

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

HON'BLE SRI JUSTICE K. LAKSHMAN

AND

HON'BLE JUSTICE B.R. MADHUSUDHAN RAO

F.C.A. No.226 of 2024

DATE: 04.05.2026

Between:

XXXXXXXXXX

...Appellant

AND

XXXXXXXXXX

...Respondent

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

Heard Mrs. Pushpinder Kaur, learned counsel representing Mr.G. Durga Charan, learned counsel for the appellant and Mr.G. Ramakrishna, learned counsel representing Mr. Pradeep Kumar Lahot, learned counsel for the respondent.

2. Feeling aggrieved and dissatisfied with the order dated 03.05.2024 in F.C.O.P.No.908 of 2019 passed by the learned Judge, Family Court, Rangareddy District at L.B.Nagar, appellant/wife preferred the present appeal.

3. Appellant is the wife and the respondent is the husband. She has filed the aforesaid F.C.O.P. under Section 12(1)(c) of the Hindu Marriage Act, 1955 (for short, 'the Act, 1955') read with Section 7 of the Family Courts Act, 1984, seeking to grant decree of nullity by declaring the marriage between the appellant and the respondent as null and void on the grounds of fraud and cheating played by the respondent/husband.

4. It is contended that the marriage of the appellant with the respondent was solemnized on 24.08.2018 as per Hindu rites and customs. It was an arranged marriage. Families of the parties were not acquainted with each other. They both met through online matrimonial portal i.e., telugumatrimony.com. Respondent mentioned his date of birth as 09.02.1981. But, his actual date of birth is 09.02.1974. Her age was 36 years and it was late marriage. Believing the version of the respondent that his date of birth is 09.02.1981, she obtained horoscope and got married. She was under the belief that both are from the same age group, Government Servants and horoscopes also matched. She is from orthodox family and believes in horoscope matching of the couple. Thus, according to the appellant, respondent played fraud and

cheated her. Therefore, the said marriage has to be declared as nullity.

5. It was further contended that after engagement, respondent and his parents started pressuring for immediate marriage. After marriage, she joined the company of the respondent at Vijayawada and the marriage was consummated.

6. The respondent and his mother started harassing her by throwing satires etc. His sister also started harassing her.

7. In the month of November, 2018, the respondent came to Hyderabad and both of them applied for registration of their marriage at the office of the Sub-Registrar, Rajendranagar, Hyderabad, and then, she came to know the actual date of birth of the respondent i.e., 09.02.1974. He was nine (09) years older than her by the date of marriage. Her parents have obtained horoscope with the wrong date of birth furnished by the respondent. Thus, the respondent played fraud on her. Therefore, she sought to declare the said marriage as null and void.

8. Respondent filed counter denying the said allegations.

9. To prove the said claim, appellant examined herself as PW.1 and she has filed Exs.P.1 to Ex.P.8 documents. To disprove the claim of the appellant, respondent examined himself as RW.1 and panchayat elder as RW.2. He has filed Exs.R.1 to R.4 documents. On consideration of the entire evidence, both oral and documentary, learned Family Court dismissed the aforesaid F.C.O.P. filed by the appellant.

10. As discussed *supra*, the appellant had filed the aforesaid application under Section 12(1)(c) of the Act, 1955 to declare her marriage with the respondent as nullity.

11. Section 12 of the Act, 1955 deals with voidable marriages. Section 12(1)(c) of the Act, 1955 is relevant and the same is extracted below:

“12. Voidable marriages.-

(1) Any marriage solemnised, whether before or after the commencement of this Act, shall be voidable and may be annulled by a decree of nullity on any of the following grounds, namely:

(c) that the consent of the petitioner, or where the consent of the guardian in marriage of the petitioner was required under section 5 as it stood immediately before the commencement of the Child Marriage Restraint

(Amendment) Act, 1978 (2 of 1978), the consent of such guardian was obtained by force or by fraud as to the nature of the ceremony or as to any material fact or circumstance concerning the respondent; or *** ”

12. In the light of the aforesaid provision, it is apt to note that it is not the case of the appellant that she was minor at the time of marriage and her consent was taken by playing fraud. Even the respondent was not minor. The only contention of the appellant is that the respondent/husband has played fraud while performing the marriage. According to the appellant, the only fraud committed by the respondent is furnishing wrong date of birth i.e., 09.02.1981, which resulted in an incorrect horoscope.

