

**THE HIGH COURT OF TRIPURA
AGARTALA**

FA 06 of 2012

Smt. Arpita Roy

D/O Shri Kanu Ranjan Roy
Resident of 50, Water Supply Road,
Dhaleswar, P.S. East Agartala,
District- West Tripura.

..... Wife-Appellant

Versus

Shri Pranab Saha

S/O. Shri Monoranjan Saha
Of Subhashnagar, Jirania,
P.S. Jirania, District-West Tripura.

..... Husband-Respondent

**BEFORE
THE HON'BLE MR. JUSTICE U.B. SAHA
THE HON'BLE MR. JUSTICE S. TALAPATRA**

For the appellant : Mr. DC Saha, Advocate.

For the respondent : Mr. N Majumdar, Advocate

Date of hearing and
delivery of judgment : **21.01.2015.**

Whether fit for reporting : **Yes/No**

JUDGMENT AND ORDER(ORAL)

(Talapatra J.)

This is an appeal under Section 19 of the Family Courts Act, 1984 read with Section 39 of the Special Marriage Act, 1954, challenging the legality of the judgment and decree dated 10.04.2012 delivered in TS(Div)127 of 2010 whereby the petition, filed by the petitioner, who is the wife of the respondent, under Section 27(d) of the Special Marriage Act, 1954 was dismissed on observing that the petitioner could not make out any ground for passing a decree

dissolving the marriage between the petitioner and the respondent. Being aggrieved by the judgment and decree dated 10.04.2012 delivered in TS(Div)127 of 2010 the wife of the petitioner filed this appeal.

2. Fresh reconciliation was attempted by this Court, which however failed. Ultimately, the appellant, the petitioner in TS (DIV) 127/2010 and the respondent, the defendant in TS (DIV)127/2010 have filed a joint application under Order 23 Rule 3 of the CPC recording the settlement for divorce on mutual consent which has been registered by this Court as CM Application 30/2015. The said application has been signed, verified and affirmed by separate affidavits by both the appellant and the respondent.

3. In the application, they have stated as under:

“2. That, during the pendency of the appeal various efforts were initiated by the well-wishers and relatives of the joint petitioners to resolve the dispute amicably.

3. That, all efforts failed and there is no scope for reconciliation between the parties.

4. That, the joint petitioners keeping in mind their tender age and future have agreed to dissolve their marriage.

5. That, the wife appellant do not press the allegations made against the husband respondent in the divorce petition and the memo of appeal. The Husband respondent relinquishes his right for restitution of his conjugal right against the wife appellant in view of filing this Joint petition.”

4. Since the parties are present in the Court, the Court has verified their statements made in the said petition being CM Application No. 30/2015 and finds that the statements are not made under any sort of duress or coercion but those were made voluntarily.

5. In view of that, this Court converts the petition for dissolution of marriage filed by the appellant herein into a petition for decree of divorce by mutual consent under Section 28 of the Special Marriage

Act, 1954 and waives the requirements of the provisions of sub-section (2) of Section 28 of the Special Marriage Act, 1954 on considering that the petition for dissolution of marriage was filed by the appellant on 13.04.2010 and the appellant and respondent are living separately since December, 2008.

6. Since the appellant and the respondent have failed to reconcile their differences and they have reached at the settlement to have their marriage dissolved by a decree of divorce on mutual consent, this Court is of the view that the marriage subsisting between the appellant and the respondent shall be dissolved by a decree of divorce on mutual consent. It is ordered.

7. Prepare a decree accordingly. CM application No. 30/2015 in FA 06/2012 shall form the part of the decree. The appeal is disposed of accordingly.

JUDGE

JUDGE

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