

Draft / Fair Order :

in

FCOP No.2105 / 2008

Dated : 3.7.2008.



IN THE PRINCIPAL FAMILY COURT AT CHENNAI.

Present : *Tmt.S.Vimala, B.Sc., M.L.,*  
Principal Judge.

Thursday, the 3<sup>rd</sup> day of July, 2008.

F.C.O.P.No.2105 / 2008

1. Subramaniam Seetharaman
  2. Jayanthi Jayaraman
- ...Petitioners.

This petition coming on this day before me for final hearing after advancing the hearing from as per order in I.A.No.1864/2008, dt.3.7.2008 in the presence of the petitioners and the statutory period of six months having been dispensed with as per order in I.A.No.1865/2008, dt.3.7.2008, upon perusing the petition and other connected materials on record and the evidence, this court delivered the following :

ORDER

The relationship expected to be everlasting, is brought to dead-end by mutual consent.

2. The evidence adduced by both the parties reveal the following facts:

(1) The spouses were married on 19.8.96 according to Hindu rites and rituals. They were blessed with a female child Amritha, born on 11.2.98.

(2) Because of temperamental incompatibility and difference of opinion, they have decided to live separately and accordingly, living separately from 16.8.99.

(3) There are no chances of reconciliation / resumption of cohabitation.

(4) The 1<sup>st</sup> petitioner filed O.P.399/2005 for divorce and (as agreed during the deliberations towards filing of the mutual consent petition) he has made

an endorsement of withdrawal and accordingly the petition has been dismissed as withdrawn.

(5) The 2<sup>nd</sup> petitioner filed a counter-claim in I.A.1753/2005 in O.P.399/2005 claiming divorce, custody, return of articles and permanent alimony and as agreed, she has also made an endorsement not pressing all her petitions and counter-claim and accordingly, all the petitions filed by the 2<sup>nd</sup> petitioner has been dismissed.

(6) The 2<sup>nd</sup> petitioner has preferred a complaint under Section 498-A IPC against the 1<sup>st</sup> petitioner and his mother at Thiruvarur Police Station and moved the High Court, Madras also seeking a direction to the police for proper and speedy investigation. For the past 8 years, the Final Report does not appear to have been filed. Neither the 1<sup>st</sup> petitioner nor the 2<sup>nd</sup> petitioner has received any summon from any Criminal court in respect of the reported offence under Section 498-A IPC. The 2<sup>nd</sup> petitioner has agreed that she is not interested in prosecuting the case given by her under Section 498-A IPC. She has addressed a letter to the Inspector of Police, Thiruvarur Police Station intimating her intention that she is not interested in prosecuting the complaint. In order to inculcate confidence in the mind of 1<sup>st</sup> petitioner she has given a copy of the petition to the 1<sup>st</sup> petitioner. The 1<sup>st</sup> petitioner is at liberty to present it before Thiruvarur Police Station or if need be to use it before any Criminal Court in respect of the above referred case. Apart from all these steps, the 2<sup>nd</sup> petitioner has agreed to file a petition to quash the proceedings under Section 482 of

Cr.P.C. before the Hon'ble High Court and the 1<sup>st</sup> petitioner has agreed to extend all possible helps in all directions. The 2<sup>nd</sup> petitioner has also made it clear that she is not interested in deposing against the 1<sup>st</sup> petitioner and his mother as her claim is settled.

(7) The 2<sup>nd</sup> petitioner / wife shall have the physical custody of minor child Amritha and she shall be the guardian to the child in respect of meeting the educational needs of the child, viz., obtaining and signing documents, payment of fees, signing in passport and signing in travel documents. The 2<sup>nd</sup> petitioner agrees to bear the day-to-day expenses and education and other needs of the child Amritha.

(8) The 1<sup>st</sup> petitioner shall have visitation rights of the minor child Amritha in respect of the 2<sup>nd</sup> half of summer vacation each year and the 1<sup>st</sup> petitioner shall pay for the to and fro expenses for Amritha whenever he has taken from the custody of the 2<sup>nd</sup> petitioner. The 1<sup>st</sup> petitioner shall ensure that Amritha is safely brought back to the 2<sup>nd</sup> petitioner during summer vacation after the exercise of visitation rights.

(9) The 1<sup>st</sup> petitioner and his mother shall have visiting rights over Amritha on every Sunday between 9 a.m and 5. p.m. and during that access they shall have the right to see the child and also to take the child out. In the event of the 1<sup>st</sup> petitioner not visiting the child, prior intimation shall be given to the 2<sup>nd</sup> petitioner.

(10) It is specifically made clear that taking Amritha outside India would not exceed the period of two months per year and it would not clash with the visiting rights of the 1<sup>st</sup> petitioner.

(11) In the event of either party getting married the other party shall have the right to agitate the custody before the appropriate forum.

(12) Exchange of articles between the petitioners inter se has been made and necessary endorsement has been made in the petition itself. There is no mutual claim, past, present and future against each other and there is mutual undertaking not to file any case in any court in respect of all matrimonial matters.

(13) The 1<sup>st</sup> petitioner has made deposit to the value of Rs.12 lakhs (Deposit Receipt No.TNA/2 858782, State Bank of India, Tiruvarur Branch) in the name of Amritha Subramanian at State Bank of India, Tiruvarur Branch, Tamil Nadu. Though the deposit was intended to be for the sole and exclusive benefit of Amritha Subramanian, the deposit receipt includes the name of 1<sup>st</sup> petitioner in the capacity as guardian for the property of the said amount of Rs.12 lakhs. The Bank shall include the name of the 2<sup>nd</sup> petitioner also as guardian for the property of the said amount of Rs.12 lakhs in the deposit receipt. Necessary letter has been given by the 1<sup>st</sup> petitioner. Both of them shall be the joint custodian for the said deposit. Both of them shall not have any right over the said deposit for any purpose whatsoever. The deposit shall be transferred to State Bank of India, R.B.I. Layout Branch, near Brigade Millenium, JP Nagar, Phase 7, Banagalore-560078 in the name of Amritha.S, represented by joint guardians, the 1st and 2nd petitioners. The principal and 50% of the interest on this deposit (which is compounded) shall not be redeemed, closed, revoked, transferred, encashed or otherwise encumbered by anybody including the joint custodians. It shall be payable only to Amritha on her attaining majority. The balance of 50% interest on the above deposit may be credited to the

account opened in the name of minor Amritha Subramanian @ Amritha.S, represented by mother, the 2<sup>nd</sup> petitioner, i.e., Jayanthi Jayaraman and the 2<sup>nd</sup> petitioner is at liberty to withdraw the interest and use it for the benefit of minor Amritha Subramanian.

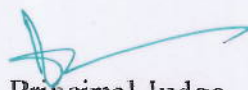
(14) The mutual consent has not been obtained by force, fraud or undue influence.

(15) There is no collusion between the parties.

3. After hearing the parties and after recording their evidence, this Court is satisfied that the marriage has been solemnized between the petitioners and that the averments in the petition are true.

4. Therefore, this petition is allowed, granting a decree of divorce by mutual consent dissolving the marriage with effect from the date of the decree.

Dictated to typing, corrected and pronounced by me in open Court this the 3rd day of July, 2008.

  
Principal Judge.

Petitioners' side witnesses :


P.W.1 - Subramaniam Seetharaman

P.W.2 - Jayanthi Jayaraman

Petitioner side Exhibits :

Ex.P1 - 19.8.96      Marriage Registration Certificate.

Ex.P2 -      --      Marriage Photo.

  
Principal Judge.