

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT: HYDERABAD**

CORAM:

*** THE HON'BLE SRI JUSTICE K.LAKSHMAN
AND
HON'BLE SMT. JUSTICE P. SREE SUDHA**

+ FAMILY COURT APPEAL Nos.258, 291 AND 312 OF 2011

% Delivered on:07.06.2024

Between:

Dr.V.Anandkumar ..Appellant

Vs.

\$ M.Viswa Bharathi .. Respondent

! For the Appellant : Sri A.Suryanarayana
Ld. Counsel

^ For Respondent : Mr. K.S.Murthy,Ld.Sr.Counsel

< Gist :

> Head Note :

? Cases Referred :

1. (2009) 9 SCC 299
2. 2024 INSC 355
3. HARMAN, WILLIAM. "THE HINDU MARRIAGE AS SOTERIOLOGICAL EVENT." International Journal of Sociology of the Family, vol. 17, no.2, 1987, pp.169-82
4. 1927 SCC OnLine PC 51
5. (1994) 1 SCC 460
6. (1952) 1 SCC 713
7. (2010) 9 SCC 209
8. AIR 1977 AP 152
9. AIR 1929 PC 135
- 10.1996(7) SCC 681
- 11.2005 (2) SCC 244
- 12.2008 (4) SCC 520

HON'BLE SRI JUSTICE K. LAKSHMAN
AND
HON'BLE SMT. JUSTICE P. SREE SUDHA

FAMILY COURT APPEAL Nos.258, 291 AND 312 OF 2011

COMMON JUDGMENT: *(Per Hon'ble Sri Justice K. Lakshman)*

Heard Sri A.Suryanarayana, learned counsel appearing for the appellant and Sri K.S.Murthy, learned Senior Counsel appearing for the respondent.

2. The *lis* involved in all the three appeals and parties are one and the same, therefore, they were heard together and decided by way of this common judgment.

3. Feeling aggrieved and dissatisfied with the common order and decree dated 16.03.2011 passed in O.S.No.167 of 2002, O.P.No.1246 of 2010 (O.S. No.13 of 1999) and O.P.No.1248 of 2010 (O.P.No.182 of 1998) by the Judge, Additional Family Court, Hyderabad, the appellant/husband preferred these appeals against the respondent/wife and children as follows:

i) The respondent/wife has filed a petition under Section 9 of Hindu Marriage Act, 1955 *vide* O.P.No.182 of 1998 (New O.P.No.1248 of 2010) against the appellant/husband seeking restitution of conjugal rights. Likewise, the respondent/wife and her two sons filed a suit *vide* O.S.No.13 of 1999 (New O.P.No.1246 of 2010) against the appellant/husband under Sections 18 and 20 of Hindu Adoption and Maintenance Act, 1956 claiming an amount of Rs.15,000/- per month towards maintenance.

ii) The appellant/husband has also filed a suit *vide* O.S.No.167 of 2002 seeking to declare the marriage certificate dated 13.09.1991 of the parties is not valid, there is no matrimonial status between them and also to declare that the respondent/wife is not entitled to claim any benefit of matrimonial status as wife.

4. *Vide* common order dated 16.03.2011, the learned Family Court, dismissed O.S.No.167 of 2002 and

allowed O.P.No.1246 of 2010 granting an amount of Rs.3,000/- each per month to the wife and two children from 09.03.1999 to February, 2011 towards maintenance. Learned Family Judge held that Spandan, son of the appellant and the respondent, has become major, therefore, he is not entitled for maintenance from March, 2011. Learned Family Court directed the appellant to deposit a sum of Rs.5,000/- each per month to the respondent/wife and Surya (till her marriage is performed) from March, 2011 on or before 10th day of every month regularly. Considering the fact that the appellant salary was enhanced to Rs.50,000/- per month, learned Family Court held that respondent/wife is entitled for maintenance at the rate of Rs.5,000/- per month life-long. The maintenance amount already paid shall be deducted from total arrears of maintenance.

5. *Vide* the said common order, learned Family Court allowed O.P.No.1248 of 2010 filed by the respondent /wife seeking restitution of conjugal rights directing the

appellant/husband to take respondent to his company within two months from the said order.

6. Feeling aggrieved by the said common order in O.P.No.1248 of 2010, the appellant/husband has filed F.C.A. No.258 of 2011, in O.P.No.1246 of 2010, he filed F.C.A. No.291 of 2011 and in O.S.No.167 of 2002, he preferred F.C.A. No.312 of 2011. It is relevant to note that in the aforesaid appeals there is no interim order.

7. The contentions/pleadings of the wife in counter, written statement and petitions in the above said Ops are as follows:

i) Her marriage with the appellant was performed on 13.09.1991 at Srinivasa Kalyana Mantapam, Guntur. It is an arranged marriage. The said marriage was consummated and they were blessed with two sons i.e. Spandan and Surya. Immediately, after the marriage, they shifted their residence to Mahabubnagar where the appellant used to work in P.G.College as Lecturer. The appellant met with an

accident and his leg was fractured. He was completely bed ridden for four months. With the sincere efforts of the respondent/wife even sacrificing her practice as an Advocate, he recovered. She also borrowed an amount of Rs.50,000/- to meet his medical and other expenditure.

ii) In January, 1992, they shifted their residence to Malakpet, Hyderabad, as the appellant secured job in Koti Women's College, Hyderabad. When she was pregnant, she was forced to abort her pregnancy. With the help of her parents, she gave birth to her first child. They were allotted a quarter in the campus of Osmania University where their second child was born. The appellant used to suspect her character when she spoke with any male person and that the appellant used to maintain illicit relationship with several women and thereby caused mental agony to her.

iii) Letters written by Dr.Ramana to the respondent are opened by the appellant and circulated the photocopies of the same to his friends, who admonished him as the letters contain nothing suspicious. When she was pregnant second time being afraid of the appellant behavior, she did not go to the house of her parents. When she requested him to call her parents atleast at the time of hospitalization for which he refused to do so. She was forced to conduct mediation to pacify the issue.

iv) In March, 1996 in the Mediation held by Sri Vara Vara Rao, Sri Laxman, Sri C.S.R.Prasad, Sri Nageshwar Rao and Sri Ravichandra, they found fault with the behavior of the appellant towards the respondent/wife and directed him to pay an amount of Rs.4,000/- per month towards her maintenance and they have also cautioned him to change his behavior. Even then, he has demanded the respondent to give divorce. Once again, mediation was

held, but in vain. For the welfare of her children, she is always ready and willing to join him despite his adamant behavior. He neglected the respondent and her two children. He is working as lecturer/reader/professor and drawing salary. She was doing a clerical job and she was earning a meager salary of Rs.2,000/- to Rs.3,000/- per month. Thereby, she sought an amount of Rs.15,000/- in all towards maintenance for her and her two children. She filed the aforesaid petition under Section 9 of Hindu Marriage Act, 1955 seeking restitution of conjugal rights.

