

S. Meera Vs. P. Narasimman

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SooperKanoon Citation : sooperkanoon.com/1189224

Court : Chennai

Decided On : Aug-05-2016

Judge : N. Kirubakaran

Appeal No. : Tr.C.M.P.No. 435 of 2015 & M.P.No. 1 of 2015

Appellant : S. Meera

Respondent : P. Narasimman

Judgement :

(Prayer: Petition filed under Section 24 C.P.C., to transfer F.C.O.P.No.1922 of 2015 pending on the file of the learned III Additional Judge, Family Court, Chennai to be tried along with H.M.O.P.No.158/2015 pending on the file of the Family Court, Tiruchirapalli for enquiry and disposal.)

1. TAMIL goes a good old Tamil proverb. Gone are the days when it was the order of the day. Is it possible to take the saying seriously and follow it, in letter and spirit? Exactly, that is what the respondent wants the petitioner to follow.

2. It is shameful to note that women, even toddlers are raped, and murdered; girls are killed shockingly due to one side love; women folk are teased and physically abused every day. Shockingly gang rapes are reported almost every part of India and recently a gang of dacoits raped a woman and her 14 year old minor daughter on 29.07.2016 on NH-01 in Bulandshahr District UP, by waylaying and dragging them out of their car. Crimes against women and girl children are atrociously

increasing manifold day-by-day, creating an unsafe atmosphere for girl children and women in our country, which is glorified as our Mother Land . Similarly, crimes against women are equally committed in the name of marriages . Child marriages, denial to choose life partner and forced marriages against will, elderly men marrying young girls and celebrating marriages without even normal verification about the groom and his health condition, are a few illustrations of marital crimes, apart from other marital offences against women. This case is a classic illustration as to how marriages are being conducted suppressing the weaknesses/diseases/inability of the prospective spouse.

3. "The trip was a nightmare, not a honeymoon", pleads the petitioner, an unfortunate young lady, who has moved the Family Court for annulling the marriage dated 13.11.2014, within 6 months from the date of marriage. The petitioner and respondent are well educated. The petitioner herein contends that respondent married her on 13.11.2014. On the date of marriage itself, the respondent's movements were limited and he could not move his legs freely. Later, it came to be found that there was a huge wound measuring 4 x 1 inches on the respondent's left thigh. When the respondent was asked about that, he replied that there was a boil on his left thigh and it got burst oozing pus in the Dhoti worn by him. Due to the aforesaid circumstances, the marriage could not be consummated. Physical relationship was avoided by the respondent on that day stating that he already made arrangements for the honeymoon at Kulu Manali and the first night could be held there.

4. The petitioner states that, the trip was a nightmare to the petitioner as pus was oozing out of the wound during the trip. On return, the respondent consulted a skin specialist at Apollo Hospital, who advised immediate hospitalization and removal of the infected area by surgery. He was admitted in the Apollo Hospital on 25.11.2014 for surgery. Pre-Surgery investigations shocked and surprised the petitioner as the investigations revealed that the respondent has a hole in his heart. The said medical problem was found, even when the respondent was young and the same was suppressed by the respondent and his family members from the petitioner and her family members, deliberately, before marriage.

5. Surgery was conducted on 27.11.2014 and a sample from the infected area was sent for pathological investigation. Pathological investigation report further shocked and shattered the petitioner as it revealed traces of Cancer in the specimen. The respondent was treated at the Apollo hospital and the Doctor advised the respondent to undergo chemotherapy immediately for treating Cancer. The second opinion at Adyar Cancer Institute also confirmed the diagnosis made by Apollo Hospitals. Chemotherapy was advised to be done in six sessions and thereafter, investigation had to be repeated every three months once.

6. Feeling defrauded and cheated, the traumatized petitioner sought divorce from the respondent. In spite of the request made by the petitioner and her parents, the respondent is not forthcoming for mutual divorce. For the notice issued by the petitioner dated 17.03.2015, the respondent sent a reply on 11.04.2015. After issuing rejoinder on 23.04.2015, the petitioner filed a petition in H.M.O.P.No.158 of 2015 filed before the Family Court, Tiruchirappalli, seeking declaration of the marriage dated 13.11.2014, as null and void, on the ground that her consent for the marriage was obtained by the respondent and his family members by fraud and alternatively, on the ground of cruelty. Further the respondent is infertile and cannot father a child. As a counter blast to the petitioner's divorce petition, the respondent filed O.P.No.1922 of 2015 before the learned III Additional Judge, Family Court, Chennai seeking restitution of conjugal rights.

