

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**FAO-M-446-2015 &
CM-24246-CII-2015 &
CMM-97-2016**

Date of decision: 10.11.2017

Navdeep Saini

...APPELLANT

VERSUS

Rashmi Khullar

....RESPONDENT

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

Present: Mr. Rahul Sharma, Advocate,
for the appellant.

Mr. Dhiraj Chawla, Advocate,
for the respondent.

M.M.S.BEDI, J. (ORAL)

CM-24246-CII-2015

Misc. application is allowed. Filing of true typed copy of judgment and decree dated 23.07.2015 is dispensed with and photocopy of the same along with its certified copy is taken on record.

FAO-M-446-2015 (O&M)

A petition under Section 13 of the Hindu Marriage Act was filed by Navdeep Saini, appellant herein, but the same had been dismissed by the Additional District Judge, Ludhiana.

Aggrieved by the said judgment and decree, the present appeal has been filed before this Court. During the pendency of the appeal, both

the parties have arrived at an amicable settlement to the effect that in case a sum of Rs. 15 lacs is paid at the first motion and 5 lacs at the second motion, they would part their company. A sum of Rs. 10 lacs will be deposited in the name of minor son Garvit under the guardianship of the respondent-Rashmi Khullar-wife in FDR till he attains majority. On an application filed by the parties, the present proceedings were converted into a petition under Section 13-B of the Hindu Marriage Act. Joint petition under Section 13-B of the Hindu Marriage Act filed by the parties was permitted to be taken on record. Statements of the parties were recorded on 15.09.2017. A sum of Rs. 10 lacs in the name of minor son Garvit was deposited in the FDR account and another sum of Rs. 10 lacs was paid to Rashmi Khullar-wife in the shape of two bank drafts. A request was made for waiving the statutory period of six months. For consideration of the said request, the matter was deferred for today.

Joint statement of both the parties has been recorded today, wherein they have stated that there is no possibility of re-union and both of them have fair chances of alternative rehabilitation and on account of the fact that they have been living separately for the last nine years, the statutory period of six months be waived.

We have considered the statement of the parties in the light of the latest observations of the Hon'ble Supreme Court in **Amardeep Singh vs. Harveen Kaur**, 2017 (9) JT 106, wherein it has been held that the period mentioned in Section 13-B (2) of the Hindu Marriage Act is not mandatory but directory and it will be open to the Court to exercise its discretion in the facts and circumstances of each case where there is no possibility of parties resuming cohabitation and there are chances of

alternative rehabilitation.

The facts and circumstances of the case have been carefully taken into consideration by us and the statement of the parties recorded today has also been seen in the light of the observations of the Apex Court in Amardeep Singh's case (supra). We are of the view that there is no likelihood of any reconciliation between the parties. The requirement of statutory waiting period of six months provided under Section 13-B(2) of the Hindu Marriage Act is accordingly waived.

The instant petition under Section 13-B of the Hindu Marriage Act is allowed. The marriage between Navdeep Saini and Rashmi Khullar is dissolved by a decree of divorce by way of mutual consent. The parties will be bound by the terms and conditions of the amicable settlement regarding the custody of the child and other issues between the parties besides permanent alimony.

Decree sheet be prepared.

CMM-97-2016

In view of the final result of the matrimonial discord, as recorded hereinbefore, the instant application is disposed of as infructuous.

(M.M.S.BEDI)
JUDGE

November 10, 2017

pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No