

SUPREME COURT OF INDIA

Smt. Chintala Syamala

Vs.

Chintala Venkata Satyanarayana Rao

Contempt Petition (C) No.34 of 2007

(B.N. Agrawal and G.S. Singhvi JJ.)

28.07.2008

ORDER

1. Heard learned counsel for the parties.
2. On 22nd February, 2006, while disposing Civil appeal No.6352 of 2004, this Court passed the following order:

“Heard learned counsel for the appellant as well as the respondent, who is appearing in person.

The respondent filed a petition for grant of decree for divorce on the ground of cruelty, adultery and desertion. The trial court dismissed the petition holding that none of the three grounds was proved. Against the said order when an appeal was preferred by the respondent before the High Court, by the impugned order, a decree for divorce has been granted on the ground of desertion. Hence, this appeal by special leave.

Having heard the parties at length, we are of the view that the High Court has not committed any error in granting decree for divorce on the ground of desertion, but we are of the view that no provision has been made in the impugned order either with respect to permanent alimony or with respect to the marriage of Navatha, second daughter of the parties. The respondent stated before this Court that he undertakes to pay a sum of Rs. Eight lacs to the appellant-wife, i.e., Rs. Five lacs by way of permanent alimony and Rs. Three lacs towards expenses of marriage of the said second daughter. The said amount shall be paid by Account Payee Demands Drafts in the name of the appellant-wife. The respondent stated that out of the aforesaid amount of Rs. Eight lacs, a sum of Rs. Four lacs shall be paid by 31st August, 2006 and the balance amount of Rs. Four lacs will be paid by 30th April, 2007. Let the respondent pay the aforesaid amount accordingly. It has been stated by the respondent that a criminal case under Sections 448 and 379 of the Indian Penal Code is pending against his brother Vijay Kumar, bearing C.R.No.719 of 2003, which is pending in the Court

of IIIrd Metropolitan Magistrate, Vijayawada. In view of the aforesaid facts, the criminal prosecution of Vijay Kumar in the aforesaid case is hereby quashed. It has been stated by the respondent that his brother Vijay Kumar has filed Original Suit No.3134 of 2003, which is pending in the Court of First Additional Junior Civil Judge, Vijayawada, which shall be withdrawn by his brother Vijay Kumar. It is directed that the said civil suit shall stand withdrawn.

With the aforesaid directions, the appeal is disposed of.

There shall be no order as to costs.”

3. According to the directions given in the aforesaid order, the respondent- husband was required to pay the sum of Rupees five lakhs to the wife by way of permanent alimony and another sum of Rupees three lakhs towards the expenses of the marriage of the second daughter begotten by the respondent from the appellant.

4. Time was also fixed for payment of the aforesaid amount, i.e., Rupees four lakhs by 31st August, 2006, and the balance amount by 30th April, 2007. As the contemnor agreed to pay the permanent alimony for the maintenance of the wife and expenses towards the marriage of the daughter, this Court quashed the prosecution pending against Vijay Kumar, brother of the contemnor, in the criminal case, bearing C.R. No.719 of 2003, under Sections 448 and 379 of the *Indian Penal Code, 1860*, pending in the court of IIIrd Metropolitan Magistrate, Vijayawada, within the State of Andhra Pradesh.

5. In this contempt petition, it has been stated that, in spite of the undertaking given before this Court to pay Rupees eight lakhs to the wife, the contemnor has not paid a single penny. This fact has not been controverted by the contemnor by filing reply to the show cause notice. On the last date, the contemnor who is an officer of the rank of Joint Secretary in the Government of India appeared in-person and stated that he is not in a position to pay the amount of maintenance in terms of the undertaking. When we were going to pass the order, Mr. R.K. Kapoor, learned counsel intervened and made a prayer that he may be allowed to appear in this case as an amicus curiae. His prayer was granted. Today, Mr. R.K. Kapoor made a prayer that the quantum of maintenance may be reduced from Rupees eight lakhs to Rupees two lakhs wherefor an application for modification of order dated 22nd February, 2006 has also been filed. We do not find any ground to modify the quantum of maintenance. However, as the contemnor has expressed his inability to pay the amount of maintenance in terms of the order passed by this Court, we do not consider it appropriate to proceed with the contempt case. At the same time, we consider it just and expedient to recall order dated 22nd February, 2006 passed in Civil Appeal No.6352 of 2004. Accordingly, I.A. No.2 of 2008 filed by the contemnor for modification of order dated 22nd February, 2006 is rejected. The order passed by this Court on 22nd February, 2006 is hereby recalled. Civil Appeal No.6352 of 2004 shall now be placed for consideration on merits. It is made clear that in view of recall of order dated 22nd February, 2006, the criminal proceedings in C.R. No.719 of 2003 against Vijay Kumar, which was quashed by this Court, shall stand revived and shall proceed in accordance with law. The contempt petition stands, accordingly, disposed of.

6. Let a copy of this order be sent to the IIIrd Metropolitan Magistrate, Vijayawada, within the State of Andhra Pradesh, for taking further steps in C.R.No.719 of 2003 against Vijay Kumar by fax as well.

7. Let the appeal be placed for consideration after four weeks before an appropriate Bench.