7. The present petition has been filed to transfer the petition for restitution of conjugal rights filed by the respondent in O.P.No.1922 of 2015, from the file of the learned III Additional Judge, Family Court, Chennai, to the file of the learned Judge, Family Court, Tiruchirappalli where the divorce petition in H.M.O.P.No.158 of 2015 filed by the petitioner is pending.

8. Notice was ordered by this Court to the respondent on 09.07.2015 returnable by 20.07.2015 and both the parties were directed to appear before this Court on 20.07.2015 considering their young age and that they lived as husband and wife only for one month and the respondent was also directed to produce all his medical records, as the petitioner alleged suppression of his serious health problems.

9. When the matter was called on 20.07.2015, it was represented by the learned counsel for the petitioner that the respondent was served. As the Affidavit of Service on the respondent was stated to be filed before the Registry, this Court directed the Office to verify as to whether Affidavit of Service has been filed and if so, the name of the respondent was directed to be printed.

10. When the matter was called on 24.07.2015, this Court found that the respondent was already served and his name was also printed in the cause list. Therefore, again, this Court ordered appearance of the respondent on 28.07.2015 by issuing fresh notice through all modes, including email, with remarks that failure to appear before this Court would make the Court pass adverse orders against the respondent.

11. Thereafter only, the respondent appeared on 31.07.2015 and he expressed his willingness to live with his wife, viz., the petitioner, stating that the Cancer got cured whereas, the petitioner pleaded for divorce by producing copies of medical records of the respondent. When this Court enquired the respondent as to whether the medical records produced by the petitioner reflect the correct position, he would submit that the latest investigation would reveal no trace of Cancer. Therefore, this Court directed the respondent to produce his latest medical records along with the old records.

12. In the subsequent hearing, medical records were produced by the respondent before this Court and it revealed that the respondent was suffering from Cancer and he underwent treatment.

13. This Court cannot treat this case like any other case and mechanically, transfer the case, as sought for by the petitioner. The petitioner is aged about 24 years and the respondent is aged about 27 years and they got married only on 13.11.2014 and they have been living separately from the very next month, viz., December 2014 onwards. On the date of marriage itself, the petitioner allegedly came to know about the Cancer wound in the left thigh of the respondent and pus was oozing therefrom, resulting in non-consummation of marriage. The allegation made by the petitioner against the respondent, in this petition, is suppression of medical problems, viz., heart problem and Cancer. The parties appeared before

this Court and expressed their intentions very clearly and produced medical records and filed their affidavits. Hence, this Court, in an endeavour to do complete justice, instead of deciding this Transfer Civil Miscellaneous Petition and send the petitioner to trial Court, suo motu, withdraws the petition for divorce filed by the petitioner and the petition for restitution of conjugal rights filed by the respondent, invoking power under Article 227 of the Constitution of India, and decides the said petitions on merits. If the case is treated like any other case and transferred to the trial Court, where the parties have to loiter for years together, grave injustice would be caused to the parties, especially, to the innocent lady. Every day is important as they are losing their precious youth with uncertain future.

14. Heard the petitioner and the respondent and also perused the records carefully including affidavits filed by petitioner on 28.03.2016 and by the respondent on 04.04.2016.

15. It is the case of the petitioner that the respondent is found to be suffering from Cancer, even on the date of marriage itself, which, according to her, is proved by the wound in the left thigh of the respondent, for which, medical treatment has been taken. According to the petitioner, suppressing hole in his heart and Cancer, the respondent married her fraudulently.

16. However, the respondent would submit that he came to know about cancerous growth only after the marriage when biopsy was done. According to the respondent, he disclosed about the hole in his heart to the petitioner after betrothal. Therefore, he is not guilty of fraud or cheating.