8. Whereas, the appellant has filed the aforesaid O.S.No.167 of 2002 seeking to declare his marriage with the respondent as not valid, she is not entitled to claim any benefit of matrimonial status as wife.

9. In the aforesaid two petitions i.e. O.P.No.1248 of 2010 and O.P.No.1246 of 2010 and in plaint *vide*

O.S.No.167 of 2002, the appellant has contended as follows:

i) He has completed his M.Com in the year 1980 and PhD in Commerce in Kakatiya University, Warangal, in 1988. He joined Osmania University as Lecturer in commerce and he has been posted to PG College, Secunderabad. In 1990, he transferred to OUPG Center, Mahabubnagar, and he worked there till March, 1992. From April, 1992 to 1996 till filing of the suit, he was working at Nizam College, Hyderabad.

ii) While he was working at Mahabubnagar in the year 1991, one Mr.D.Rajendra Prasad introduced the respondent to him at Guntur as a Civil Liberties Activist and as an Advocate. She was also working for Women's Organization affiliated to Leftist political party at Guntur. He belongs to 'Medara' by caste (backward class community), hails from a very poor family and his old aged parents are depended on him. The respondent belongs to 'Kamma' Community

(forward class) and hails from a rich family. Subsequently, the respondent developed friendship with the appellant and she often used to visit his house at Mahabubnagar and used to discuss about social problems. The appellant and the respondent in due course accepted their ideas and views, and they decided to lead friendly companionship. The respondent has strong views against the institution of Hindu Marriage and made it clear about the same to the appellant. Hence, they preferred to lead their lives as friendly companionship life in future.

iii) The respondent being an advocate had a long discussion with the appellant about “friendship and companionship” and its legal implications and all these discussions were culminated into the idea of “living together as friends and companions” rather than “living together as a legally wedded couple” in future. Both the appellant and respondent have

decided to translate the said idea of “friendship and companionship” into a reality.

iv) In the light of the aforesaid idea of ‘friendship and companionship’, the respondent conveniently fixed a date as 13.09.1991 to take oath in the presence of friends and well-wishers with an intention to give effect to the idea of “friendship and companionship”. She was a resident of Guntur and she has chosen Guntur as a convenient venue and made arrangements for a small gathering of friends and well-wishers. For this gathering neither the respondent nor the appellant has printed any invitation card nor issued any advertisement to publish notice in print media to invite the friends and well-wishers to the said gathering. Thus, both of them simply informed their friends and well-wishers orally over telephone to come to Guntur to attend the oath taking gathering on 13.09.1991.

v) On 13.09.1991 about 25 people have attended a small get together at Arundalpet, Guntur, where they made a 'Joint statement' in Telugu language in the presence of the friends and well-wishers as follows:

“మీమ వ. ఆనందకుమార్, యు . విశ్వ భారతి ఒకరినొకరం అర్థం చేసుకున్న తరువాత ఈ రోజునుండి జీవిత సహచరులుగా కలిసి ఉండటానికి నిర్ణయించుకున్నాం. ము ద్దేశాలును ఒకరినొకరం గా రవీ యుకుంటూ. పరస్పరమీకంగా కలిసి జీవిస్తామని పరస్పర ముఖంగా మీ అందరి ముందు పరిజ్ఞాపించుకున్నాం.

సం/-

యు . విశ్వ భారతి

సం/-

13/9/91

వ. ఆనందకుమార్

The translated English version of the above said statement is as follows:

WE V.ANAND KUMAR AND M.VISWA BHARATHI AFTER MUTUAL UNDERSTAND OF EACH OTHER WE HAVE DECIDED TO LIVE TOGETHER FROM TODAY ONWARDS AS COMPANIONS. WE PROMISE IN FRONT OF YOU THAT WE RESPECT EACH OTHER'S IDEAS AND LIVE DEMOCRATICALLY”

vi) Immediately after making the said Joint-Statement in Telugu both the appellant and the respondent have exchanged the garlands with each

other and signed on the said statement in the presence of the friends and well-wishers. They have also signed as witnesses to the said statement, namely, Sri D.Rajendra Prasad and other witnesses are Sri Venkat Reddy, Sri V.Gangadhar Rao, a member of polite bureau of C.P.I (M) Party, Sri A.Dasaratha, Advocate and Sri M.Satyanarayana Rao, who is the father of the respondent who signed the said statement. The appellant has handed over the said statement to the respondent in front of all the friends after taking a photostat copy of the same.

vii) The respondent being an Advocate has intentionally avoided the “legal marriage” and preferred this type of arrangement with the appellant with a view to give an effect to her idea of “living together as friends and companions”. Absolutely, no customary rites and ceremonies as per Hindu Law were observed in any manner either before or at the time of executing the said statement. The said

statement was not executed under any law of the land and it was also not registered under any law of the land in force. They have voluntarily made the said joint statement with a mutual and free consent and free will. It was a voluntary union of the appellant with the respondent without any responsibility and liability of whatsoever may be towards each other. The said statement did not contain any promise for tomorrow on any pretext under any law of the land.

viii) Ever since from the date of executing the said statement on 13.09.1991, the respondent never stayed regularly with the appellant. Whenever she needed money, she used to come to him and she used to stay for few days like a guest. She used to leave his company borrowing some money. The said practice has continued till October, 1995. She used to collect the said money on the pretext that she has been working with Women's Organizations affiliated to leftist political parties at Guntur.

ix) In October, 1995 the respondent left the company of the appellant by bringing the said statement dated 13.09.1991 to an end orally and voluntarily and that she never returned back to his company or to his house. During the said short period of four years also, she never shared the company of the appellant regularly and continuously and virtually remained away from the company of the appellant.

