Maruti Car. He has denied the suggestion that he and his wife are behind the petitioner filing the case. He does not know whether the respondent purchased the property and lorry in the name of the petitioner.

[vi] RW.2 is one Surapaneni Venakta Narayana said to be a third party. He has stated that both the parties are acquainted with each other prior to the marriage; the respondent purchased some property in the name of the petitioner about six years after the marriage. The respondent is honest, humble and simple and he has no vices. During the cross-examination of RW.2, it is elicited that he/[RW.2] contracted second marriage; he did not take legal divorce from his first wife. It was suggested to RW.2 that brother of the petitioner supported his first wife in respect of the disputes between him and his first wife, hence, he is speaking against the petitioner. He did not attend the marriage of first son of the petitioner and the respondent. He did not attend house warming function of the petitioner. He do not know the street name where the house of the petitioner is situated. He came to know about the disputes when the petitioner and the respondent were residing in Rajahmundry; the petitioner used to complain that the respondent was wasting money and to the best of his knowledge that there are no disputes

between the petitioner and the respondent. He did not participate in the marriage negotiations between the petitioner and the respondent.

[vii] His evidence is substantially hearsay in nature. Even the evidence of RW.3 is in the same lines and his evidence is also hearsay as to the disputes between the petitioner and the respondent. He has stated in his cross-examination that he did not enquire the petitioner as to what is the reason for the disputes between the petitioner and the respondent. He enquired the persons, whose name he do not know, about the disputes between the petitioners. His knowledge about the disputes between the petitioner and the respondent is vague and hearsay.

[viii] The evidence of RW.4 also in similar lines, except stating certain details where the petitioner and the respondent have stayed.

[ix] RW.5 evidence is that there is no proper understanding between the petitioner and the respondent, beyond that he do not know anything about the contentions of the parties.

[x] RW.6 evidence is also hearsay that the respondent informed him that the respondent lost some money in the shares business. He has stated that he do not know about exchanges taken place at the time of marriage between the petitioner and the respondent. He does not know how long the petitioner and the respondent stayed together.

[xi] RW.7 is also stated that he do not know anything about the affairs of the petitioner and the respondent between 1981 and 2001 and he did never talk to the respondent nor visited his house. He did not visit house of the petitioner also. Evidence of RW.7 is of no help and substantially the same is hearsay.

[xii] The evidence of RW.2 to RW.7 stated good about the respondent due to their acquaintance with him. They are not the witnesses for anything that happened between the petitioner and the respondent.

[xiii] Now the evidence of the petitioner and the respondent and the admissions if any during their cross-examination require appreciation.

14. Petitioner as PW.1 stated about her sufferance including spending of all retirement benefits by the respondent/husband for his vices etc., and that the respondent took voluntary retirement, ignoring the advice of the elders and the petitioner, as to family needs etc., and that respondent caused hurt to the children. During the cross-examination of PW.1, it is elicited that their marriage was love marriage; the petitioner and the respondent are relatives prior to marriage. She was asserted during the cross-examination that the respondent addicted to vices like drinking, gambling and he was not attending duties regularly. Both the petitioner and the respondent lived for 9 years at Visakhapatnam; after retirement of the respondent, the respondent purchased lorry in her name and he sold the lorry and purchased a site in her name at Rajahmundry. She has denied the suggestion that the O.P. was filed without

jurisdiction at Vijayawada. It was suggested to her since she has no necessity with the respondent as their son is sending amounts, and that the respondent used to suggest her that not to live luxurious manner, for that reason she left the respondent, which she has denied. She has admitted that all the assets of her family are standing in her name. The respondent did shares business also in her name. It was specifically suggested to her that she want to go to foreign, for that reason she filed the divorce O.P., as there will be no objection from her husband if she get divorce.

15. [i] The respondent as RW.1 reiterated his stand in his counter as to want of jurisdiction to the Court at Vijayawada and that one Savithri, elder sister of the petitioner has instigated the petitioner to file the case. The divorce petition is not preceded by any notice. The petitioner has taken away all her belongings without the knowledge of the respondent. Son of the parties is earning dollars and he is sending amounts to the petitioner and the allegations as to the respondent addiction to vices etc., are all false. He is disciplined soldier. During the cross-examination of the respondent, it is elicited that the daughter of his paternal aunt marriage is arranged one. He has denied the suggestion that the petitioner was advising him not to indulge in vices and he has stated that after completing 15years of regular service, he has discharged from service covered by the bond and the contract was for 15 years only.