17. A perusal of the medical records produced would reveal that the respondent was suffering from 'Rheumatic chorea' not on medications, which was disclosed by the respondent to the Doctors at the time of admission in the hospital on 26.11.2014 for the purpose of conducting surgery on the infected area in his left thigh. It has to be remembered that the marriage between the petitioner and the respondent was conducted on 13.11.2014 and on the same day, foul smell due to oozing of pus from cancerous wound was noted. This is a crucial factor, which has to be taken into consideration, while deciding the matter. Even in the first page of the discharge summary issued by the Apollo Hospitals dated 28.11.2014, the chief

complaints of the patient (respondent) have been described as follows:-

"This 26 year old gentleman presented with complaints of left inguinal swelling since 20 days, increased in size.

Associated with pain + No history of fever/vomiting/loose motion/burning micturition.

Swelling burst open a week ago.

Admitted for further management."

From the above, it is quite evident, beyond any doubt, that even about six days prior to marriage, the respondent had knowledge of this serious swelling on his left thigh.

The biopsy test from the left inguinal wound of the respondent by the Department of Histopathology dated 01.12.2014 reads as follows:-

"Macroscopic Description:

BOTTLE MARKED LEFT INGUNIAL WOUND TISSUE: Received multiple greyish white to greyish brown soft tissue fragments ranging from 0.5 cm to 3 x 2x 1cm. External surface appear irregular. Cut surface appear greyish white to greyish brown - A to F - 8 bits.

Microscopic Description:

A to F: Sections show lymphoid tissue with diffuse proliferation of small lymphoid cells with occasional lacunar type cells, some binucleate cells and occasional mummified cells. No normal lymphoid follicles could be seen. The architecture is replaced by diffuse population of cells. Focal necrosis is seen. Numerous vascular proliferation is seen. Some section show predominantly perinodal tissue and infiltration of atypical cells within the perinodal substance.

IMPRESSION:

CONSISTENT WITH LYMPHOMA. BIOPSY FROM LEFT INGUNIAL "WOUND" ?.

Comments

Immunohistochemistry is mandatory for proper categorisation."

Further, Immunohistochemistry report pertaining to the respondent dated 06.12.2014 reads as follows:-

"IMPRESSION:

CONSISTENT WITH DIFFUSE LARGE 'B' - CELL LYMPHOMA; BIOPSY FROM LEFT INGUINAL WOUND (OUTSIDE SLIDE AND BLOCK FOR OPINION)"

FDG PET CT WHOLE BODY (64 SLICE) dated 12.12.2014 gives the finding as follows:-

Post excision biopsy status of left inguinal lymphnode.

Collection in left inguinal region with no significant metabolic activity - Post operative changes.

Few noncalcific retroperitoneal, bilateral common iliac and bilateral external iliac lymphnodes with mild increased metabolic activity - Consistent with lymphomatous involvement.

Few small right inguinal lymphnodes with minimal increased metabolic activity - Likely lymphomatous involvement.

Enlarged spleen with diffuse mild increased metabolic activity - Suspicious for lymphomatous involvement.

No evidence of metabolically active disease anywhere else in the body."

The discharge summary report issued by the Cancer Institute, Adyar, Chennai, dated 05.01.2015, would go to show that the respondent was given one cycle of chemotherapy (RCHOP) and the summary reads as follows:-

"Patient diagnosed as Nodular lymphocytic predominant hodgkins lymphoma - stage IIA (non bulky). Patient admitted for I cycle of chemo (RCHOP). Delivered I

cycle of chemo (RCHOP) on 03.01.2015. No acute toxicities."

The aforesaid medical records produced by both by the petitioner and the respondent would, undoubtedly, prove that the respondent was suffering from Cancer.

18. The respondent produced the subsequent PET - CT Scan report dated 25.03.2015, to contend that he is free from cancerous growth. The PET - CT report issued by PET - CT Scan Centre, Adyar, Chennai is as follows:-

"Soft tissue irregularity is seen in the left inguinal region - shows increased metabolic activity.

Node noted in the left inguinal region of size measuring 20.2 x 19.0 mm and does not show increased metabolic activity.