x) Whenever, he requests the respondent to give company to him, she used to reply very clearly stating that "I (respondent) am not your wife to oblige you (appellant)" and "it is only just a statement between us, which is not legally binding on us in any manner". After terminating the said statement by the respondent in October, 1995, she started blackmailing the appellant for the sake of money and also started harassing the appellant physically, mentally, financially etc. She has threatened the appellant several times to eliminate him physically with the help

of the members belonging to Andhra Pradesh Civil Liberties Committee (APCLC), Viplava Rachayitala Sangham (Revolutionary Writers Association), Mahila Chetana (a Women Organization, affiliated to a Leftist Political Party), her own political party etc., if the appellant fails to comply with all the dictates of the respondent and people belonging to the said organization besides her own family members.

xi) The respondent with her malafide intentions and ulterior motives has transformed the friendship and companionship between the appellant and respondent into a political one thereby harassing the appellant in various ways including blackmailing and threatening the appellant. As a part of it, the respondent and her own people belonging to 'Mahila Chetana' published and distributed pamphlets and posters in the Nizam College against the appellant where he is working. She also gave interview to press against the appellant in the year 1997. She has also

initiated series of cases with the help of her own people belonging to her own association. As a part of its series of false cases, the respondent filed a suit for restitution of conjugal rights against the appellant and a suit for maintenance. Thus, the respondent has intentionally claiming her matrimonial status as a legally wedded wife of the appellant by suppressing the said fact as to the statement to live together as friends and companions. She has also filed a complaint against him for the offence under Section 498A of the IPC and after conducting investigation, the investigating officer laid charge sheet against him. The same was taken on file *vide* C.C.No.143 of 1998. Thus, according to him, he and the respondent did not marry each other legally on 13.09.1991 under any law of the land. The said statement and oath taking was neither covered under the Hindu Marriage Act, 1955 nor under the Special Marriage Act, 1954 or any other law of the land in force. Therefore, the

respondent cannot claim the benefits, privileges and rights which are available to a legally wedded wife under Hindu Law. She cannot claim maintenance. She cannot play her professional tricks to claim monetary benefit.

10. The said suit and petition were consolidated, common evidence was recorded and decided by way of a common order dated 16.03.2011 which is impugned in the present appeals.

11. To prove the claim, the husband examined himself as PW.1 and filed Exs.P.1 to P.20 documents. To disprove the claim of the appellant and in support of her claim in the aforesaid two petitions filed seeking restitution of conjugal rights and maintenance, she examined herself as RW.1, Sri R.Madhusudan Raju as RW.2, Sri M.Sharat Babu as RW.3, Sri Vara Vara Rao as RW.4 and Sri G.Lakshman as RW.5. She has filed Exs.R.1 to R.12.

12. On consideration of the aforesaid evidence both the oral and documentary, learned Family Court dismissed

the suit filed by the appellant/husband and allowed the aforesaid petitions filed by the respondent/wife seeking restitution of conjugal rights and maintenance.

13. Feeling aggrieved by the order, the appellant/husband preferred the above said three appeals, contending as follows:

i) The Family Court failed to see whether the marriage had taken place as per Hindu customs and rites. If the marriage is not taken place as per Hindu rites and customs like saptapadi, seven steps, tying thali, toeing mettalu etc., are not followed, it cannot be construed as legal marriage solemnized as per Hindu rites and customs. In the present case, all these customary rituals are not observed, as such the alleged marriage cannot be considered as legal marriage.

ii) The witnesses who deposed on behalf of the respondent are planted witnesses to substantiate the

case and they never attended any event, especially at the time of exchange of garlands.

iii) The respondent in her evidence stated that the marriage was performed according to Hindu customs and rites at Srinivasa Kalyana Mantapam, Guntur, on 13.09.1991, but no piece of document is filed to substantiate the same, and no witness has spoken about the same.

iv) The Family Court did not believe his version despite appellant filing number of documents including Ex.P.10-Pelli Pramanalu etc.

v) The respondent deserted the company of the appellant way back in the year 1993 and to take revenge against him, she filed criminal case against him which ended in acquittal. She also filed O.P. Nos.1246 and 1248 of 2010 way back in the year 1999.

vi) In all the documents i.e. Exs.P.1 to P.5, P.11, P.12 etc., nowhere the name of the appellant is shown

as father of the children, which clearly shows that the appellant is not the father of her children nor that he is legal husband of the respondent. The said aspects were discussed by the Family Court.

vii) To decree the application for restitution of conjugal rights, it has to be proved that the appellant had discarded the respondent. In the present case, the respondent miserably failed to prove that he deserted her. As there is no marriage at all between them, the question of granting conjugal rights does not arise.

viii) When there is no legal marriage, the questions of paying maintenance to the respondent does not arise.

ix) The Family Court erred in not recording evidence separately in all the cases, instead clubbed the entire evidence, since the cause of action, facts and reliefs are separate and distinct. Therefore, the impugned order is self-contradictory, Thus, learned Family Court committed procedural irregularity.

x) The application filed for maintenance is not maintainable for the reason that, to maintain an application under Section 18 of the Act, there must be legal marriage between the wife and husband.

14. Whereas, Sri K.S.Murthy, learned Senior Counsel for the respondent/wife contended that on consideration of the entire evidence, learned Family Court passed the common order and there is no error in it. The appellant intentionally disputed the marriage and the paternity of the children with malafide intention to avoid maintenance and other obligations cast upon him. The learned Family Court gave specific finding with regard to marriage, birth of the children and also his income source. Therefore, it is well reasoned order and there is no error in it.

15. Sri A.Suryanarayana, learned counsel for the appellant and Sri K.S.Murthy, learned Senior Counsel appearing for the respondent made their submissions extensively. Sri A.Suryanarayana, learned counsel has

placed reliance on the principle laid down by the Hon'ble Apex Court and other Courts in the following judgments:

i) Seema v. K.S.Jayagopal; ii) Ravindra Sukhdev Ghadge v. Swati Ravindra Ghadge; iii) Balram Yadav v. Fulmaniya Yadav; iv) Sri Kante Purnachander v. Smt.Kante Sumalath; v) Sherly v. Sukumari Amma; vi) Dr.Jagmittar Sain Bhagat v. Dir. Health Services, Haryana; vii) Against order dated 13.01.2015; viii) Durgesh Sharma v. Jayshree; ix) Dawalsab v. Khajasab; x) Dhurandhar Prasad Singh v. Jai Prakash University; xi) M/s.Embassy Property v. The State of Karnataka; xii) Harshad Chiman Lal Modi v. DLF Universal; xiii) Ms. G.Sijala v. M.Prabhu; xiv) Suguna (deceased) v. Radha; xv) Smt. Channamma v. Sri Bellappa; xvi) Mousami Chakraborty v. Subrata Guha Roy; xvii) R.Anita Marginic v. R.Annadurai, xviii) Vinit Kumar Behl v. Smt. Ruchi; xix) Veena Rani v. Jagadish Mitter Mohan; xx) Jaipal v. Surbhi; xxi) Manjeet Singh v. Parson Kaur; xxii) Arun Kumar Bedi v. Anjana Bedi; xxiii) Abbayolla M.Subba Reddy v. Padmamma; xxiv) Sabera Begum v. G.M.Ansari; xxv) Popat and Kotecha Property v. State Bank of India Staff; xxvi) Manmeet Kour v. Harmeet Kour; xxvii) A.Gunna Rao v. Tara Beharani; xxviii) Pandit Ukha Kolhe v. The State of Maharashtra; xxix)

