

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

FAO-3640-2015(O&M)

Date of decision : 05.12.2015

Smt.Nishu

... Appellant

Versus

Ashok

... Respondent

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr.Rahul Vats, Advocate
for the appellant.

RAJIVE BHALLA, J.(ORAL)

The appellant challenges judgment and decree dated 03.04.2015 passed by the District Judge, Family Court, Sonipat dismissing her petition for dissolution of marriage.

After considering the possibility of a settlement, parties were directed to appear before the Mediation and Conciliation Centre on 07.09.2015. A perusal of the report received from the Mediation and Conciliation Centre reveals that parties have settled their dispute in the following terms:-

“1. Nishu and Ashok got married on 21.04.2007 according to Hindu Rites and Rituals, as the marriage has not been consummated no child was born out of the said wedlock. Both the parties have not lived as husband and wife for even a single day. Admittedly Nishu was 16

years of age at the time of marriage and Gauna was postponed for a period of 5 years approximately. Disputes and differences arose between the parties which led to filing of complaint by the first party under Section 125 Cr.P.C. at Sonapat. Second party-husband has filed a petition under Section 9 of the Hindu Marriage Act at Sonapat. First party has filed a divorce petition under section 13 of the Hindu Marriage Act against her husband Ashok for seeking a decree for the dissolution of her marriage with Ashok.

2. The matter was referred to the Mediation Centre vide order dated 24.08.2015 passed by the Hon'ble Punjab and Haryana High Court.

3. The parties agreed that Mr.Gunjan Mehta, Advocate would act as their Conciliator/ Mediator in the matter of Mediation and Conciliation proceedings.

4. Several meetings were held during the process of Conciliation /Mediation from 07.09.2015 to 14.10.2015. The parties have with the assistance of the Mediator / Conciliator voluntarily arrived at an amicable solution resolving the above mentioned disputes and differences.

5. The parties hereto confirm and declare that they have voluntarily and of their own free will arrived at this Settlement/ Agreement in the presence of the Mediator/ Conciliator.

6. Apart from the present FAO No.3640 of 2015, following cases are pending between the parties:-

i) Petition under Section 125 Cr.P.C. at Sonapat filed by the first party against second party.

ii) Second party-husband has filed a petition under Section 9 of the Hindu Marriage Act at Sonapat.

7. *The following settlement has been arrived at between the parties hereto:-*

- a) The first party undertakes to withdraw her petition for seeking maintenance and also ready to forego the arrears, which have not been paid till date. First party agrees to withdraw her petition on the date fixed which is 16.10.2015.*
- b) Second party undertakes to withdraw his petition under Section 9 of the Hindu Marriage Act on 16.10.2015 itself.*
- c) Both the parties have further agreed that the petition under Section 13-B of the Hindu Marriage Act for grant of divorce by mutual consent shall be filed by both the parties on or before 01.11.2015 in District Court, Sonapat.*
- d) That the first party undertakes that she shall not claim any amount towards the permanent alimony from the second party covering her entire past, present and future maintenance allowances, if any.*
- e) That the first party shall not claim any maintenance, permanent alimony, any right in the property from the first party in future.*
- f) The all the dowry articles including jewellery have been mutually settled between both the parties.*
- g) It has further been mutually agreed between the parties that both the parties shall withdraw the case(s), if filed against each other in any court of law or authority, whether mentioned here-in-above or not.*

- h) It has further been mutually agreed between the parties that all differences are sorted out and they remains no sourness in the heart of each other. There remains no grouse with each other and if still there remains some differences with either of the party the other party seeks unconditional apology for the same.*
- 8. By signing this agreement the parties hereto state that they have no further claims or demands against each other with respect to the suit/claim/proceedings filed by either of the parties and all the disputes and differences in this regard have been amicably settled by the parties hereto through the process of Conciliation / Mediation and shall not institute any other case against each other with reference to the present claim against each other.*
- 9. That the parties undertake before the Hon'ble Court to abide by the terms and conditions set out in the agreement and not to dispute the same hereinafter in future and no party shall file any further litigation against each other arising out of the present matrimonial dispute. It has been mutually agreed by both the parties that if any complaint/case is pending before any competent court of law/authority, which is not in the knowledge of either of the parties shall also stand withdrawn.*
- 10. That the parties to this agreement hereby state that they have read the agreement, that they have understood the contents thereof and their execution of agreement is voluntary. Each party has relied upon or has had the opportunity to seek legal advice of their counsel.*

11. With the execution of this agreement, each signatory acknowledges receipt of fully executed duplicate/original of this agreement.

12. That it has been further agreed between the parties that in case of necessity, both the parties shall be free to present the copy of the above compromise before any authority of Court if the same is required to witness the execution of the compromise or to settle any pending controversy between the parties.

13. The contents of this agreement have been read over and explained to them in their own language and they have understood the same and in token of its acceptance, both the parties have put their signatures in presence of their counsels.”

As parties have settled the matter and agreed to file a petition under Section 13B of the Hindu Marriage Act, 1955, the appeal has been rendered infructuous and is disposed of accordingly with liberty to seek revival in case the settlement does not reach fruitful.

(RAJIVE BHALLA)
JUDGE

(REKHA MITTAL)
JUDGE

December 05, 2015.
Davinder Kumar