Another Pet-CT Scan report dated 29.07.2015 produced would read as follows:-

Present study shows significant decrease in the intensity of metabolic activity in the soft tissue irregularity in the left inguinal region when compared to the previous study represents good response

The above reports especially the second report dated 29.7.2015 would indicate that the disease is responding to the treatment. Therefore, it is impossible to conclude that the respondent is completely free from cancerous growth.

19. That apart, the petitioner contends that the respondent is infertile. The semen analysis report of the Respondent dated 13.12.2014 issued by Institute of Reproductive Medicine and Women's Health, Mogappair, Chennai-600 037, is as follows:

very few non-progressive sperms were in the pellet and no motility; Not suitable for freezing

Hence, it is clear that the respondent is infertile and cannot father a child.

20. Another serious health issue raised by the petitioner against the respondent is that the he is having a hole in his heart. 2D ECHO WITH COLOUR DOPPLER report dated 27.11.2014 issued by the Apollo Hospital, pertaining to the respondent, is extracted hereunder:-

"MILDLY DILATED RA, RV

GOOD RV FUNCTION, TAPSE 2.0 Cm

SMALL ASD MEASURING 0.8-0.9 cm

LEFT TO RIGHT SHUNT

TRIVIAL TR/NO PAH

NO REGIONAL WALL MOTION ABNORMALITY

LEFT VENTRICLE NORMAL IN SIZE

NORMAL LEFT VENTRICULAR - FUNCTION."

The aforesaid 2D Echo with Colour Doppler report certainly proves that there is a hole in the heart of the respondent.

21. Thus, when the medical records produced by the respondent himself before this Court prove the hole in his heart and cancer. Then, the only question to be decided is as to whether there was suppression of these serious health problems by the respondent when he got married the petitioner.

22. As reflected in the discharge summary, issued by the Apollo hospital, dated 28.11.2014, the respondent himself had given his past medical history to the Doctor concerned as Rheumatic chorea ,. Therefore, the respondent had been diagnosed of heart problem, even before the date of marriage. The respondent-husband has stated, in paragraph No.5 of the affidavit filed before this Court, on 04.04.2016, that he had a hole in the heart right in the childhood. Paragraph 5 of the respondent's affidavit, filed before this Court, is extracted as follows:-

5.It is submitted that the respondent/husband was having a small hole in the heart when he was a child and for that the respondent took consultation at Thiruvananthapuram on Chittirai Thirunal. It is further stated that the doctors said that almost all the peoples have such a hole when they are young and it will get normal when they grow older and so it is not at all a disease or disorder and it is so natural for everyone. It is submitted that the respondent is never suffering from any heart ailment or inconvenience till date and the respondent disclosed all these matters to the petitioner soon after the bedrothel function and before the marriage.

Hence it is a clear admission that the respondent has a hole in the heart. It is contended by the respondent that, though he had a hole in the heart, it got cured and the same was informed to the petitioner after betrothal and before marriage. First of all, if the respondent is an honest and a straight forward person, he should have informed the petitioner's family about the hole in his heart even before betrothal. It is impossible to believe that the respondent informed the petitioner about the hole in his heart before marriage. If it is so, no prudent, educated lady, would have taken the heart disease very lightly and gone into the wedlock or atleast, she would have informed her family members and definitely, they would have made it an issue or they would have subjected the respondent to medical test, to verify whether the heart disease got cured or not. Hence, this Court disbelieves the version of the respondent that he informed the petitioner about the heart disease before marriage and reaches a definite conclusion that suppressing his heart disease, the respondent got married to the petitioner fraudulently. Therefore, for suppression of respondent's health problems, the marriage between the petitioner and respondent has to be annulled.

23. This Court visualizes the great shock sustained by the petitioner, when she came to know that her newly wedded husband is suffering from Cancer and having a hole in his heart and the mental agony, which she has been undergoing, from the date of marriage till date, cannot be viewed lightly. Shock, pain, sorrow and continuous mental agony of the petitioner with uncertain future is nothing but cruelty. Therefore, cruelty is proved by the petitioner. It is useful to consider the following statement made by the petitioner before this Court during the hearing:

TAMIL

The above statement of the petitioner makes it clear that she feels defrauded and the very sight of hospital and smell of medicines shock and traumatize her. She only pleads for annulment of marriage with uncontrollable tears. Luckily, the disease was diagnosed at the earliest. In the interest of the innocent lady, viz., the petitioner, this Court has got no other option except to nullify the marriage between the petitioner and the respondent dated 13.11.2014, on the ground of suppression of material facts fraudulently.

