

The appellant-husband had filed a petition for divorce under Section 13(1)(ia) of the Hindu Marriage Act. By a judgment and order delivered on 29th December, 2009 the Family Court dismissed the said petition. This appeal arises out of the said judgment and order. The appellant and respondent are present in the Court. A settlement agreement/consent terms dated 8th August, 2017 are signed by the parties and the respective counsels. Both the learned counsel submits that the consent terms drawn are explained to the parties. The consent terms are taken on record and marked "X" for identification. It is submitted that the appellant passed 10th standard and runs a beauty

parlour. The respondent has passed 7th standard and due to health issues he left the job and at present he is not working anywhere. The appellant and respondent have a son who is 23 years old.

2. The Learned counsel for the parties, on instructions, submit that leave be granted to convert the petition filed before the Judicial Magistrate, First Class, as a petition under Section 13-B of the Hindu Marriage Act and in the facts of the case the parties be allowed to obtain divorce by mutual consent based on the settlement agreement/consent terms presented to this Court (Exhibit-X).

3. We inquired with the parties in respect of execution of the consent terms. Both the parties agreed that they want to settle the matter finally and have agreed on certain terms which are incorporated in the settlement terms presented before this Court. Learned counsel appearing for the appellant has presented a certified copy of the order passed by the Judicial Magistrate, First Class below Exhibit-1 in R.C.C. No.1052 of 2008 which reads thus :

“1) Present complaint is disposed of as withdrawn.

2) Both the accused are discharged.

3) Bail bonds of accused are cancelled.”

4. Having perused the consent terms and having considered the submissions we find that this is a fit case where we should allow the parties to convert a petition filed for divorce in the trial Court as the petition for divorce by mutual consent under Section 13-B of the Hindu Marriage Act. We find that none of the parties has been forced to pray for divorce by mutual consent. It appears that the parties have made bonafide and genuine efforts to get the issue resolved amicably. In the facts of the case we are inclined to grant leave as prayed for.

5. The petition filed before the trial Court under Section 13(1)(ia) is converted into petition for divorce by mutual consent under Section 13-B of the Hindu Marriage Act. The parties are allowed to obtain divorce by mutual consent under the provisions of Section 13-B of the Hindu Marriage Act.

6. Learned counsel for the petitioner relied upon judgments in case of Pundalik Narayan Xet Pednekar vs. Augusto Fernandes 2013(1) Mh.L.J. 259 and Mrs. Reenarajani Gopakumar Menon vs. Mr.Gopkumar Prabhakaran Menon in Family Court Appeal No.154 of 2015 dated 19th August, 2016 for reference.

7. The period of six months as stipulated under Section 13-B of the Hindu Marriage Act is waived. The marriage is dissolved by mutual consent in terms of the settlement presented before this Court. A decree be drawn up accordingly in terms of the consent terms annexed at Exhibit "X".

(A. K. MENON, J)

(NARESH H. PATIL, J.)

H.C. Shiv, P.S.