**Ajay Kr. Goshal Etc v. State of Bihar and xxix)
B.N.Kamalanabha Reddy v. Mnivenkatappa**

16. Sri K.S.Murthy, learned Senior Counsel placed reliance on ***Challamma v. Tilaga***¹.

17. The aforesaid rival submissions would reveal that according to the appellant/husband it is not a valid marriage between the appellant and respondent and it is only an exchange of garlands. They have also made a joint statement. The necessary and relevant ceremonies like saptapadi seven steps, tying thali, toeing mettelu etc., as per Hindu Law were not performed. Therefore, it is not a valid marriage as per the provisions of Hindu Marriage Act, 1955. Thus, he is disputing the very marriage itself. He is also disputing the birth of children. According to him, the respondent and her children are not entitled for maintenance and he sought to declare the said marriage is not valid, the respondent is not entitled to claim any benefit for matrimonial status as wife.

¹ (2009) 9 SCC 299

18. In the light of aforesaid contentions, it is relevant to note that the appellant/husband has filed the aforesaid suit vide O.S.No.167 of 2002 under Order VII Rules 1 and 2, Section 26 read with Order XXXIIA Rule 2A of Code of Civil Procedure, 1908 and read with Section 7(b) of the Family Courts Act, 1984. The said suit was filed on 20.11.2002 before the Family Court, City Civil Court, Hyderabad.

19. Section 7 of the Family Courts Act, 1984 deals with jurisdiction and the same is reproduced for better appreciation of case. The object of the said Family Courts Act, 1984 is to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith.

20. In the counter filed by the appellant/husband in O.P.No.1246 of 2010 and O.P.No.1248 of 2010, he contended that he was always incurring unwanted expenditure either for marriage or for any other purpose.

The respondent has no inclination towards dowry. Because of such principle and due to intervention of friend of the respondent, who was the person instrumental in arranging his *marriage* with the respondent as he was known to her. At the instance of the appellant, he along with the said person went to Guntur. After formal discussions with the respondent and after putting forth his ideology to the respondent with regard to the *marriage*, after her acceptance, he agreed to marry the respondent. As per the understanding as agreed, there was no much fanfare for the *marriage* nor there was any such necessity for incurring expenditure for the *marriage*. In the presence of friends and also the parents of the respondent, he married the respondent by exchanging garlands and no other ceremonies as per Hindu rites and customs were performed for the *marriage*. It was totally a simple *marriage*. *Marriage* was performed in such a simple fashion, as such the question of the parents of the respondent presenting the household articles and presentations etc., does not arise.

Even his parents were against performing his *marriage* in such a simple fashion without following the customs and rites. In the *marriage* a simple letter was executed between him and respondent on 13.09.1991 and the *marriage* was so simply performed even there was no occasion to tie “***pasupu thadu***” upon the respondent. It is under such ideology, the *marriage* was performed.

21. It is further contended by him after the *marriage* as he was doing job at Mahabubnagar as lecturer in P.G.College, he got himself set up the family at the said place. Thus, in unequivocal terms he has stated with regard to the performance of *marriage* in the said counter and plaint filed by him in the said suit.

22. Though he contended that he met the respondent through a common friend i.e. Sri Rajendra Prasad, he failed to examine the said Sri Rajendra Prasad, as witness. He has also contended that Sri E.Venkat Reddy, Sri V.Gangadhara Rao, members of polite bureau and Sri

Dasaratha signed the said statement dated 13.09.1991, he failed to examine any of them.

23. The appellant contended that there is no valid marriage between him and the respondent as per Hindu customs and rites and no ceremonies such as Sapthapadi, tying of thali and toeing of mettalu were performed. Therefore, his marriage with the respondent is not a valid marriage and it is not a marriage as per the Hindu customs and rites.

24. Whereas, according to the respondent/wife, the said marriage is an arranged marriage, performed on 13.09.1991 at Srinivasa Kalyana Mantapam in the presence of elders and well-wishers. Therefore, burden lies on the appellant to prove the same by producing legally acceptable evidence. In the present case, except making flat denial and bald allegations in the plaint in the aforesaid suit and counters, he failed to prove the same. Thus, he failed to discharge his burden.

25. It is relevant to note that in a recent Judgment dated 19.04.2024 in ***Dolly Rani v. Manish Kumar Chanchal***², the Hon'ble Apex Court had an occasion to deal with valid marriage in accordance with Section 7, necessary ceremonies as per Hindu Marriage Act, 1955 etc. Relevant paragraphs are extracted below:

“Section 7 of the Act reads as under:

“7. Ceremonies for a Hindu marriage.—(1) A Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto. (2) Where such rites and ceremonies include the Saptapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken.”

Section 7 of the Act speaks about ceremonies of a Hindu marriage. Sub-section (1) uses the word “solemnised”. The word “solemnised” means to perform the marriage with ceremonies in proper form. Unless and until the marriage is performed with appropriate ceremonies and in due form, it cannot be said to be 7 “solemnised”. Further, sub-section (2) of Section 7 states that where such rites and ceremonies include the saptapadi, i.e., the taking of seven steps by the bridegroom and the bride jointly before the sacred fire, the marriage becomes complete and binding when the seventh step is taken. Therefore, requisite ceremonies for the solemnisation of the Hindu marriage must be in accordance with the applicable customs or usage and where saptapadi has been adopted, the marriage becomes complete

² 2024 INSC 355

and binding when the seventh step is taken. Where a Hindu marriage is not performed in accordance with the applicable rites or ceremonies such as saptapadi when included, the marriage will not be construed as a Hindu marriage. In other words, for a valid marriage under the Act, the requisite ceremonies have to be performed and there must be proof of performance of the said ceremony when an issue/controversy arise. Unless the parties have undergone such ceremony, there would be no Hindu marriage according to Section 7 of the Act and a mere issuance of a certificate by an entity in the absence of the requisite ceremonies having been performed, would neither confirm any marital status to the parties nor establish a marriage under Hindu law.

