

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[*Special Original Jurisdiction*]

MONDAY THE THIRTY FIRST DAY OF JULY
TWO THOUSAND AND SEVENTEEN

PRESENT

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE N. BALAYOGI

FCA.No. 225 OF 2017

Between:

J. Mourya Reddy ... Appellant/Respondent

V/s.

P. Divyamritha ... Respondent/Petitioner



Counsel for the Petitioner : Sri V.R. Reddy Kovvuri

Counsel for the Respondents : Sri C. Vikram Chandra

The court made the following: : [JUDGMENT FOLLOWS]

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE N. BALAYOGI**

FCA.No. 225 OF 2017

J U D G M E N T : (Oral, *Per the Hon'ble Sri Justice Suresh Kumar Kait*)

This Family Court Appeal is filed under section 19 of the Family Courts Act by the respondent against the judgment and decree dated 13/05/2017 passed by the Judge, Family Court-cum-V-Additional District Judge, Tirupati, Chittoor district, allowing the petition filed by the petitioner [wife] under section 125 Cr.P.C., directing the respondent to pay separate maintenance of Rs.10,000/- per month to the petitioner from the date of petition and also arrears of maintenance @ Rs.10,000/- per month on or before 13/07/2017 and also to pay a sum of Rs.2,000/- to the petitioner towards litigation expenses.

2. Heard the learned counsel for the appellant/respondent.

Despite service effected upon the respondent/petitioner and the vakalath filed by Sri C. Vikram Chandra, the learned counsel for the respondent/petitioner, appeared none on behalf of the respondent/petitioner on the last date of hearing and so is the position today. We have no option but to proceed with the matter.

3. Vide the present Family Court Appeal, the appellant has assailed the Judgment and decree dated 13/5/2017 passed by the Judge, Family Court-cum-V-Additional District Judge, Tirupati, Chittoor district, in FCOP.No. 115 of 2016.

4. Learned counsel appearing on behalf of the appellant submits that he does not dispute the aforesaid judgment, however, challenging the operative portion of the aforesaid judgment, wherein at Page No.8 and para No.16 it is recorded as under :

“He further admitted that parents of petitioner spent Rs.12,00,000=00 towards marriage expenses and also paid Rs.20,00,000=00 as dowry and presented gold worth Rs.30,00,000=00.”

5. We note in written statement filed by the appellant/respondent, it is specifically admitted that the marriage ceremony took place between the appellant and respondent. However, the appellant/respondent completely denied the allegations made by the respondent/petitioner that her parents had given cash of Rs.25,00,000=00; 13,00,000=00 worth of gold; Rs.1,00,000=00 of clothes and also spent an amount of Rs.12,00,000=00 towards marriage expenses.

6. However, while cross-examining RW-1, it is recorded as under :

“ It is true to suggest that parents of my wife have spent Rs.12,00,000=00 towards my marriage expenses and also paid dowry of Rs.20,00,000=00 and present gold worth Rs.30,00,000=00.”

7. Learned counsel appearing on behalf of the appellant

submits that the aforesaid facts have wrongly recorded instead of “*it is true*” RW-1 denied the suggestion made by the counsel on other side.

He supports this version on the ground that while cross-examining RW-1

it is recorded as under :

“It is not true to suggest that myself and my parents have demanded parents of petitioner to pay dowry and we received dowry for them at the time of my marriage with the petitioner. It is not true to suggest that parents of petitioner have presented gold ornaments to me and also to the petitioner on our demand.”

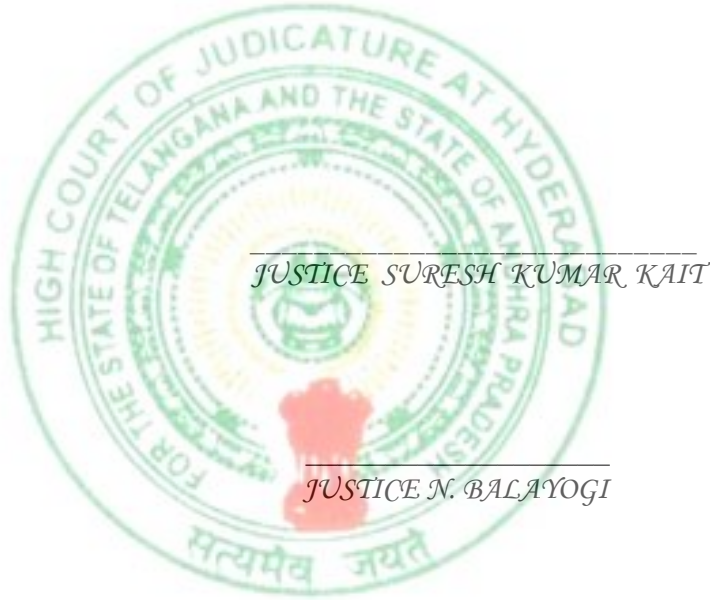
8. In view of the facts recorded above, we are of the considered

opinion that the learned trial Court has wrongly recorded that the appellant admitted the facts that the parents of the respondent/petitioner spent an amount of Rs.12,00,000=00 towards marriage expenses and also paid Rs.20,00,000=00 as dowry and presenting gold worth of Rs.30,00,000=00.

9. Accordingly, we are of the considered opinion that the portion of para-16 of impugned order as is reproduced in para-4 above, shall not read part of the judgment and decree dated 13/05/2017 passed by the Judge, Family Court as noted above.

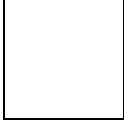
10. In terms of above, the appeal is allowed. There shall be no order as to costs.

11. As a sequel, pending miscellaneous petitions, if any, shall stand closed.



31-07-2017
I s L

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE N. BALAYOGI**



FCA.No. 225 OF 2017

(Order of the Division Bench delivered by
Hon'ble Sri Justice Suresh Kumar Kait)

Date. 31-07-2017
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