

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-M-330-2015

Date of Order: 24.09.2015

Vishal Bajaj

..Appellant

Versus

Karishma Kathpal

..Respondent

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

**Present: Mr. Rajinder Kumar Bajaj, Advocate,
for the appellant.**

**Mr. Munish Gupta, Advocate,
for the respondent.**

RAJIVE BHALLA, J (Oral)

The appellant-husband is before us, challenging order dated 10.07.2015, dismissing his petition for grant of a divorce by mutual consent.

Counsel for the parties, accompanied by the parties, namely, Vishal Bajaj and Karishma Kathpal, submit that parties had resolved their differences and filed a petition, under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the 1955 Act'). However, at the stage of second motion, the respondent refused to make a statement, but has now agreed to make a statement. Counsel for the parties and the parties, who are present in person, pray that statements of parties may be recorded, in second motion. Counsel for the parties also point out that as

statement by Vishal Bajaj in second motion has already been recorded before the trial Court, his statement may be read as his statement in second motion and the statement of respondent-Karishma Kathpal may alone be recorded.

We have heard counsel for the parties and interacted with the parties.

The parties were married 29.04.2013, at Jalandhar. After their marriage, they lived together at Jalandhar, but on account of matrimonial differences, the appellant's father lodged FIR No.85, dated 19.05.2013, under Section 380 of the Indian Penal Code, Division No.4, Jalandhar, against the respondent. The respondent lodged FIR No.86, dated 19.05.2013, under Section 498-A of the Indian Penal Code, Police Station, Division No.4, Jalandhar against the appellant and his father. The appellant then lodged FIR No.27, dated 05.03.2014, under Sections 307, 323, 34 IPC against Har Kishori Lal, Chinaki Kathpal, Reetu Kathpal, Grover Pardya Wala, as well as some unknown persons, at Police Station Division No.4, Jalandhar.

After some time, however, parties resolved their differences and executed a compromise deed, dated 08.12.2014. As per the compromise, both parties, exchanged their articles, agreed that they would not claim any other articles, any maintenance past, present or future, and agreed to part ways. In furtherance to the compromise, parties filed petitions in the High Court for quashing of their respective FIRs. The parties also filed a petition under Section 13-B of the 1955 Act, for grant of a decree of divorce by mutual

consent. The statements of parties, in first motion, were recorded on 09.12.2014, by the trial court and read as follows:-

Statement of Vishal Bajaj son of Sh. Rajinder Kumar Bajaj aged about 28 years, R/o 239/6, Central Town, Jalandhar:-

ON SA

I was married with petitioner no.2 Karishma Kathpal @ Kimi on 29.4.2013 according to Hindu religious Rites at Jalandhar. After marriage we lived together as husband and wife at Jalandhar. No child was born from our wedlock. We could not adjust with each other due to different temperaments and taste of life and thus started residing separate from each other since 16th May 2013 and are living separated since then. We failed to re-reconcile and thus we have decided to dissolve our marriage by obtaining decree of divorce by mutual consent. There is no scope to live together as husband and wife. Now we have settled our dispute and have filed this petition for divorce by way of mutual consent. Accordingly, the full and final settlement has been made as per agreement annexure P-1. Both the parties have exchanged their articles each other. The petitioner no.2 shall not claim any past, present and future livelihood and maintenance in future as full and final settlement has already been made as per compromise between me and petitioner no.2. Nothing is due against me towards petitioner no.2. I have made this statement with my free will and without any pressure. Our marriage may kindly be dissolved."

Statement of Karishma Kathpal @ Kimi aged about 24 years daughter of Sh. Harkishore Kathpal, R/o NL 251, Neela Mahal, Chandan Nagar, Jalandhar.