24. As the medical records prove the health condition of the respondent and when it is also evident that the respondent had previous knowledge about his disease, even prior to his marriage, it has to be held that the respondent has played fraud on the petitioner to marry her. At this juncture, it would not be out of place to point out that any advantage obtained by practice of fraud, vitiates the entire transaction or any act, as held by the Hon'ble Supreme Court, in various judgments, including the judgment rendered in *A.V. Papayya Sastry v. Govt. of A.P.*, reported in 2007 4 SCC 221.

25. The respondent would submit that he did not know about cancerous growth before marriage and subsequently only, it was found to be a cancerous growth and after chemotherapy, it is stated to be cured and now, he is free of cancerous growth. However, the CT Scan report dated 25.03.2015 does not say that he is free from cancer and states that the disease is responding to the treatment. Assuming for a moment that the respondent got cured of cancer, one cannot expect the petitioner to live with the respondent. People are afraid of cancer as it is feared as a killer disease. Though, it is claimed that Cancer could be cured, there is absolutely no foolproof treatment given even by the medical experts and there is no guarantee that the disease would not recur, as the recurrence of disease is not unusual. Similarly, heart disease of the respondent cannot be taken lightly by anybody. If at all, the petitioner can only take pity on the respondent and as a young girl and she cannot take chances or sacrifice her life and live like a nurse, doing service to the respondent, throughout her life. The marriage of the respondent with the petitioner, which is just two weeks old, cannot be saved, in

view of the above peculiar, pathetic, pitiable and extraordinary circumstances, which no one should come across in his/her life.

26. The facts of the case would reveal that the spouses are aged about 24 years and 27 years and they have been living separately from the very next month of their marriage, due to suppression of disease suffered by the respondent. This case is a unique and a pitiable case, requiring immediate attention. This Court considers it as rare case. When an extraordinary or a rare case comes up before this Court, the case has to be addressed by an unconventional order travelling beyond the provisions of the Act, as held by the Hon'ble Supreme Court in Pratipal Singh v. State of Punjab reported in 2012 (1) SCC 2010. Paragraph 50 of the judgment is extracted as follows:-

50. Extraordinary situations demand extraordinary remedies. While dealing with an unprecedented case, the Court has to innovate the law and may also pass an unconventional order keeping in mind that an extraordinary fact situation requires extraordinary measures. In B.P. Achala Anand v. S. Appi Reddy 42 this Court observed: (SCC p. 318, para 1)

1. Unusual fact situation posing issues for resolution is an opportunity for innovation. Law, as administered by courts, transforms into justice.

Thus, it is evidence that while deciding the case, the court has to bear in mind the peculiar facts, if so exist, in a given case.

27. The power of the Courts to pass appropriate orders is preserved by Article 227 of the Constitution of India and Section 151 of the Code of Civil Procedure. Both Section 151 C.P.C., and Article 227 of the Constitution of India would enable this Court to pass orders to meet the ends of justice as may be necessary or to prevent the abuse of process of Court.

Section 151 C.P.C., reads as follows:-

"151. Saving of inherent powers of Court.

Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court."

The Hon'ble Supreme Court, in *Padam Sen and another v. State of Uttarpradesh* reported in AIR 1961 SC 218, categorically held that the inherent powers of the Court under Section 151 C.P.C., is in addition to the powers specifically conferred on the Court by the Code of Civil Procedure. In *Manoharlal Chopra v. Bahadur Rao Raj Seth Hiralal* reported in AIR 1962 SC 527, it has been held by the Hon'ble Supreme Court that the powers conferred under the Code of Civil Procedure are complementary to the inherent powers already available, as mentioned under Section 151 of the Code of Civil Procedure.

The Hon'ble Apex Court has elaborately discussed the scope of Article 227 of the Constitution of India in *Suryadev Rai v. Ram Chandar Rai* reported in (2003 (6) SCC 675) and held that the power under Article 227 is wider than Article 226 of the Constitution of India, in the sense, that it is not subject to those technicalities and the procedure or traditional fetters, which are to be found in certiorari jurisdiction.

