

CM-24658-CII-2017 in/and
FAO-M-81-2008

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

CM-24658-CII-2017 in/and
FAO-M-81-2008

Date of Decision: 20th December, 2017

Bagga Singh

...Appellant/petitioner No.1

Versus

Harjit Kaur @ Rani

...Respondent/petitioner No.2.

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep Punchhi, Advocate
for appellant/petitioner No.1.

Mr. Satbir Singh Gill, Advocate
for respondent/petitioner No.2.

AUGUSTINE GEORGE MASIH, J.

The joint petition under Section 13-B of the Hindu Marriage Act, 1955, has been filed by the petitioners seeking dissolution of the marriage between them by a decree of divorce by mutual consent. Learned counsel appearing for the parties submitted that the matter has been amicably settled and the statements of the parties at first motion stage have already been recorded.

We have given our thoughtful consideration to the matter.

The marriage between the petitioners was solemnized as per Hindu/Sikh rites and ceremonies on 17.07.2003 at village Baragudha, District Sirsa. Due to the matrimonial disputes between the parties, Bagga Singh-petitioner No.1, on 25.07.2005, filed a petition under Section 13 of

CM-24658-CII-2017 in/and
FAO-M-81-2008

the Hindu Marriage Act for dissolution of marriage by decree of divorce. During the pendency of the petition for dissolution of marriage, a female child was born out of the wedlock. The petition of Bagga Singh-petitioner No.1 was dismissed on 07.02.2008. Aggrieved by the same, Bagga Singh-petitioner No.1 filed an appeal i.e. FAO-M-81-2008 in this Court.

Notice of motion in the appeal was issued by this Court on 03.04.2008. Thereafter, the appeal was admitted on 22.10.2008.

During the pendency of the appeal, the matter was resolved between the parties and they had entered into a settlement on 24.10.2017. According to the settlement, they agreed to seek divorce by filing a joint petition for dissolution of their marriage by mutual consent on payment of ₹ 11,50,000/- towards permanent alimony to petitioner No.2-Harjit Kaur @ Rani by petitioner No.1-Bagga Singh. It was further agreed that petitioner No.2-Harjit Kaur @ Rani shall not claim any right in the moveable or immovable property of petitioner No.1-Bagga Singh in future. It was also agreed that the minor daughter, namely, Khushpreet Kaur, born out of the wedlock, who is residing with petitioner No.2-Harjit Kaur @ Rani, shall reside with petitioner No.1-Bagga Singh and he will bear all expenses of her maintenance. It was also agreed that petitioner No.2-Harjit Kaur @ Rani can meet her daughter as and when she desires. Accordingly, a joint petition was filed seeking divorce by mutual consent.

Statements of both the parties were recorded at the first motion on 06.12.2017. The parties have been living separately from the last 13 years. Both the parties stated that they have agreed to dissolve their

CM-24658-CII-2017 in/and
FAO-M-81-2008

marriage by mutual consent. It was agreed between the parties that the banker's cheque of agreed amount of ₹ 11,50,000/- will be encashed after the decision of the present case. Thereafter, the case was adjourned for 20.12.2017.

On 20.12.2017, both the parties appeared in person with their counsel and prayed that the statutory period of six months as mandated under the provisions of Section 13 (2) (b) of the Hindu Marriage Act may be waived off so that they could re-settle the life after being freed from each other. There separate statements have been recorded at second motion, wherein, both the parties have reiterated that the marriage between the petitioners be dissolved by a decree of divorce by mutual consent as it is not feasible for them to reside together as husband and wife due to temperamental differences. The bank draft of ₹ 11,50,000/- has been handed over to petitioner No.2-Harjit Kaur @ Rani in Court today and petitioner No.1-Bagga Singh has been returned the cheque of equal amount handed over to petitioner No.1-Harjit Kaur @ Rani at the time of recording of their statements on first motion.

This Court is satisfied that the averments in the petition are true that the petitioners are residing separately for more than one year and that they are not able to live together as husband and wife due to temperamental differences and that they have mutually agreed about dissolution of their marriage for which they have entered into a settlement/compromise. There appears to be no coercion etc. and their statements have been given voluntarily.

CM-24658-CII-2017 in/and
FAO-M-81-2008

Their prayer for waiving off the statutory period of six months for grant of decree of divorce by mutual consent is accepted in the light of the judgment of Hon'ble Supreme Court in **Amardeep Singh Vs. Harveen Kaur, 2017 (4) R.C.R. (Civil) 608.**

In view of the above facts and circumstances and keeping in view the statements of the parties, the joint petition for grant of divorce by mutual consent filed under Section 13-B of the Hindu Marriage Act, 1955, is allowed. The marriage between the parties shall stand dissolved by a decree of divorce by mutual consent. There shall be no order as to costs.

Decree sheet be prepared accordingly.

Counsel for petitioner No.1-Bagga Singh, in view of the joint petition for divorce by mutual consent being allowed, has stated that the appeal i.e. FAO-M-81-2008 filed by him, has been rendered infructuous and may accordingly be dismissed as such. Counsel appearing for petitioner No.2-Harjit Kaur @ Rani submits that he has no objection to the same.

Appeal i.e. FAO-M-196-2015 is dismissed as having been rendered infructuous. All the misc. applications are also disposed of.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

20th December, 2017
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No