

Saritha Vs. R. Ramachandra

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Court : Andhra Pradesh

Decided On : Jul-09-2002

Reported in : 2002(6)ALD319; 2002(4)ALT592; I(2003)DMC37

Judge : B.S.A. Swamy and G. Yethirajulu, JJ.

Acts : [Hindu Marriage Act, 1955](#) - Sections 13; [Indian Penal Code \(IPC\), 1860](#) - Sections 498A

Appeal No. : AAO No. 1039 of 2001

Appellant : Saritha

Respondent : R. Ramachandra

Advocate for Def. : M. Pratap Singh, Adv.

Advocate for Pet/Ap. : C.V.L. Narasimha Rao, Adv.

Disposition : Appeal dismissed

Judgement :

ORDER

B.S.A. Swamy, J.

1. The appellant is the petitioner in OP No.58 of 1998 on the file of the Family Court, Secunderabad. She filed the said OP seeking divorce from the respondent

who is her husband, on various grounds. After full trial, the Family Court found that she could not prove any one of the allegations levelled against the respondent, and, therefore, dismissed the said O.P. Aggrieved by the said order, this CMA was filed by the wife.

2. Having seen the age of the parties, we summoned both of them to find out the real cause for their differences. The appellant could not say anything except that here mother-in-law did not treat her properly during her stay at New Delhi. On the other hand, the father of the respondent who accompanied the respondent categorically stated that they belonged to a traditional family where divorce was unknown and that if the marriage can be saved they are prepared to send the respondent to Hyderabad, the place of the appellant, to live with her. Even then the appellant and her father who seems to be an engineer were adamant and they are not agreeable to any of the reasonable suggestions made by the Court as well as her husband except divorce.

3. Without losing our hope we directed both parties to live in a hotel for one week and try to settle their differences amicably, if possible. Though the respondent instantly agreed to stay at Hyderabad by cancelling the ticket already reserved for New Delhi, the appellant agreed to go alone with him to the hotel reluctantly. After expiry of the time both parties appeared before this Court. The respondent informed the Court that the appellant was spending time jovially during day time but was going to her house in the night-time. The appellant having admitted this fact bluntly informed the Court, that she was not interested in having any marital relationship with the respondent. In fact in the Court itself, she was very jovial with the respondent and talking to him very nicely. Practically we do not find any reasons for the animosity she developed against the respondent. Once again, to save the marriage we directed both parties to live together in any holiday resort outside Hyderabad for one more week and report back. Again when they attended before this Court, both the parties admitted that they enjoyed the life to the fullest satisfaction and absolutely she did not face any problem during the interim course. In fact she had also taken him to her parents house. This indicates that there is no problem to them to lead marital life but the appellant wants divorce and nothing but divorce. Even after leading conjugal life with the respondent when the appellant

said like this, we were sure that there is something in her mind, which she did not disclose to us. Hence we directed the appellant to appear before a psychiatrist. In fact, we talked to him and fixed the appointment for them but she did not choose to appear before him. We tried to find out from the respondent whether he was agreeable to give divorce by mutual consent. He told us in so many words that he was not prepared to give divorce and he would wait till her retrieval. It shows the anxiety the respondent has to save the marriage and the affection he had towards the appellant in spite of the ill-treatment shown by the appellant. In fact himself and his father were agreeable for any proposal made by this Court or the appellant to save the marriage. But, the appellant and her parents did not agree for any proposal except divorce.

4. Hence we have no option except to dismiss this appeal as there are absolutely no grounds for granting divorce and leave the parties to work out their remedies.

5. During hearing, we came to know that the appellant filed a criminal case against the respondent and his entire family under Section 498-A IPC. From the conduct of the appellant we have no hesitation to hold that the appellant being at fault wants to misuse the process of law and harass the respondent and his family members for the sin of marrying her. We never expected that women would be of such a character in this country. Even though the respondent expressed so much magnanimity towards her, without ill-will or rancor and extended his arm to lead a happy marital life, the appellant just threw away the offer with her little finger. The criminal Court shall take up the case for trial on day-to-day basis and dispose of the same within one month from the date of receipt of this order. In the event of dismissal of the criminal case as a foisted one and the allegations are far from truth, it is always open to the respondent to take appropriate criminal action on the appellant as well as her parents for implicating them in a false case and making them to come all the way from New Delhi to Hyderabad to attend the Courts.

6. This Court would like to go on record that for nothing the educated women are approaching the Courts for divorce and resorting to proceedings against their in-laws under Section 498-A IPC implicating not only the husbands but also their family members whether they are in India or abroad. This is nothing but abuse of

beneficial provisions intended to save the women from unscrupulous husbands. But it has taken a reverse trend now. In some cases this type of action is coming as a formidable hurdle in reconciliation efforts made by either well meaning people or the Courts and the sanctity attached to the mandate that the Courts shall always try to save the marriage through conciliatory efforts till the last, are being buried deep-neck.

7. It is for the Law Commission and the Parliament either to continue that provision (Section 498 IPC) in the same form or to make the offence a non cognizable one and a bailable one so that the ill-educated women of this country and their parents do not misuse the provision, to harass innocent people for the sin of contacting marriage with egoistic women. We have no hesitation to hold that if this situation is continued any longer the institution of marriage and the principle one man for women will vanish into their air.

8. The CMA is accordingly dismissed. There shall be no order as to costs.

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