In *Jasbir Singh v. State of Punjab* reported in 2006 (8) SCC 294, the Honourable Supreme Court declared that the power of superintendence conferred upon the High Court by Article 227 of the Constitution of India is not confined to administrative superintendence only, but also includes the power of judicial revision. The said power can be invoked suo motu also. The relevant portion of paragraph No.10 of the, judgment is extracted as follows:-

"10. The power of superintendence over all the subordinate courts and tribunals is given to the High Court under Article 227 of the Constitution. So also, under Article 235 of the Constitution, the High Courts exercise control over all the district courts and courts subordinate thereto on all matters relating to posting, promotion and grant of leave to officers belonging to the judicial service of the State. The power of superintendence conferred on the High Court under Article 227 over all the courts and tribunals throughout the territory of the State is both of administrative and judicial nature and it could be exercised suo motu also.

In *New India Assurance Company Ltd., v. Ramesh Bai C.Patel* reported in 1997 (5) SCC 510, it has been held by the Hon'ble Apex Court that the procedure or technical objection should not frustrate the course of justice. In *Roshan Deen v. Prithi Lal* reported in 2002 (1) SCC 100, the Apex Court held that the powers conferred on the High Court under Article 227 of the Constitution of India is to advance justice and not to thwart it and the very purpose of the Constitution is that no man should be subjected to injustice by violating the law. The Apex Court in *Baby v. Travancore Devasvom Board and other* reported in 1998(8) SCC 310, held that the power of the High Court under Constitution of India is always in addition to the power of Revision given under Section 103 of the Kerala Land Reforms Act. Similarly, the power conferred upon Article 226/227 of the Constitution of India is in addition to Section 24 of the Code of Civil Procedure. In *Union of India and another v. Kriloskar Pneumatic Co. Ltd.*, reported in 1996 (4) SCC 453, the Apex Court held that the power conferred under Article 226/227 of the Constitution of India is designed to effectuate law. Therefore, this Court, suomotu invoking Article 227 of the Constitution of India and Section 151 of the C.P.C. hereby withdraws H.M.O.P.No.158 of 2015 on the file of the Family Court, Tiruchirapalli and F.C.O.P.No.1922/2015 filed by the respondent on the file of III Additional Judge, Family Court, Chennai to the file of this Court, to decide the main issue involved therein to render speedy justice to them.

28. Prolonging the divorce proceedings or not relieving the petitioner, from the clutches of the so-called holy bond of marriage, would be sheer injustice meted out to the poor lady, who, with fond hopes and colourful dreams, would have stepped into the marriage hall, only to get shocked terribly and shattered by the disease being suffered by the respondent. No amount of consolation, either by money or otherwise, could compensate the agony and pain undergone, both psychologically and physiologically, by the petitioner.

29. Even after hearing the cry of the innocent girl, if this Court mechanically passes order in the transfer petition only citing the limited prayer sought for from this Court, which is custodian of fundamental rights, civil rights, it would be shirking its responsibility. It is well settled that Rules and Procedures are the handmaids of justice. Technicalities and procedures should not frustrate the course of justice.

Tears from the eyes of justice seeking lady have to be necessarily wiped out by passing unconventional orders travelling beyond the prayer, procedures and provisions. She needs to be consoled, comforted and compensated speedily. To give re-birth to her hopes to lead a normal life, the only way is to cut off the marital bond between the petitioner and the respondent, which this Court would not endeavour to do, in normal circumstances. Transferring the proceedings to the trial Court to face the trial for many years and then to superior Courts would only cause grave injustice to the petitioner. Hence, departing from conventional method of transferring the cases invoking Article 227 of the Constitution of India and Section 151 of the C.P.C., this Court has to grant decree of nullity of marriage dated 13.11.2014 as prayed for under Section 12(1)(c) of the Hindu Marriage Act, 1955 in H.M.O.P.No.158 of 2015 filed by the petitioner and dismiss the respondent's petition filed under Section 9 of the Act seeking restitution of conjugal rights in F.C.O.P.No.1922 of 2015. Assuming for a moment that the decree of nullity can not be granted under Section 12 (1) (c) of the Hindu Marriage Act, for the reasons stated in para 28 of this Order, divorce, under Section 13 (1) (ia) of the Hindu Marriage Act on the ground of cruelty has to be granted alternatively.