Section 8 of the Act reads as under:

“8. Registration of Hindu marriages.—(1) For the purpose of facilitating the proof of Hindu marriages, the State Government may make rules providing that the parties to any such marriage may have the particulars relating to their marriage entered in such manner and subject to such conditions as may be prescribed in a Hindu Marriage Register kept for the purpose.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, if it is of opinion that it is necessary or expedient so to do, provide that the entering of the particulars referred to in sub-section (1) shall be compulsory in the State or in any part thereof, whether in all cases or in such cases as may be specified, and where any such direction has been issued, any person contravening any rule made in this behalf shall be punishable with fine which may extend to twenty-five rupees.

(3) All rules made under this section shall be laid before the State Legislature, as soon as may be, after they are made.

(4) The Hindu Marriage Register shall at all reasonable times be open for inspection, and shall be

admissible as evidence of the statements therein contained and certified extracts therefrom shall, on application, be given by the Registrar on payment to him of the prescribed fee.

(5) Notwithstanding anything contained in this section, the validity of any Hindu marriage shall in no way be affected by the omission to make the entry.”

Under Section 8 of the Act, it is open for two Hindus married under the provisions of the Act to have their marriage registered provided they fulfil the conditions laid down therein regarding performance of requisite ceremonies. It is only when the marriage is solemnised in accordance with Section 7, there can be a marriage registered under Section 8. The State Governments have the power to make rules relating to the registration of marriages between two Hindus solemnised by way of requisite ceremonies. The advantage of registration is that it facilitates proof of factum of marriage in a disputed case.

But if there has been no marriage in accordance with Section 7, the registration would not confer legitimacy to the marriage. We find that the registration of Hindu marriages under the said provision is only to facilitate the proof of a Hindu marriage but for that, there has to be a Hindu marriage in accordance with Section 7 of the Act inasmuch as there must be a marriage ceremony which has taken place between the parties in accordance with the said provision. Although the parties may have complied with the requisite conditions for a valid Hindu marriage as per Section 5 of the Act in the absence of there being a “Hindu marriage” in accordance with Section 7 of the Act, i.e., solemnization of such a marriage, there would be no Hindu marriage in the eye of law. In the absence of there being a valid Hindu marriage, the Marriage Registration Officer cannot

register such a marriage under the provisions of Section 8 of the Act. Therefore, if a certificate is issued stating that the couple had undergone marriage and if the marriage ceremony had not been performed in accordance with Section 7 of the Act, then the registration of such marriage under Section 8 would not confer any legitimacy to such a marriage. The registration of a marriage under Section 8 of the Act is only to confirm that the parties have undergone a valid marriage ceremony in accordance with Section 7 of the Act. In other words, a certificate of marriage is a proof of validity of Hindu marriage only when such a marriage has taken place and not in a case where there is no marriage ceremony performed at all.

We further observe that a Hindu marriage is a sacrament and has a sacred character. In the context of saptapadi in a Hindu marriage, according to Rig Veda, after completing the seventh step (saptapadi) the bridegroom says to his bride, “With seven steps we have become friends (sakha). May I attain to friendship with thee; may I not be separated from thy friendship”. A wife is considered to be half of oneself (ardhangini) but to be accepted with an identity of her own and to be a co-equal partner in the marriage. There is nothing like a “better-half” in a marriage but the spouses are equal halves in a marriage. In Hindu Law, as already noted, marriage is a sacrament or a samskara. It is the foundation for a new family.

With the passage of centuries and the enactment of the Act, monogamy is the only legally approved form of relationship between a husband and a wife. The Act has categorically discarded polyandry and polygamy and all other such types of relationships. The intent of the Parliament is also that there should be only one form of marriage having varied rites and

customs and rituals. Thus, when the Act came into force on 18.05.1955, it has amended and codified the law relating to 12 marriage among Hindus. The Act encompasses not only Hindus as such but Lingayats, Brahmos, Aryasamajists, Buddhists, Jains and Sikhs also who can enter into a valid Hindu marriage coming within the expansive connotation of the word Hindu.

Section 4 of the Act is important and it gives an overriding effect to the Act and it repeals all existing laws whether in the shape of enactments, custom or usage inconsistent with the Act. Of course, the said Section also saves anything otherwise expressly provided under the Act. For immediate reference, Section 4 of the Act is extracted as under:

“4. Overriding effect of the Act.- Save as otherwise expressly provided in this Act,- (a) any text, rule or interpretation of Hindu law or any custom or usage as part of that law in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act; (b) any other law in force immediately before the commencement of this Act shall cease to have effect insofar as it is inconsistent with any of the provisions contained in this Act.”

In effect a union of two persons under the provisions of the Act, by way of a Hindu marriage gives them the status and character of being a husband and wife in society. The said status is of significance inasmuch as a man and a woman cannot be treated as a husband and a wife unless a marriage is performed or celebrated with proper and due ceremonies and in the prescribed form. In the absence of any solemnisation of a 13 marriage as per the provisions of the Act, a man and a woman cannot acquire the status of being a husband and a wife to each other. In the above context, we deprecate the practice of young men and women seeking to acquire the status of being a

husband and a wife to each other and therefore purportedly being married, in the absence of a valid marriage ceremony under the provisions of the Act such as in the instant case where the marriage between the parties was to take place later.

No doubt, under the Special Marriage Act, 1954, a man and a woman can acquire the status of being a husband and a wife as per the provisions of the said Act. The Special Marriage Act, 1954 is not restricted to Hindus. Any man and woman irrespective of their race, caste or creed can acquire the status of being a husband and a wife under the provisions of the Special Marriage Act, 1954 but under the provisions of the Act (Hindu Marriage Act, 1955), there should not only be compliance of the conditions as prescribed under Section 5 of the said Act but also the couple must solemnise a marriage in accordance with Section 7 of the Act. In the absence of there being any such marriage in accordance with Section 7 of the Act, a certificate issued in that regard by any entity is of no legal consequence. Further, any registration of a marriage which has not at all taken place under Section 8 of the Act and as per the rules made 14 by the State Government would not be evidence of a Hindu marriage and also does not confer the status of a husband and a wife to a couple.