[ii] He has denied the suggestion that the amount received on retirement are spent for vices. It was even suggested to the respondent during the cross-examination that during 1978, when the petitioner was pregnant he used to kick on her abdomen, which he has denied. It is pertinent to note that two children are born and the petitioner and respondent lived jointly even after 1978 episode, for a very good number of years. The specific suggestion was given to the respondent that after petitioner starting to live separately, the respondent did not initiate any legal proceedings, for which he has added that he demanded for restitution of conjugal rights through elders and also wrote letters. This aspect is denied by the petitioner/wife. Further it was also suggested to the respondent that his opinion about the reason for seeking divorce is that the petitioner need not have his consent for going abroad and that the respondent did not consent for the marriage of their first son with the daughter of brother of the petitioner are all false. It was also suggested to him that he has no real intention to have the conjugal society and that he did not initiate proceedings for restitution of conjugal rights, which was denied by him.

16. Learned Judge, Family Court has elaborately considered the evidence on both sides, and found that there are no *bonafides* in the petition filed by the petitioner for dissolution of marriage as there is no corroboration for her allegations against the respondent and that the petition is dismissed.

17. Relevant facts that contribute for answering the point framed are:

- (i) The parties acquainted with each other prior to marriage and that they are close relatives.
- (ii) The petitioner appears to be aged about just 18 by the time of marriage.
- (iii) The respondent was working at Srinagar thereafter shifted to Delhi, and worked at several places.
- (iv) In all places where the respondent worked, the petitioner appears to have accompanied him.
- (v) After discharge or retirement of respondent from the service, both the parties admittedly lived for more than 6 years at Visakhapatnam.
- (vi) The petitioner admitted that all the properties were standing in her name.
- (vii) The lorry purchased out of the retirement benefits, was in her name only.
- (viii) Shares business was also in the name of the petitioner.
- (ix) From the cross-examination of the respondent, it is understood that the respondent did not initiate legal proceedings for restitution of conjugal rights.
- (x) It is not the case of the petitioner that there was any prior legal notice demanding restitution of conjugal rights or that the disputes between

the parties went to an extent of some legal process in the form of complaint etc., to Police.

(xi) Allegations as to vices and addiction of respondent to vices like drinking, gambling are vague and they are not corroborated with any evidence.

(xii) The differences and disturbances between the parties appear to be nothing more than ordinary wear and tear of matrimonial life.

(xiii) Marriage is dated 23.02.1975. The application for divorce was filed in the month of January 2001 and roughly after completion of silver jubilee of their marriage.

(xiv) Petitioner living at Vijayawada by the time of present case.

18. The 25 years of matrimonial journey is not with any specific complaint etc., by the wife to any authorities. The present litigation between the parties is also aged about two and a half decades. Sufficiency of evidence indicating the cruelty under which dissolution of marriage is sought, is found missing. Even to invoke the ground for desertion, it is not the case of the petitioner that she has been deserted, and the provision of law invoked is Section 13(1)(ia) of Hindu Marriage Act, which requires that, after solemnisation of marriage, the petitioner should have been treated with cruelty. The petitioner failed to show any convincing evidence that she was subjected to cruelty, sufficient to dissolve the

marriage between the petitioner and the respondent. Therefore, the findings of the learned Judge, Family Court-cum-IV Additional District and Sessions Judge, Vijayawada, does not warrant any interference and fit to be confirmed. Point framed is accordingly answered against the appellant/petitioner.

Point No.2:-

19. **In the result**, the appeal is dismissed. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE BATTU DEVANAND

JUSTICE A.HARI HARANADHA SARMA

Dated: 05.12 .2025
Pnr

THE HON'BLE SRI JUSTICE BATTU DEVANAND
and
THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

FAMILY COURT APPEAL (FCA) NO: 148/2006

Dt. 05.12.2025

Pnr