

(FCA 220 of 2015)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL No. 220 OF 2015

WITH

CIVIL APPLICATION No. 367 OF 2015

WITH

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION No. 338 OF 2016

WITH

CRIMINAL APPLICATION No. 309 OF 2016

|                          |                         |
|--------------------------|-------------------------|
| Sachin Rajnikant Chavan  | ....Applicant/Appellant |
| Vs.                      |                         |
| Sou. Perna Sachin Chavan | ....Respondent          |

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Mr. Alange Rajshekhar Sangappa for Petitioner  
Mr. Y.E. Thorat a/w. Mr. Ashok B. Tejane for Respondent

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**CORAM : R.M. BORDE &  
A.S. GADKARI, JJ.**

**DATE : JANUARY 31, 2017**

P.C. :

1. The parties already have presented the consent terms duly signed by them and those are already taken on record and marked 'X' for identification.

2. By virtue of the order passed by the Division Bench of this Court on 13<sup>th</sup> October 2016, this Court has also accepted the undertakings incorporated in the consent terms. This Court has recorded its satisfaction in respect of the arrangement suggested in the consent terms, being for the benefit and welfare of the minor child. The matter was adjourned on 12<sup>th</sup> January, 2017 for ensuring compliance of the undertakings recorded in clause 6 of the consent terms. It has been pointed out that the Appellant has handed over three demand drafts for total amount of Rs.10 lakhs drawn in favour of Ms. Perna Sachin Chavan, wife of the Appellant. This fact has been recorded in the order passed by us on 12<sup>th</sup> January, 2017. The matter was adjourned for ensuring the compliance of the undertaking in respect of payment of balance amount of Rs.5 lakhs. The Appellant has presented three demand drafts for an amount of Rs.5 lakhs drawn in the name of Phalgooni Chavan, minor under the guardianship of mother Mrs. Perna Sachin Chavan. The demand drafts are tendered to the counsel for the Respondent -wife. Since the undertaking recorded in the consent terms has been observed, the Family Court Appeal, deserves, to be disposed of in view of the consent terms.

3. Both the parties have decided and agreed to take divorce by mutual consent. It is observed by us that the parties are educated and they do understand the consequences of their voluntary action. The parties are present before the Court and admit the terms recorded in the affidavit in the form of consent terms, marked as 'X'. It also needs to be noted that the Appellant and the Respondent were personally present before the Court on 13<sup>th</sup> December, 2016 and they have accepted correctness of contents recorded in the consent terms

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placed on record. The Division Bench further observed in its order dated 13<sup>th</sup> December, 2016 that the undertaking incorporated in the consent terms are accepted by the parties. It is also pointed out by the counsel representing both the parties that both the husband and wife are residing separately since 14<sup>th</sup> May, 2009. They have decided to amicably settle their differences since there are no chances of their re-union. The decision taken by them after the due deliberations is in the interest of both the parties and in the circumstances, it is futile to insist upon the compliance of procedural requirement of waiting for six months before passing the decree of divorce. We are satisfied that the instant case is an exceptional one, wherein the parties shall be permitted to put an end to their matrimonial ties and to pass a decree for dissolution of marriage in view of the consent terms presented on record.

4. For the reasons aforesaid, we are of the view that it would not be necessary for this Court to insist upon parties to wait for further period of six months after presentation of the consent terms before this Court. The petition already presented to the Family Court, in view of consent terms placed on record can be considered to meet the requirement of section 13 B of the Hindu Marriage Act.

5. In the result, the appeal stands allowed in view of the consent terms placed on record and marked 'X' for identification and the marriage between the Appellant and the Respondent is dissolved by mutual consent under section 13 B of the Hindu Marriage Act. Decree be passed in terms of the consent terms. Family Court appeal is disposed of. There shall be no orders as to costs. In view of the

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settlement arrived at between the parties, the pending revision application No. 338 of 2016 and Criminal Application No. 309 of 2016 also stands disposed of.

**[ A.S. GADKARI, J.]**

**[ R.M. BORDE, J.]**