In recent years, we have come across several instances where for “practical purposes”, a man and a woman with the intention of solemnisation of their marriage at a future date seek to register their marriage under Section 8 of the Act on the basis of a document which may have been issued as proof of ‘solemnisation of their marriage’ such as in the instant case. As we have already noted, any such registration of a marriage before the Registrar of Marriages and a certificate being issued

thereafter would not confirm that the parties have 'solemnised' a Hindu marriage. We note that parents of young couples agree for registration of a marriage in order to apply for Visa for emigration to foreign countries where either of the parties may be working "in order to save time" and pending formalising a marriage ceremony. Such practices have to be deprecated. What would be the consequence, if no such marriage is solemnised at all at a future date? What would be the status of the parties then? Are they husband and wife in law and do they acquire such status in society?

As already noted, a Hindu marriage is a *samskara* and a sacrament which has to be accorded its status as an institution of great value in Indian society. Children born out of a valid Hindu marriage are legitimate and therefore they have full rights in law. This is not an occasion for us to discuss about the vulnerability of illegitimate children born outside wedlock who yearn for status equal to legitimate children in society. Therefore, we urge young men and women to think deeply about the institution of marriage even before they enter upon it and as to how sacred the said institution is, in Indian society. A marriage is not an event for 'song and dance' and 'wining and dining' or an occasion to demand and exchange dowry and gifts by undue pressure leading to possible initiation of criminal proceedings thereafter. A marriage is not a commercial transaction. It is a solemn foundational event celebrated so as to establish a relationship between a man and a woman who acquire the status of a husband and wife for an evolving family in future which is a basic unit of Indian society. A Hindu marriage facilitates procreation, consolidates the unit of family and solidifies the spirit of fraternity within various communities.

After all, a marriage is sacred for it provides a lifelong, dignity-affirming, equal, consensual and healthy union of two individuals. It is considered to be an event that confers salvation upon the individual especially when the rites and 16 ceremonies are conducted³. The customary ceremonies, with all its attendant geographical and cultural variations is said to purify and transform the spiritual being of an individual.

The Hindu Marriage Act, 1955 solemnly acknowledges both the material and spiritual aspects of this event in the married couple's lives. Besides providing a mechanism for registration of marriages in order to confer the status of a married couple and acknowledge rights in personam and rights in rem, a special place is given to rites and ceremonies in the Act. It follows that the critical conditions for the solemnizing of a Hindu marriage should be assiduously, strictly and religiously followed. This is for the reason that the genesis of a sacred process cannot be a trivial affair. The sincere conduct of and participation in the customary rites and ceremonies under Section 7 of the Hindu Marriage Act, 1955 ought to be ensured by all married couples and priests who preside over the ceremony.

The promises made to each by the parties to a Hindu marriage and the oath taken by them to remain friends forever lay the foundation for a life-long commitment between the spouses which should be realized by them. If such commitment to each other is adhered to by the couple, then there would be far fewer cases of breakdown of marriages leading to divorce or separation.”

³ HARMAN, WILLIAM. "THE HINDU MARRIAGE AS SOTERIOLOGICAL EVENT." *International Journal of Sociology of the Family*, vol. 17, no.2, 1987, pp.169-82

26. In the light of the aforesaid principle laid down by the Hon'ble Apex Court, coming to the facts of the case on hand, as discussed *supra*, though the appellant/husband disputed the marriage, he failed to produce any evidence both oral and documentary except pelli pramanam Ex.P.10. On the other hand, the respondent/wife has filed Exs.R.1, R.2 marriage photo, Ex.R.3 copies of marriage photos. She has also examined RWs.2 to 5, elders/well-wishers who are known to each other and participated in the said marriage. Thus, on consideration of the entire evidence only, learned Family Court dismissed the suit filed by the appellant/husband and allowed the original petitions filed by the respondent/wife seeking restitution of conjugal rights and seeking maintenance.

27. Learned Family Court referred pleadings, chief-examination and admissions made by the Appellant during his cross-examination. He has admitted that the appellant shifted to Osmania University campus i.e., F-28 quarters from Malakpet and the respondent gave birth to first child

on 07.1.1993 and second child was born on 02.06.1994 in Guntur. He has admitted that on one occasion the birthday of his son was celebrated by him. As they are living separately, he did not share any responsibility of his children as they are in the custody of the respondent.

28. Learned Family Court also took note of the fact that the appellant did not specifically deny the contentions of the respondent/wife that the marriage was consummated and they were blessed with two children i.e., Spandan and Surya. The learned Family Court also gave a specific finding that in a matter like this, the appellant is not fair in his pleadings by pleading that he has no children.

29. Learned Family Court also recorded in the common order observed that the appellant in his counter in O.P.No.182 of 1998 (New O.P.No.1248 of 2010) stated that on 10.12.1998 the respondent in the seventh month of her pregnancy, without informing him went away to the house

of her parents. He has not stated that he never gave birth to the two children.

30. Learned Family Court also referred the counter filed by the appellant in O.P.No.182 of 1998 wherein it was stated that irrespective of that he was making peace with the respondent by believing that one day or the other the respondent will resolve all her marital obligations. Thus, he accepted the marriage. He has also further stated that the respondent at the time of her second delivery, went to her parents house and failed to return back for nearly six months and, at the instance, he went to the house of her parents and stayed there for his day-to-day livelihood and subsequently on his persistent requests respondent returned back and stayed for some time.

31. Referring to the said pleadings, learned Family Court gave a specific finding that the marriage of the respondent with the appellant was performed on 13.09.1991 at Srinivasa Kalyana Mantapam in the presence of elders and well-wishers, the appellant failed to

prove his contention that it is not a valid marriage. Learned Family Court also gave specific finding that the respondent (RW.1) clearly stated that though at the time of marriage mangal sutram was tied around her neck, mettalu were adorned to her toes and now she is wearing mangalsutram on the date of giving evidence. She has also revealed the name of purohit as Anjaneyulu, who died in the year 1995 or 1996.

32. The aforesaid facts would reveal that the appellant having married the respondent gave birth to two children on 07.01.1993 and 02.06.1994 and after a lapse of 20 years, filed the aforesaid suit vide O.S.No.167 of 2002 to declare the said marriage as invalid marriage. It is also relevant to note that he has filed the aforesaid suit after the respondent filing the aforesaid petitions seeking restitution of conjugal rights and maintenance.

33. On consideration of the entire evidence both oral and documentary, learned Family Court gave a specific finding that the marriage of the appellant with the

respondent is a valid marriage as per Hindu customs and rites. The appellant failed to discharge his burden and failed to prove his contention.

