

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****FAM No. 70 of 2018**

- Shesh Narayan Baghel S/o Shri Bharat Bhushan Baghel, aged about 35 years, R/o village & post Pathri, District Raipur (C.G.).

---- Appellant**Versus**

- Smt. Ranjeeta Baghel W/o Shesh Narayan Baghel, aged about 32 years, C/o Shri B.P. Pargniya R/o Prakritik Chikitsalaya, Behind the Jain Mandir Vidyut Nagar, Durg, District Durg (C.G.)

---- Respondent

For Appellant : Shri Hemant Kesharwani, Advocate.
For Respondent : Shri Praveen K. Dhurandhar, Advocate.

**Hon'ble Shri Justice Manindra Mohan Shrivastava &
Hon'ble Smt Justice Rajani Dubey**

Order on Board by Manindra Mohan Shrivastava, J

27/10/2018

The appellant and the respondent both are present in the Court.

02. This is an application filed by the parties for grant of decree of divorce on the ground of mutual consent, as per the provisions contained under Section 13 (B) of the Hindu Marriage Act (for short 'the Act').

03. Learned counsel for the parties submit that in a recent judicial pronouncement of Division Bench of this Court in the

case of **Ashish Sharma V. Deepshikha Tiwari** in **FAM No.62/2017**, this Court has granted decree of divorce on the ground of mutual consent, vide its order dated 12.02.2018, taking into consideration the application for grant of divorce by mutual consent filed before this Court during the pendency of the appeal. It is argued that the circumstances of the said case and the present one are almost similar that the parties have been living separately since long and there is no possibility of their reunion.

04. Referring to the Supreme Court decision in the case of **Amardeep Singh V. Harveen Kaur** reported in **(2017) 8 SCC 746**, learned counsel for the parties further submit that the Supreme Court has provided guidelines that where the Court is satisfied that the case is made out to waive statutory period under Section 13-B (2) of the Act it can do so, after considering the relevant aspects as enumerated in clauses (i), (ii), (iii) and (iv) contains in para 19 of the said judgment.

05. Learned counsel for the appellant jointly submits that parties have been living separately for the last seven years and the parties have taken conscious decision over these seven years that it is no longer possible for them to lead a happy married life. Referring to the contents of the application filed before this Court by both the parties, it is further argued that the conscious decision of the parties also taken into consideration the welfare of their sole issue, a boy aged 10 year, who would henceforth reside only with the

mother. According to learned counsel for the parties, as the marriage has irretrievably broken, the spirit of the judgment of Supreme Court in the case of **Amardeep (Supra)** favours waiver of the six months cooling period before granting a decree of divorce by mutual consent.

06. The parties are also present in the Court and they have also expressed formally, consciously and decidedly to part with. The appellant husband is aged 35 year, whereas respondent wife is aged 32 year. Their age have enough maturity to take the decision taking into consideration the pros and cons and all relevant aspects including the fact that they have an issue also. We have also taken into consideration that even earlier, outside the Court, the parties have entered into settlement under which they have decided to part away and end their marital life, which is reflected from Ex.P/1. In view of the aforesaid material on record, what has been stated before us by the parties itself, who are present in person and the Supreme Court decision in the case of **Amardeep (Supra)**, the statutory period of six months specified in Section 13-B(2) of the Act, in addition to the statutory period of one year under Section 13 (B) (1) of the Act of separation of parties being already over and, infact, the parties living separately since last more than seven years, there being no difference arising between the appellant and respondent either with regard to alimony or the custody of child or any other pending issues, and that further waiting of six months will not inure to their benefit anyway except

increasing their agony, we are inclined to pass similar order as has been passed by the Division Bench of this Court in the case of **Ashish (Supra)** to grant of decree of divorce by mutual consent, waiving cooling period of six months.

07. In the result, this appeal is accordingly allowed, though by way of granting decree of divorce on the ground of mutual consent between the parties.

08. Let the appellate Decree be drawn accordingly.

Sd/-

(Manindra Mohan Shrivastava)

Judge

Sd/-

(Rajani Dubey)

Judge