13. It is not in dispute that on the complaint lodged by the appellant herein, Police, Rajendranagar Police Station, has registered a case in Crime No.894 of 2019 (Ex.P7) and on completion of investigation, Investigating Officer laid charge-sheet against the respondent and the same was taken on file *vide* C.C.No.1713 of 2019 on the file of the learned XIV Additional Metropolitan Magistrate, Rangareddy District, Rajendranagar, and the same is pending. Appellant herein has also filed an application

under Section 12 of Domestic Violence Act *vide* D.V.C.No.41 of 2019 against the respondent and the same is also pending.

14. As discussed *supra*, the marriage of the appellant with the respondent was solemnized on 24.08.2018 and the appellant has filed the aforesaid OP on 27.06.2019. The appellant was aged about 37 years and the respondent was aged about 45 years at the time of filing of the said OP and at present the appellant is aged about 44 years and the respondent is aged about 55 years. The appellant herein is working as a Manager in Punjab National Bank and the respondent is working as Accounts Officer in APSPDCL.

15. As discussed *supra*, both the appellant and the respondent are not interested to lead marital life. On instructions, both learned counsel for the appellant and the respondent made the said submission. Therefore, they have filed affidavits *vide* USR Nos.56984 and 53860 of 2026, dated 01.05.2026 and 27.04.2026 respectively.

16. In paragraph No.11 of the affidavit filed by the appellant/wife, it is specifically stated that she is willing to withdraw DVC No.41 of 2019 and CC No.1713 of 2019 pending on the file of XIV Additional Metropolitan Magistrate, Rangareddy

District at Rajendranagar, subject to receipt of a fair and reasonable full and final settlement amount and return of her gold ornaments.

17. In paragraph No.7 of the affidavit filed by the respondent/husband, it is specifically stated that his qualified consent to allow the present appeal by declaring their marriage as null and void provided the appellant/wife also withdraws the aforesaid CC No.724 of 2021 and DVC No.41 of 2019.

18. As discussed *supra*, according to the appellant, she is ready and willing to withdraw the aforesaid CC and DVC on the condition of receipt of full and final settlement amount and also return of gold ornaments.

19. Mr. G. Ramakrishna, learned counsel appearing for the respondent, on instructions, would submit that the gold ornaments of the appellant are not with the respondent. She never made the said statement or allegation either in CC No.724 of 2021 or in DVC No.41 of 2019. In fact, the appellant is having seven (7) tulas of gold belonging to the respondent and he will forego the said seven (7) tulas of gold.

20. According to the appellant, she is entitled for fair and reasonable full and final settlement amount and also return of gold ornaments.

21. The aforesaid facts would reveal that both the appellant and the respondent are not interested to lead the marital life. Therefore, there is no possibility of reunion. The appellant/wife is seeking full and final settlement amount and also return of gold. Whereas, according to the respondent/husband, the appellant has to withdraw DVC No.41 of 2019 and CC No.1713 of 2019.

22. The said aspects are disputed questions of fact which cannot be decided in the present appeal. Moreover, they have not pleaded and proved the same before the learned Family Court. The same are developments during the pending of the present appeal. However, the aforesaid DVC and CC are pending.

23. Under Section 25 of the Hindu Marriage Act, a party seeking permanent alimony has to make a specific application in that regard. In the present case, the appellant has not filed any such application. If the appellant wants permanent alimony, she has to make an application as required under Section 25 of the Hindu

Marriage Act before the Family Court. It was contended before us that no separate application is required under Section 25 of the Hindu Marriage Act for grant of permanent alimony. We disagree with the said contention inasmuch as a bare reading of Section 25 clearly indicates that a separate application is required to be made for seeking permanent alimony. In this regard, reference may be made to the decision rendered by a Division Bench of Madhya Pradesh High Court in **Kuldeep Rai v. Smt.Rita**¹. Therefore, in the present case, in the absence of specific application, we cannot award permanent alimony to the appellant/wife.

24. In the light of the above, this Family Court Appeal is allowed setting aside the impugned order, dated 03.05.2024 in FCOP No.908 of 2019 on the file of the learned Judge, Family Court, Rangareddy District at L.B.Nagar. F.C.O.P.No.908 of 2019 is allowed and the marriage of the appellant/wife with the respondent/husband solemnized on 24.08.2018 is dissolved by way of granting decree of divorce. However, liberty is granted to the appellant/wife to work out her remedies with regard to return of

¹. 2024 Supreme (MP) 201

gold and also for permanent alimony before appropriate forum, including in the aforesaid DVC.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal shall stand closed.

K. LAKSHMAN, J

B.R. MADHUSUDHAN RAO, J

4th May, 2026.

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