

THE HONOURABLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
I.A.No.1 OF 2018
IN/AND
F.C.A. NO.422 OF 2017

ORDER: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

Sri Vuppala Raghavendra Siva Prasad, the appellant, is present before this Court. He has filed his Aadhar card in order to establish his identity.

Smt. Vuppala Saraswathi @ Anabathula Saraswathi, the respondent, is also present before this Court. She also submitted her driving license in order to establish her identity.

Both the parties have also been identified by their respective counsel.

The appellant is aggrieved by the judgment and decree dated 31.08.2017 passed by the Judge, Additional Family Court, Hyderabad, in O.P.No.1672 of 2012, whereby the learned Judge, Additional Family Court had dismissed the appellant's petition under Section 13(1)(ia) of Hindu Marriage Act.

During pendency of the present appeal, the parties have entered into a Memorandum of Understanding in order to resolve their marital dispute. Consequently, a copy of the compromise has been filed before this Court. the same shall be taken on record.

I.A.No.1 of 2018 has also been filed for permitting the appellant to amend O.P.No.1672 of 2012 under Section 13(1)(ia) & (ib) with Section 13-B of Hindu Marriage Act.

Considering the fact that the parties have entered into a compromise, considering the fact that the parties have been residing separately for the last five years, I.A.No.1 of 2018 is hereby allowed.

This application shall be treated as under Section 13-B of the Hindu Marriage Act.

Learned counsel for the appellant has relied on the case of **Amardeep Singh v. Harveen Kaur**¹ in order to plead that the cooling of period of six months that is prescribed by Section 13-B of Hindu Marriage Act is not a mandatory period to be observed, but is merely directory in nature. Therefore, he has pleaded that this Court should dispense with the requirement that the parties should wait for six months before a decree can be passed for divorce by mutual consent.

This Court has asked both the parties whether they have agreed to the terms of compromise or not? Both the parties have clearly admitted that they have not only entered into the terms of compromise, but they have also understood the terms of compromise. The terms of compromise are as under:

1. *"That the petitioners no.1 and 2 are legally wedded husband and wife. Their marriage was performed on 16/10/2011 at Goteti Kalyanan Vedika, Nagole, R.R. Dist., as per Hindu rites and customs.*
2. *Ever since the date of marriage their marriage was not consummated as such serious differences aroused between the Petitioner No.1 and 2 and they started living separately since 27/04/2013. Due to the above differences their marriage has irretrievably broken down. In spite of the best efforts made by both the parties and their elders, there is no change of reconciliation. Hence the Petitioner No.1 and 2 decided to have their marriage dissolved by a decree of divorce by mutual consent.*

¹ AIR 2017 SC 4417

3. *That the petitioner No.1 has agreed to pay Rs.10,00,000/- to the Petitioner No.2 as full and final settlement and as permanent alimony in three instalments in three DD's. The first party is paying the first instalment of Rs.7,00,000/- to the second party by way of D.D No.852067 dt:26-11-2018 drawn on State Bank of India, Kukatpally Branch at the time of taking divorce before High Court. The Petitioner No.2 will withdraw the criminal appeal vide CrI.A.No.616 of 2017 before MSJ, and CrI.A.No.299 of 2018 before XIII A.D.J, L.B. Nagar and Petitioner No.1 is paying the second instalment for Rs.1,50,000/- to the Petitioner No.2 by way of D.D No.852144 dt:03-12-2018 drawn on State Bank of India, Kukatpally Branch and the third and final instalment for Rs.1,50,000/- by way of D.D.No.852145 dt:03-12-2018 drawn on State Bank of India, Kukatpally Branch is paying after withdrawing criminal case vide C.C.No.352 of 2014 before Hon'ble VIII A.C.M.M, Nampally, on the same day the Petitioner No.1 will also withdraw criminal case vide C.C.No.158 of 2018 before Hon'ble VIII A.C.M.M Court, Nampally, against Petitioner No.2. As per the MOU, the petitioner no.1 has given three original DD's i.e. worth of Rs.10,00,000/- to petitioner no.2 on 08/12/2018 and the same were received by petitioner no.2 at her Advocate office (Mr. Karan Das, Advocate) and she has given "Receipt-cum-Acknowledgment" to the petitioner no.1, to this effect, separately.*
4. *That both the petitioners have settled all their claims and they shall not have any claim against each other in future.*
5. *That both the petitioners have agreed to withdraw the allegations and counter allegations made against each other.*
6. *Both parties agree that they shall not interfere in each other's life in future.*

7. *That there is no collusion between the parties and this is the first petition of this nature.*
8. *The cause of action for the petition arose on the date of marriage i.e.16/10/2011 and finally ever since 27/04/2013 when the parties are living separately.*
9. *As the marriage was performed at Nagole, Rangareddy District and the petitioner is staying with her parents at Hyderabad, this Honourable Court is having jurisdiction to try this case.*
10. *The petitioner is paying herewith fixed Court fee of Rs.10/- on each relief under Section 19 Schedule II Article VII of A.P.C.F and S.V Act, which is sufficient.*
11. *The petitioner submits that this is the first petition of this nature and there is no collusion between the parties.”*

Therefore, keeping in mind the terms of compromise entered into between the parties, keeping in mind that the parties have separated their ways for the last five years, the stipulated period of six months as prescribed by Section 13-B of the Hindu marriage Act is dispensed with. Moreover, the marriage solemnized on 16.10.2011 between the parties is hereby dissolved.

Registry is directed to draw up the decree in light of the terms entered into between both the parties as mentioned above.

In the result, F.C.A. is disposed of.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAGHVENDRA SINGH CHAUHAN

JUSTICE M. SATYANARAYANA MURTHY

20.12.2018

SP