34. Learned Family Court also specifically referred that during cross-examination of the appellant (PW.1) on 24.01.2011 admitted that "It is true in connection with these three matters parties were referred to DNA test and report of DNA was received by the learned Family Court. Expert report of DNA declares that himself (appellant/husband) and Viswa Bharathi (the respondent/wife) as parents of Spandan and Surya and the said DNA report was marked as Ex.C.1 with consent on 03.08.2005.

35. On consideration of the said aspects, learned Family Court gave specific findings that both the appellant and the respondent got married. The said marriage was consummated and they were blessed with aforesaid two children. The respondent has also filed Ex.R.4 tuition fee and study certificate of Spandan, Ex.R.11 is birth certificate of Surya and Ex.R.12 certificate of birth of son of

Anand Kumar and Viswa Bharati. Therefore, the appellant cannot plead or contend that his marriage with the respondent is not a valid marriage and was not blessed with two children.

36. On consideration of the evidence and the fact that the appellant was working as reader in Osmania University and getting an amount of Rs.50,000/- per month, the learned Family Court has granted the aforesaid amount of Rs.5,000/- to the respondent life-long towards maintenance.

37. It is not in dispute that Spandan and Surya were born on 07.01.1993 and 02.06.1994 respectively and now they are aged about 31 and 32 years respectively and both of them are majors. They are not entitled for maintenance. Further, they are entitled for arrears of maintenance in pursuance of the impugned common order dated 16.03.2011. If the said arrears of maintenance are not yet paid, liberty is granted to them to take steps in accordance with law to recover the same from the appellant herein. The

respondent being the legally wedded wife is also entitled for maintenance in terms of the common order and if the appellant failed to comply with the same, the respondent is at liberty to claim the same by way of appropriate legal remedy. In view of the fact that the impugned common order is well reasoned order, it does not warrant any interference of this Court in the present appeals.

38. As discussed *supra*, the appellant having married the respondent on 13.09.1991 claiming that it was only friendly companionship. It is a tricky contention taken by him. The said contention was also considered by the learned Family Court.

39. It is also recorded that the appellant/husband filed C.M.A.No.1581 of 2001 and F.C.A.No.187 of 2005. The respondent/wife filed C.R.P.No.143 of 2007. He filed the aforesaid C.M.A.No.1581 of 2001 dated 02.05.2001 in O.P.No.182 of 1998 (new O.P.No.1248 of 2010) by Family Court whereby the petition filed by the respondent/wife under Section 9 of the Hindu Marriage Act seeking

restitution of conjugal rights was also allowed. F.C.A.No.187 of 2005 was filed by the appellant/husband against the Judgment dated 17.08.2005 in O.P.No.13 of 1999 filed by the wife and her two children under Sections 18 and 20 of the Hindu Adoption and Maintenance Act, 1956 and granted maintenance of Rs.2,000/- per month each, from the date of filing the suit.

40. The respondent filed an interlocutory application vide I.A.No.928 of 2005 seeking to condone the delay of 97 days in filing the application to set aside the default order. The same was dismissed by learned Family Court vide Order dated 24.08.2006. Challenging the said Order, the respondent/wife filed the revision C.R.P.No.143 of 2007. Vide common order dated 20.04.2010, this Court allowed the C.R.P. as well as C.M.A. and F.C.A. by setting aside the impugned orders therein. The matters were remanded back to the Family Court, Hyderabad, for a joint trial and disposal along with O.S.No.167 of 2002. This Court also directed the husband to pay the maintenance at the rate of

Rs.2,000/- per month in favour of the each of the children till they attain majority. This Court also directed the learned Family Court to decide the aforesaid matters uninfluenced by any of the observations made by this Court and dispose of the said three cases within a period of six months from the date of receipt of a copy of the said order.

41. Mr.A.Suryanarayana, learned counsel appearing for the appellant would contend that the learned Family Court did not conduct joint trial in compliance with the said Order and thus there is violation of the said order dated 20.04.2010 passed by this Court in CMA No.158 of 2001 and batch. According to him, this Court directed the learned Family Court to conduct joint trial. As discussed *supra*, this Court directed the learned Family Court to conduct a joint trial and dispose of the said O.Ps. along with O.S.No.167 of 2002. This Court never directed the learned Family Court to conduct *de novo* enquiry as contended by the learned counsel for the appellant.

42. Learned counsel would further contend that the respondent failed to prove the paternity and in the birth certificate filed by her, the name of the appellant is not mentioned as father. Thus, according to Sri A.Suryanarayana, learned counsel for the appellant the respondent failed to discharge her burden and failed to prove her marriage and children were born to them. As discussed *supra*, on consideration of pleadings and evidence of PW.1 as well as Ex.C.1 DNA report and birth certificates, the learned Family Court gave specific findings. Thus, the said findings are well reasoned and well founded. In fact, the appellant herein failed to make out any case to interfere with the reasoned findings.

43. It is no longer *res integra* that if a man and woman cohabit as husband and wife for a long duration, one can draw a presumption in their favour that they were living together as a consequence of a valid marriage. The question, in which circumstances, the Court can draw presumption as to legality of the marriage was succinctly

explained by Mulla Book on Hindu Law 22nd Edition, page 645 under heading "Presumption as to legality of marriage" in the following words:-

"435. Presumption as to legality of marriage - Where it is proved that a marriage was performed in fact, the court will presume that it is valid in law, and that the necessary ceremonies have been performed. A Hindu marriage is recognised as a valid marriage in English law.

Presumption as to marriage and legitimacy - there is an extremely strong presumption in favour of the validity of a marriage and the legitimacy of its offspring, if from the time of the alleged marriage, the parties are recognised by all persons concerned as man and wife and are so described in important documents and on important occasions. The like presumption applies to the question whether the formal requisites of a valid marriage ceremony were satisfied. Similarly, the fact that a woman was living under the control and protection of a man, who generally lived with her and acknowledged her children, raises a strong presumption that she is the wife of that man. However, this presumption may be rebutted by proof of facts showing that no marriage could have taken place."

This presumption finds support via Section 114 of the Evidence Act which states as follows:

"114. The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case."

44. In ***Andrahennedige Dinohamy and Another v. Wijetunge Liyanapatabendige Balahamy and Others***,⁴

the Privy Council observed the following,

“.....where a man and woman are proved to have lived together as man and wife, the law will presume, unless the contrary be clearly proved, that they were living together in consequence of a valid marriage and not in a state of concubinage.”