30. In the result, H.M.O.P.No.158 of 2015 filed by the petitioner for annulment of marriage is allowed declaring the marriage dated 13.11.2014 between the petitioner/wife and the respondent/husband as null and void on the ground of fraud by suppression of pre-existing disease of the Respondent/Husband and F.C.O.P.No.1922 of 2015 filed by the respondent for restitution of conjugal rights is dismissed. The Transfer Civil miscellaneous Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

31. At the same time, by this order, the Respondent should not feel demoralized. This Court is aware that the occurrence of disease to one is not at his/her invitation and for the diseases suffered by him, he cannot be found fault. This Court only found that the petitioner was not informed the Respondent's disease before the marriage. Though cancer is considered to be dreadful and incurable, by advancement in the medicine, the disease has become manageable. In fact, a few types of caners are stated to be curable. Accordingly to medical literature, the main types of cancer treatment include surgery, Chemotherapy radiation, targeted

therapy, hormone therapy and immunotherapy. Scientists achieved a breakthrough therapy for treating colon cancer and Hodgkin Lymphoma which Respondent is suffering. The New England Journal of Medicine Journal issue dated May 21, 2015 reported that one dose of immunotherapy would cause rapid eradication of a Bulky Melanoma mass. Immunotherapy is a revolution in the treatment of cancer reports. The journal of Lancaster Journal Hospital Spring issue 2016. It reports that immunotherapy, has the potential of treatment of cancer. Immunotherapy is a treatment that helps immune system to fight cancer. LIVE SCIENCE dated 21-8-2015 reported that 91 years old Former President of USA Mr. Jimmi Carter, who has advanced liver and brain cancer, received a drug called PEMBROLIZUMAB marketed as KEYTRUDA approved by FDA, USA in 2014 and his disease is stated to have been cured. Because of the above reason, the new magical drug KEYTRUDA is popularly called CARTER DRUG . It works in a new way to help the body's own immune system to tackle hard to reach tumor cells. Other cancer treating drugs are Ipilimumab, Opdivo, Yervoy, Nivolumab etc. Further, in a matter of a few years, therapies have truly transformed the outlook for patients with melanoma and many other hard-to-treat cancers said Dr. Don Dizon, an Oncologist at Massachusetts General Hospital and spokes person for American Society for clinical Oncology (ASCO). Moreover, researches are being conducted throughout the world by scientists to find effective and standard drugs to treat cancer patients. In view of the above developments and with new new therapies and drugs, this Court hopes and believes that he would be successful in tackling the disease, as the disease of the respondent responds to the treatment. This Court once again stresses that the respondent should not feel discouraged and demoralized due to cancer as new medical therapies are creating wonders. What is needed is will-power and regular follow up. What is required for respondent and other cancer patients is will-power, courage, timely medication and regular follow-up. Not only Governments but also people should encourage and reassure them with compassion and support and they should not be ignored, discouraged, ridiculed and demoralized.

32. This case would amply demonstrate as to how a young lady suffers because of the marriage conducted without proper enquiry and verification about the groom. Therefore, it is prudent for the parents of prospective brides and grooms to make

necessary enquiry and verification about the health of their prospective son-in-law/daughter-in-law, as the case may be. However, in haste and hurry, most of the marriages are conducted and invariably, the women are becoming victims violating their dignity human rights and right to decent and meaningful life as guaranteed under Article 21 of the Constitution of India.

33. One should remember that Institution of Marriage , is based on mutual faith and trust where both the bride and the groom are equal partners. If pre-marital examination of the respondent had been done, the diseases would have been diagnosed and the marriage would have been certainly stopped. If pre-marital examinations are done, many problems due to medical issues, failure of marriages due to fraud, non-disclosure of health problems etc., could be averted. Therefore, it is appropriate for the Central and State Governments to sensitize the people about the importance of pre-marital counselling atleast, if not premarital examination and the benefits of such counselling by medical experts by proper advertisements in media, short movies, conducting seminars in colleges etc. Will they?

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