

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF AUGUST, 2013

BEFORE

THE HON'BLE MR.JUSTICE B.S.PATIL

C.P.No.90/2013 c/w.
RPFC.No.36/2013

IN C.P.No.90/2013:

BETWEEN

SMT G.T. ASHA REDDY
W/O K.GOVINDA REDDY,
AGED ABOUT 30 YEARS,
R/O.C/O.N.RAMANNA,
PRESS COLONY, II PHASE,
HUDCO, GOPALA,
SHIVAMOGGA-577201.

... PETITIONER

(By M/s.CHANDRU & S SHEKAR, ADVS.)

AND

SRI K. GOVINDA REDDY
S/O.TIPPAIAH,
AGED ABOUT 41 YEARS,
STENO, C.J.AND JMFC,
GANGAVATHI,
KOPPAL DISTRICT.

... RESPONDENT

(By Sri.BASAVARAJ KAREDDY, ADV.)

IN R.P.F.C.No.36/2013:

BETWEEN:

SRI K. GOVINDA REDDY
S/O.TIPPAIAH,
AGED ABOUT 41 YEARS,

SHORT HAND WRITER,
CIVIL JUDGE AND JMFC,
GANGAVATHI,
KOPPAL DISTRICT.

... PETITIONER

(By Sri.BASAVARAJ KAREDDY, ADV.)

AND:

1. SMT G.T. ASHA REDDY
W/O K.GOVINDA REDDY,
AGED ABOUT 30 YEARS,
2. KUM.SMERA REDDY
D/O K.GOVINDA REDDY
AGED ABOUT 5 YEARS
SINCE MINOR, REP.BY HER
MOTHER RESP.NO.1.
BOTH ARE R/AT C/O.N.RAMANNA,
PRESS COLONY, II PHASE,
HUDCO, GOPALA,
SHIVAMOGGA-577201.

... RESPONDENTS

(By M/s.CHANDRU & S SHEKAR, ADVS.)

Civil Petition No.90/2013 filed under Sec.24 of CPC,
praying to withdraw the entire proceedings in M.C No.10/2013
on the file of the Senior Civil Judge and JMFC at Gangavathi
and transfer the same to Family court at Shimoga and etc.

R.P.F.C.No.36/2013 filed under Section 19(4) of Family
Court Act, praying to set aside the order dated 30.8.2012
passed by the Judge, Family Court, Shimoga in
C.Misc.No.34/2012 and etc.

These petitions coming on for orders this day, the Court
made the following:

ORDER

1. This Civil Petition is filed by the petitioner who is the wife of the respondent seeking for withdrawal of the proceedings in M.C.No.10/2013 from the Court of the Senior Civil Judge & JMFC, Gangavathi and to transfer the same to the Family Court at Shimoga.

2. Petitioner is residing at Shimoga. Whereas, the respondent was working at Gangavathi, now transferred to Koppal. M.C.No.10/2013 is filed by the respondent seeking restitution of conjugal rights. Petitioner had instituted proceedings under Section 125 Cr.P.C. seeking maintenance before the Court at Shimoga. In the said proceedings, an order was passed directing payment of maintenance at Rs.8,000/- per month. This was challenged in the connected matter R.P.F.C.No.36/2013 which is posted before this Court by a special order. It is also relevant to notice that the petitioner – wife has filed a complaint against the respondent alleging offences under Sections 498-A, 506 read with Section 34 IPC which is now pending before the II JMFC Court at Shimoga in C.C.No.1340/2011.

3. When the civil petition filed under Section 24 CPC before this Court came up for consideration, having regard to the facts and circumstances of the case, this Court found that there is an element of settlement and hence, directed the parties to be presented before the Court.

4. Through the active help and assistance of the learned counsel for both parties and the approach adopted by the Court in ensuring that the petitioner and the respondent to have their difference resolved, both the parties agreed to lead a happy matrimonial life. Hence, they filed an affidavit dated 05.08.2013 jointly swearing to these facts and stating that they have mutually agreed to withdraw the pending proceedings and to lead a peaceful matrimonial life.

5. It is submitted at the Bar by the learned counsel for both parties that the petitioner – wife has joined the respondent – husband and now they are residing at Koppal. They further submit that this Court may dispose of C.P.No.90/2013 dismissing M.C.No.10/2013 pending on the file of the Senior Civil Judge & JMFC., Gangavati and also dispose of RPFC.No.36/2013 by setting aside the order of maintenance

granted by the Family Court, Shimoga, in C.Misc.34/2012 and quash the proceedings instituted in C.C.No.1340/2011.

6. Having regard to the joint affidavit filed by both the parties and having regard to the resolution of the dispute between the husband and wife, the request made by the parties deserves to be accepted. There is no legal impediment to accede to the request of the parties to dispose of C.P.No.902/013 by dismissing M.C.10/2013 pending on the file of the Senior Civil Judge, Gangavathi and allowing R.P.F.C.No.36/2013 by setting aside the order of maintenance granted by the Family Court, Shimoga, in C.Misc.34/2012. However, insofar as quashing of proceedings instituted in C.C.No.1340/2011 is concerned, it has to be stated that both parties will be at liberty to file appropriate petition before this Court under Section 482 Cr.P.C., particularly having regard to the judgment rendered by the Apex Court in the case of **K.SRINIVAS RAO Vs. D.A.DEEPA – (2013) 5 SCC 226**, wherein it is held that in matters like this where the husband and wife resolved to live together by settling their dispute, such recourse is legally open to the parties.

7. In the result and for the foregoing, C.P.N.90/2013 is allowed dismissing M.C.No.10/2013 pending on the file of the Senior Civil Judge, Gangavati. R.P.F.C.No.36/2013 is allowed setting aside the order of maintenance granted by the Family Court, Shimoga, in C.Misc.No.34/2012. Parties are at liberty to avail appropriate remedy under Section 482 Cr.P.C. as regards quashing of proceedings in C.C.No.1340/2011 is concerned.

Sri Chandrashekar, learned counsel, who has entered appearance for the respondent in RPFC.No.36/2013, is permitted to file vakalath within three weeks from today.

**Sd/-
JUDGE**

PKS