45. In ***S.P.S. Balasubramanyam v. Suruttayan alias AndaliPadayachi and Others***⁵, the Apex Court held as under:

“4. What has been settled by this Court is that if a man and woman live together for long years as husband and wife then a presumption arises in law of legality of marriage existing between the two. But the presumption is rebuttable(see *Gokal Chand v. Parvin Kumari*)”

46. In ***Gokal Chand v. Parvin Kumari alias Usha Rani***⁶ the Apex Court held :

“ 13....Continuous cohabitation of man and woman as husband and wife and their treatment as such for a number of years may raise the presumption of marriage.

14....But the presumption which may be drawn from long cohabitation is rebuttable and if there are circumstances which weaken and destroy that presumption, the court cannot ignore them.”

⁴1927 SCC OnLine PC 51

⁵(1994) 1 SCC 460

⁶(1952) 1 SCC 713

47. In ***Madan Mohan Singh v. Rajnikant***⁷, the Apex Court held that the live in relationship, if continued for a long time, cannot be termed as walk in and walk out relationship and there is a presumption of marriage between the parties.

48. This Court in ***Syed Amanullah Hussain and Ors. Vs. Rajamma and Ors***⁸ the parties were Mohammedan's and the question of presumption of marriage through long co-habitation arose. In the said case the marriage between a Hindu women and a Muslim man was disputed. In the absence of direct evidence to prove the marriage, the Court relied on presumption of marriage elucidate in para 10 which is stated as follows

"10. Marriages may be established by direct proof or by indirect proof, i.e. by presumption drawn from certain factors. It may be presumed from prolonged cohabitation combined with other circumstances or from acknowledgment of legitimacy in favour of a child or the fact of the acknowledgment by the man of the woman as his wife. It is true that the presumption does not apply if the conduct of the parties is inconsistent with the relationship of husband and wife. But if there is no impediment for a

⁷(2010) 9 SCC 209

⁸AIR 1977 AP 152

lawful marriage, such presumption will be raised by the aforesaid circumstances. In *Abdool Razak v. Aga Mohomed*(1894) 21 Ind App 56 (PC) the Privy Council observed that if the conduct of the parties were shown to be compatible with the relation of husband and wife, every presumption ought to be made in favour of the marriage when there is lengthened cohabitation. In that case, however, it was found that the conduct was incompatible with that relation and, therefore, it was held that the presumption did not apply. In *Ghazanfar v. Kaniz Fatima*, (1910) 37 Ind app 105 (PC), as the woman was a prostitute before the marriage, the court refused to draw the presumption. But normally, cohabitation for a long time and living together as husband and wife would raise a presumption of marriage. As far as legitimacy of the child is concerned, it may be presumed from circumstances from which the marriage itself between its parents may be presumed."

49. The doctrine *factum valet quod fieri non debuit*, which means "a fact cannot be altered by a hundred texts", would apply in such a situation. Though, a Hindu marriage is a sacrament and has great importance in Indian Society, yet, when two parties who are in a domestic relationship and cohabit together and conduct themselves in a manner which is in the nature of marriage, it shall be construed as such.

50. It is relevant to note that in ***Mohabbat Ali Khan v. Mohd. Ibrahim Khan***⁹, it was held that law presumes in

⁹ AIR 1929 PC 135

favour of marriage and against concubinage, when a man and a woman have cohabited continuously for a number of years, the presumption can be drawn under Section 114 of the Evidence Act, 1872. A presumption of a valid marriage although rebuttable one, it is for the other party to establish the same. The said principle was also laid down by the Hon'ble Apex court in ***Ranganath Parmeshwar Panditrao Mali v. Eknath Gajanan Kulkarni***¹⁰ and ***Sobha Hymavathi v. Setti Gangadhara Swamy***¹¹ and the said presumption voluntarily raised having regard to the Section 50 of the Evidence Act, 1872.

51. As discussed *supra*, the law infers a presumption favourably towards the institution of marriage when any couple have continuously cohabited for a long spell. However, such presumption can be controverted by the controverting party but heavy onus lies on the person. The presumption was rebuttable, but a heavy burden lies on the person who seeks to deprive the relationship of legal

¹⁰ 1996(7) SCC 681

¹¹ 2005 (2) SCC 244

origin to prove that no marriage took place. The said principle was also laid down by the Apex Court in ***Tulsa v. Durghatiya***¹² The Hon'ble Apex Court in ***Challamma*** (*supra*) recorded the said principle.

52. In the light of the aforesaid law laid down by the Hon'ble Apex Court and privy counsel, the Apex Court has consistently held that law presumes in favour of marriage and against concubinage, the appellant had disputed the marriage and therefore the burden heavily lies on him to prove the same with legally acceptable evidence. In the present case, the appellant failed to examine any witness. Except examining himself as PW.1 and filing Ex.P.10, he did not file any document. Though he contended about the presence of Sri D.Rajendra Prasad and other witnesses i.e. Sri Venkat Reddy, Sri V.Gangadhar Rao, a member of polite bureau of C.P.I (M) Party, Sri A.Dasaratha, Advocate and Sri M.Satyanarayana Rao, he failed to examine any of them. Thus, he failed to rebut and discharge his burden.

¹² 2008 (4) SCC 520

The said aspects were also considered by learned Family Court.

53. It is relevant to note that the respondent/wife disputed her signature in Ex.P.1 statement. But the appellant heavily relied upon the said statement, therefore, burden lies on him to prove the respondent signed on the said statement, whereas, the appellant failed to discharge his burden. Even he failed to elicit the said aspects from the evidence of respondent (RW.1) during her cross-examination as well as from RWs.2 to 5 during their cross-examination.

54. As discussed supra, learned Family Court on consideration of the entire evidence both oral and documentary, passed impugned common order. It is well reasoned order and well founded. The appellant herein failed to make out any case to interfere with the said order. Viewed from any angle, these appeals are devoid of merits and liable to be dismissed.

55. Accordingly, these appeals are dismissed. There shall be no order as to costs.

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

K. LAKSHMAN, J

P. SREE SUDHA, J

07th June, 2024

Note: L.R.Copy to be marked.
ynk/mrm

HON'BLE SRI JUSTICE K. LAKSHMAN
AND
HON'BLE SMT. JUSTICE P. SREE SUDHA

FAMILY COURT APPEAL Nos.258, 291 AND 312 OF 2011

(Per Hon'ble Sri Justice K. Lakshman)

07th June, 2024
Ynk/mrm