

(2015) 02 KAR CK 0219
In the Karnataka High Court
Case No : Criminal Petition No. 134/2015

M.C. Gangadhar and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 19-02-2015

Acts Referred:

Dowry Prohibition Act, 1961 — Section 4
Hindu Marriage Act, 1955 — Section 13(1)(i-a)
Penal Code, 1860 (IPC) — Section 34, 498A, 498-A, 506

Citation : (2015) 02 KAR CK 0219

Hon'ble Judges : N. Ananda, J.

Bench : Single Bench

Advocate : B.S. Sudhir for M.G.C. and Co., for the Appellant; Vijayakumar Majage, HCGP, Advocates for the Respondent

Final Decision : Allowed

Judgement

N. Ananda, J.—The first petitioner (husband) and second respondent (wife) are present before this court. They submit that their marriage has been dissolved by a decree of divorce in M.C. No. 1199/2014. They have a child by name Abhinav. The parties have arrived at settlement before the Mediation Center in the following terms:

"I. The petitioner has filed the above petition u/s. 13(1)(i-a) of the Hindu Marriage Act, 1955, praying for decree of divorce.

II. The aforesaid petition was preferred to mediation for resolving the dispute between the parties. During the course of mediation, they have resolved their dispute and have agreed to the following terms and conditions:

1. Both the parties admit the relationship of husband and wife, having married on 18.08.2002 at Sri Dwaraka Bhavan, K.R. Road, Opposite to Basavanagudi Police Station, Bangalore -4 as per Hindu rites and customs.

2. That the parties herein due to irreconcilable differences between them and

due to incompatibility of temperaments, have been living separately since more than 1 year. Both the parties state that their marriage is irretrievably broken down. It is for that reason, they are unable to lead a married life, and as such they have agreed to get their marriage dissolved.

3. The parties state that they have one male child by name Master Abhinav, now aged about 11 years, presently under the care and custody of the respondent/father. The care and custody of the minor child shall continue to be with the respondent for all purposes, for which the petitioner has no objection. It is agreed between the parties, that in the paramount interest of the minor child, the respondent has agreed to take care of all the needs of the minor child and it is further agreed between the parties that the petitioner is at liberty to take the custody of the minor child on every 2nd and 4th Sunday between 10:00 a.m. to 04:00 p.m. and also during vacations, at least 1/3 of the vacation, subject to the wishes of the child.

4. In view of the above arrangement arrived at between the parties, the petitioner has agreed to co-operate in closing Crime No. 397/2013 pending on the file of II-ACMM, Bangalore filed u/s. 498A of IPC filed against the respondent.

5. Both the parties have undertaken to close C.Misc. 224/2013 pending on the file of the MMTC-IV, Bangalore.

6. In view of the above settlement reached between the parties, the respondent has agreed to pay a sum of Rs. 7,50,000.00 (Rupees Seven Lakh Fifty Thousand Only) to the petitioner in full and final settlement of all her claims before the Hon"ble Court at the time of reporting the settlement.

7. Both the parties state that they have already exchanged gold and other valuable articles belonging to each other.

8. Both the parties agree that they shall have no claims with regard to movable or immovable properties belonging to petitioner and respondent.

9. Both the parties state that there is no force, coercion or undue influence in entering this agreement.

10. Both the parties agree that they shall not interfere in the lives of each other in future.

III. In view of the aforesaid agreement entered into between the parties, the parties pray that this Court be pleased to dissolve the marriage between the petitioner and the respondent solemnized on 18.08.2002 at Sri Dwaraka Bhavan, K.R. Road, Opposite to Basavanagudi Police Station, Bangalore -4, by way of decree of divorce.

IV. Parties will appear on 7.7.14 before the Court for passing order in terms of the agreement.

2. The Family Court has accepted the settlement arrived between parties before

the Mediation Center. The Family Court by order dated 18.07.2014 has dissolved the marriage between parties by a decree of divorce.

3. The second respondent submits that she has received a sum of Rs. 7,50,000/- towards full and final settlement of permanent alimony. The second respondent has been given rights to visit the child in terms of following arrangement:

"3. The parties state that they have one male child by name Master Abhinav, now aged about 11 years, presently under the care and custody of the respondent/father. The care and custody of the minor child shall continue to be with the respondent for all purposes, for which the petitioner has no objection. It is agreed between the parties, that in the paramount interest of the minor child, the respondent has agreed to take care of all the needs of the minor child and it is further agreed between the parties that the petitioner is at liberty to take the custody of the minor child on every 2nd and 4th Sunday between 10:00 a.m. to 04:00 p.m. and also during vacations, at least 1/3 of the vacation, subject to the wishes of the child." 4. In view of settlement of matrimonial dispute between the parties, continuation of impugned proceedings before the trial court for offences punishable under Sections 498-A, 506 r/w 34 IPC and Section 4 of the Dowry Prohibition Act will not serve any useful purpose. On the other hand, continuation of impugned proceedings may revive the dispute which the parties have settled by now.

5. Therefore, the petition is accepted. The impugned proceedings are quashed.