

Kanan Kapil versus Dr. Rahul Bhalla

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

FAO-M No. 38 of 2015 (O&M)

Date of decision: 07.09.2015.

Kanan Kapil

.....Appellant.

Versus

Dr. Rahul Bhalla

.....Respondent.

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MS. JUSTICE NAVITA SINGH**

Present: Mr. Kanwal Goyal, Advocate, for the appellant
with appellant-Kanan Kapil in person.

Mr. Amit Prashar, Advocate, for the respondent
with respondent-Dr. Rahul Bhalla in person.

RAJIVE BHALLA, J. (ORAL)

The appeal in hand has been filed by the appellant-wife challenging judgment and decree dated 01.11.2014, recorded by the Additional District Judge, Panchkula, dissolving her marriage with the respondent-husband on the grounds of cruelty and desertion.

2. During pendency of the appeal and with able assistance of counsel, parties have agreed to resolve their differences in terms recorded in their respective affidavits dated 18.08.2015. A relevant extract from the affidavit filed by appellant-Kanan Kapil is reproduced as under:

“2. That I have agreed to receive Rs.20 lacs (Twenty lacs only) in installments from the respondent towards final settlement which is inclusive of deponent's permanent alimony for all times to come and also including all

Kanan Kapil versus Dr. Rahul Bhalla

kinds of my future claims.

3. *That the mode of payment agreed by me is as follows:*
 - (1) *Rs.5 lacs shall be paid by way demand draft on or before 03.09.2015.*
 - (2) *That another Rs.5 lacs shall be paid again by way of demand draft on or before 12.10.2015.*
 - (3) *That the third installment of Rs.5 lacs shall be paid by way of demand draft on or before 30.11.2015 and*
 - (4) *The final installment of the above mentioned agreed amount of Rs.20 lacs as per the settlement i.e. 5 lacs shall be paid by way of demand draft on or before 10.01.2016.*
4. *That after the payment of Rs.20 lacs as per the details given above the entire settled amount shall stand paid and received by me as per the settlement stated above.*
5. *That I have agreed to withdraw the appeal and for the confirmation of decree of divorce dated 01.11.2014 subject to the condition that the respondent Dr. Rahul Bhalla fulfils his commitment to pay Rs.20 lacs. In case Dr. Rahul Bhalla defaults the above mentioned appeal shall be revived and the amount already paid shall stand forfeited.*
6. *That the above settlement has been made by the parties*

Kanan Kapil versus Dr. Rahul Bhalla

on their own sweet will and without any pressure or influence of any kind whatsoever.

7. *That I undertake to abide by the above mentioned settlement.”*

3. A relevant extract from the affidavit filed by respondent-Dr. Rahul Bhalla reads as follows:

“2. *That I have agreed to pay Rs.20 lacs (Twenty lacs only) in installments to the appellant towards final settlement which is inclusive of her permanent alimony for all times to come and also including all kinds of future claims.*

3. *That the mode of payment is as follows:*

(1) *Rs.5 lacs shall be paid by way demand draft on or before 03.09.2015.*

(2) *That another Rs.5 lacs shall be paid again by way of demand draft on or before 12.10.2015.*

(3) *That the third installment of Rs.5 lacs shall be paid by way of demand draft on or before 30.11.2015 and*

(4) *The final installment of the above mentioned agreed amount of Rs.20 lacs as per the settlement i.e. 5 lacs shall be paid by way of demand draft on or before 10.01.2016.*

4. *That after the payment of Rs.20 lacs as per the details*

Kanan Kapil versus Dr. Rahul Bhalla

given above the entire settled amount shall stand paid to the appellant Smt. Kanan Kapil.

5. *That Smt. Kanan Kapil has agreed to withdraw the appeal and for the confirmation of decree of divorce dated 01.11.2014.*
6. *That the deponent undertakes to abide by the above mentioned settlement and payment schedule and in case of any default the appeal shall be revived and the amount already paid shall stand forfeited.*
7. *That the above settlement has been made by the parties on their own sweet will and without any pressure or influence of any kind whatsoever.”*

4. Counsel for the parties accompanied by their respective parties pray that in view of the contents of the affidavits and the receipt of the first instalment of Rs.5,00,000/- (Five lacs only) by the appellant, the appeal may be dismissed as withdrawn.

5. Counsel for the parties, on instruction from the parties, pray that as parties have also agreed that the finding regarding cruelty shall not be read against the appellant for any purpose whatsoever or in any other proceedings, but the finding regarding desertion shall subsist and shall be read against the appellant, the impugned judgment and decree may be modified accordingly.

6. We have heard counsel for the parties as well as the parties and taking into consideration their respective affidavits and the subsequent

Kanan Kapil versus Dr. Rahul Bhalla

statement, dismiss the appeal as withdrawn thereby affirming judgment and decree dated 01.11.2014, recorded by Additional District Judge, Panchkula. The finding regarding cruelty shall not be read against the appellant in any manner whatsoever or in any other proceedings. However, the finding regarding desertion is affirmed. Parties shall be bound by the contents of their affidavits. Liberty is granted to seek revival if either party violates the terms and conditions of their affidavit/settlement. Decree sheet be modified and drawn up accordingly.

(RAJIVE BHALLA)
JUDGE

(NAVITA SINGH)
JUDGE

07.09.2015
Ramesh