

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

Sr. No.211

FAO-M-8-2014
Decided on :23rd February, 2016

Sandeep Kaur

.... Appellant

VERSUS

Paramjit Singh @ Rinku

..... Respondent

CORAM: **HON'BLE MR. JUSTICE RAJIVE BHALLA**
HON'BLE MS. JUSTICE LISA GILL

Present: **Mr. Rajesh Bansal, Advocate**
for the appellant.

Mr. R.S. Duggal, Advocate,
for respondent.

RAJIVE BHALLA, J. (Oral)

The parties were married on 20.09.2009, at Village Gadhera, Tehsil Bassi Pathana, Distt. Fatehgarh Sahib as per Sikh rites and ceremonies and a female child namely Satnam Kaur was born to them.

Sandeep Kaur filed a petition under Section 13 of the Hindu Marriage Act, 1955 for dissolution of the marriage. The petition was dismissed by the Additional District Judge, Fatehgarh Sahib on 10.10.2013. The appellant-Sandeep Kaur has filed the present appeal.

The parties were referred to mediation, where they have arrived at a settlement/agreement dated 18.05.2015, agreeing to part ways on the following terms and conditions, which read as follows:-

“8. The following settlement has been arrived at between the parties hereto:-

i) A petition for seeking the decree of divorce under Section 13 of the Hindu Marriage Act, 1955 was filed by the first party before the Hon’ble Additional District Judge, Fatehgarh Sahib, which was dismissed by the Hon’ble Additional District Judge, Fatehgarh Sahib vide order dated

10.10.2013. Against the said decree, the appellant- wife (first party) approached the Hon'ble High Court by way of the present FAO.

(ii) Now both the parties have mutually agreed to part ways with each other by seeking divorce by mutual consent. It has been decided by the appellant-wife (first party) that she will not pursue the said FAO in the Hon'ble High Court but the first party has agreed to file an application before the Hon'ble High Court with the prayer to convert the said FAO for a decree of divorce with mutual consent.

(iii) The custody of the minor daughter 'Satnam Kaur' will remain absolutely with the first party i.e. the mother-Sandeep Kaur and the first party shall be the sole lawful guardian of the minor daughter 'Satnam Kaur' for all intents and purposes. The first party i.e. the mother-Sandeep Kaur will be responsible for the upbringing, welfare, security and maintenance of the minor daughter-Satnam Kaur throughout the life of the minor daughter. The first party shall be entitled to apply for her ration card, passport and to submit affidavit or any other document necessary for the benefit of the child in respect of his studies and for the welfare of the child. In the event of the second marriage of the first party, the minor daughter will remain as an integral part of the first party. The second party will not claim any visitation right to meet the minor daughter namely Satnam Kaur in future. In case the minor daughter namely Satnam Kaur shows her wishes to meet her father any time in the future, her wishes will be duly fulfilled by the first party.

(iv) Both the parties have mutually agreed to withdraw all the cases mentioned in para No.7 above on the date of hearing of the respective case.

(v) Any other complaint/case filed by either of the parties before any court of law or any authority shall be deemed to be withdrawn in view of this Settlement/Agreement by the respective party.

9. That the present Settlement/Agreement will be full and final and the settlement has taken place without any monetary consideration. The first party will not claim for any alimony/maintenance (past, present or future) and Stridhan for herself and for the maintenance of her minor daughter namely Satnam Kaur in any Court of Law. Similarly the second party will also not claim any articles presently in the custody of the first party.

10. By signing this settlement/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 both the parties in the different Courts of Law 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."

A perusal of the aforesaid terms and conditions reveals that parties shall file a petition seeking a decree of divorce, by mutual consent. The minor daughter of the parties would remain in the custody of Sandeep Kaur, who shall be the sole lawful guardian of the minor. The parties shall withdraw all interse cases and Sandeep Kaur shall not claim istridhan and any alimony/maintenance (past, present and future) for

herself or for the minor daughter of the parties.

The parties thereafter filed CM No. 15489-CII of 2015 for altering the petition filed under Section 13 of the Hindu Marriage Act, 1955 to a petition under Section 13-B of the Act, which was allowed on 20.08.2015. The parties also filed CM No. 15490-CII of 2015 for grant of a decree of divorce by mutual consent, which was taken on record.

The parties hereafter recorded separate statements in first motion on 20.08.2015 which read as follows:-

“Statement of Sandeep Kaur, w/o Paramjit Singh @ Rinku, d/o Sh. Balbir Singh, now r/o Village Gadhera, Tehsil Bassi Patana, District Fatehgarh Sahib. On S.A.

My affidavit dated 31.07.2015 may be read as my statement in first motion”.

Statement of Paramjit Singh @ Rinku, s/o Joginder Singh r/o Village Nararu, Tehsil Rajpura, District Patiala. On. S.A.

My affidavit dated 31.07.2015 may be read as my statement in first motion”.

The petition was adjourned for six months. The parties are present in person alongwith their respective counsel and pray that as parties are of the firm opinion that it is not possible for them to live together as husband and wife, their statements in second motion may be recorded and their marriage may be dissolved by grant of decree of divorce by mutual consent.

The separate statements of parties in second motion have been recorded, which read as follows:-

“Statement of Sandeep Kaur, w/o Paramjit Singh @ Rinku d/o Balbir Singh, now r/o Village Gadhera, Tehsil Bassi Pathana, Distt. Fatehgarh Sahib. on SA.

My affidavit dated 23.02.2016 may be read as my statement in second motion.

Statement of Paramjit Singh @ Rinku s/o Sh.Joginder Singh, r/o Village Nararu, Tehsil Rajpura, Distt. Patiala. on SA.

My affidavit dated 23.02.2016, may be read as my statement in second motion.”

We have heard counsel for the parties, perused averments in the petition under Section 13-B of the Act, appraised statements recorded by parties in first and second motion, their separate affidavits and the settlement. After due consideration of the matter, we are of the opinion that it is not possible for parties to reside together as husband and wife on account of irreconcilable differences.

Consequently, in the absence of any legal impediment, much less any coercion, fraud or misrepresentation, we allow the petition and dissolve the marriage between the parties by grant of decree of divorce by mutual consent.

The parties shall be bound by the terms and conditions of the settlement.

Decree sheet be drawn up accordingly.

(RAJIVE BHALLA)
JUDGE

23rd February, 2016
jyoti III

(LISA GILL)
JUDGE