

GAHC010234302022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Mat.App./43/2022

XXXXXXXXXX

S/O YANGOISM ARUN SINGHA,
RESIDENT OF SHYAM SUNDER SARANI, SONAI ROAD, PO AND PS
SILCHAR, DIST CACHAR, ASSAM

VERSUS

XXXXXXXXXX

D/O DOBIN CHANDRA SINGHA,
RESIDENT OF VILLAGE BAHADURPUR (MOINARBOND) PO GOSSAIPUR
,PS UDHARBOND, 788030,DIST CACHAR, ASSAM

Advocate for the Petitioner : MR. JUNM LASKAR

Advocate for the Respondent : MR. N DHAR

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

26.05.2023

(A.D. Choudhury, J)

1. The present matrimonial appeal is filed assailing the judgment and decree dated 20.09.2022 passed by the learned Principal Judge,

Family Court, Cachar in F.C. (Civil) No. 300/2020.

2. The respondent preferred an application under Section 13 (B) of Hindu Marriage Act, 1955 for dissolution of marriage by a decree of divorce by mutual consent, which was registered as F.C. (Civil) Case No. 300/2020.
3. Subsequently, the petitioner filed a petition for withdrawal of the said petition filed under Section 13 (B) of the Hindu Marriage Act. Thereafter, the F.C. (Civil) No. 300/2020 was dismissed by the judgment impugned in the present appeal holding that the consent given by the petitioner does not appear to be free consent and the petition also cannot be taken to be joint petition and therefore, there is no scope for granting of dissolution of the marriage on the basis of mutual consent.
4. While the matter was taken up by this court on 20.03.2023, the learned counsel for the appellant made a statement before the court that parties are in the midst of compromise talk and accordingly, prayed for a deferment of the matter by four weeks, which was allowed by this court.
5. When this matter is listed today, the learned counsel for the appellant has produced an affidavit sworn by the respondent before the Notary Public, Silchar declaring amongst other, the following:

“4. That there is absolutely no scope for reconciliation and restitution of conjugal life between me and my husband and as such after filing of the above appeal, the matter has been duly settled in the village bichar between both the parties. As

per the decision of the village bichar, I voluntarily agreed and gave my due consent finally for mutual divorce with my said husband and in furtherance, I have duly received my alimony and final settlement amount from my husband Sri Yangoism Singha on 14.04.2023. I have no further demand or claim of alimony/ compensation from my said husband.

5. That I hereby declare that I have my full consent to mutual divorce with my husband Sri Yangoism Jilangamba Singha for the aforesaid reason and I gave my consent voluntarily without any inducement or threat from any quarter."

6. The learned counsel for the respondent also submits that he has instruction from his client to submit that the affidavit has been sworn by the respondent and the parties have mutually decided to dissolve the marriage.
7. In view of the aforesaid mutual consensus to dissolve the marriage solemnized between the parties, it is ordered that the marriage solemnized between the appellant and respondent on 29.05.2019 be dissolved on mutual consent.
8. Accordingly, the appeal stands closed. Decree be prepared accordingly. Parties to bear their own costs.

JUDGE

CHIEF JUSTICE