ON SA

I was married with petitioner no.1 Vishal Bajaj on 29.4.2013 according to Hindu religious Rites at Jalandhar. After marriage

we lived together as husband and wife at Jalandhar. No child was born from our wedlock. We could not adjust with each other due to different temperaments and taste of life and thus started residing separate from each other since 16th May 2013 and are living separated since then. We failed to reconcile and thus we have decided to dissolve our marriage by obtaining decree of divorce by mutual consent. There is no scope to live together as husband and wife. Now we have settled our dispute and have filed this petition for divorce by way of mutual consent. Accordingly, the full and final settlement has been made. Both the parties have exchanged their articles each other. I shall not claim any past, present and future livelihood and maintenance in future as full and final settlement has already been made as per compromise annexed as Ex.P-1. Nothing is due against the petitioner no.1. I have made this statement with my free will and without any pressure. Our marriage may kindly be dissolved.”

The matter was, thereafter, adjourned to 10.07.2015 for recording of statements in second motion. At the stage of second motion, certain differences cropped up between the parties leading to the respondent refusing to make a statement in second motion. The trial court, therefore, dismissed the petition.

The parties have, however, once again resolved their differences and pray that their statements, in second motion, may be recorded. The statements of parties in second motion have been recorded in Court today and read as follows:-

**STATEMENT OF VISHAL BAJAJ SON OF SHRI
RAJINDER KUMAR BAJAJ, RESIDENT OF
HOUSE NO.239/6, CENTRAL TOWN,
JALANDHAR.**

I was married to Karishma Kathpal alias Kimi, on

29.04.2013, according to Hindu religious Rites at Jalandhar. On account of temperamental differences we could not adjust and, therefore, filed a petition under Section 13-B of the Hindu Marriage Act, 1955, for grant of a decree of divorce by mutual consent. My statement in first motion was recorded by the Additional District Judge, Jalandhar, on 09.12.2014. The proceedings, however, could not be concluded and the petition under Section 13-B of the Hindu Marriage Act was dismissed as Krishma Kathpal did not make a statement in second motion on account of pendency of certain criminal cases against her and her family members. Krishma Kathpal and her family members have filed a quashing petition in which I and my family members, including the complainant have recorded their statements before the Chief Judicial Magistrate, Jalandhar, to the effect that we have no objection to the quashing of the FIR. The petition for quashing of the FIR is pending in the High Court, for 01.10.2015. We have reconsidered the matter but as there is no possibility of living together as husband and wife, our marriage may be dissolved by mutual consent.

**STATEMENT OF KARISHMA KATHPAL ALIAS
KIMI WIFE OF VISHAL BAJAJ DAUGHTER OF**

**SHRI HARKISHOR, RESIDENT OF NL 251,
NEELA MAHAL, CHANDAN NAGAR,
JALANDHAR.**

I was married to Vishal Bajaj, on 29.04.2013, according to Hindu religious Rites at Jalandhar. After marriage, on account of temperamental differences we have decided the marriage to an end and, therefore, filed a petition under Section 13-B of the Hindu Marriage Act, 1955, for grant of a decree of divorce by mutual consent. The petition, however, was dismissed as Vishal Bajaj and his family members refused to withdraw/get quashed FIR registered by them against me and my family members. It is correct that Vishal Bajaj and his family members, including the complainant have made a statement before the Chief Judicial Magistrate, Jalandhar, agreeing to the quashing of the FIR and the petition for quashing, which is pending in the High Court, for 01.10.2015. I have reconsidered the question of matrimony and as we are both of the firm opinion that it would not be possible for us to live together as husband and wife and pray that our marriage may be dissolved by grant of a decree of divorce by mutual consent.

We have perused the pleadings, statements recorded in

first, before the trial court and second motion, before this Court, interacted with the parties, and despite our advise to reconsider the matter, both parties are adamant that it is not possible for them to live together or to maintain this matrimonial relationship.

A due consideration of the facts, leads us to a singular conclusion that parties have after an assessment of their respective situations, arrived at a bonafide decision that they cannot live together as husband and wife. Consequently, we allow the appeal, set aside the impugned order, accept the petition, filed under Section 13-B of the 1955 Act and dissolve the marriage between the parties by, mutual consent.

Parties shall be bound by the terms and conditions of the settlement, their statements in first and second motion, statements recorded before the Chief Judicial Magistrate, Jalandhar and shall be bound to appear in the quashing petition.

Decree sheet be drawn up accordingly.

(RAJIVE BHALLA)
JUDGE

September 24, 2015
nt

(REKHA MITTAL)
JUDGE