NC: 2025:KHC-K:1394
CRP No.200023 of 2025

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 3RD DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CIVIL REVISION PETITION NO.200023 OF 2025

BETWEEN:

IMRAN
S/O CHANDPASHA & KHAJABI,
AGE: 26 YEARS,
OCC: PRIVATE WORKER,
R/O: H NO.11-BLOCK,
NEAR SIDDIQUI MAJID,
POST: KALLOOR VILLAGE,
TQ: MANVI, DIST: RAICHUR – 584 123.

…PETITIONER

(BY SRI LIYAQAT FAREED USTAD, ADVOCATE)

AND:

Digitally signed by BASALINGAPPA SHIVARAJ DHUTTARGAON
Location: HIGH COURT OF KARNATAKA

NASREEN ANJUM
W/O IMRAN D/O MUNNUWAR,
AGE ABOUT 23 YEARS,
OCC: STUDENT/NIL,
R/O: H NO.2-5-99/1-A,
KOT TALLAR RAICHUR – 584 104.

…RESPONDENT

THIS CIVIL REVISION PETITION IS FILED UNDER SECTION 115 OF THE CIVIL PROCEDURE CODE, 1908, PRAYING TO SET ASIDE THE ORDER DATED 08.01.2025 ON I.A.NO.4/2024 FILED BY THE PETITIONER UNDER ORDER 7 RULE 11 (A) AND (D) R/W 151 OF CPC PLAINT IN O.S.NO.16/2023 VIDE ANNEXURE-E PENDING BEFORE PRINCIPAL JUDGE, FAMILY COURT AT RAICHUR IN RESPECT OF PETITION.

THIS CIVIL REVISION PETITION COMING ON FOR ADMISSION THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

(PER: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE)

This petition is filed challenging the order dated 08.01.2025 rejecting the application under Order VII Rule 11(a) & (d) R/w Section 151 of CPC filed by the defendant in O.S.No.16/2023 on the file of Family Court at Raichur.

2. The present respondent who is the plaintiff in the aforementioned suit sought dissolution of marriage invoking the provisions of the Dissolution of Muslim Marriages Act, 1939 (for short, 'the Act'). Para No.5 of the plaint would reveal that the plaintiff has alleged that the defendant has thrown out the plaintiff from his house and ill-treated the plaintiff. The trial court has rejected the said application on the premise that the cause of action arose to file a petition based on the averment made in the plaint. Hence, defendant/petitioner is before this court.

3. Learned counsel Sri Liyaqat Fareed Ustad would contend that sub-section (iv) of Section 2 of the Act states that cause of action to file the suit seeking dissolution of marriage would arise only in case the husband fails to maintain the wife for three years. Thus, he would contend that the application ought to have been allowed given the fact that the marriage took place in the year 2022 and the petition is filed in the year 2023.

4. There is no doubt that to seek divorce under sub-section(iv) of Section 2 of the Act the wife has to prove that the husband has failed to maintain the wife for three years. However, Section 2 of the Act enumerates several other grounds as well. Section 2(viii)(a) of the Act reads as under:

> "habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment."

5. The averments made in the plaint would indicate that the plaintiff has sought dissolution of marriage alleging cruelty. Under these circumstances, the application to reject the plaint is totally misconceived. The trial court has noticed the allegation of cruelty in the plaint and accordingly rightly dismissed the application. This court does not find any reason to interfere with the said order. Hence, the petition is dismissed.

6. However, it is made clear that this order should not be treated as having given a finding on the question relating to cruelty. So also the order passed by the trial court on the application for rejection of plaint should not be construed as having given the finding on the question relating to cruelty. The suit has to be decided on its merits without being influenced by the impugned order or this order.

7. All other contentions are kept open.

8. Learned counsel for the petitioner submits that petitioner-husband is willing to resume the marital

relationship with the respondent. In that view of the matter, the trial court shall make an endeavor to resolve the dispute through Mediation.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

BL
List No.: 1 Sl No.: 31