

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

**F.A.O.-M-108-M-2003 (O&M)
(Converted into petition u/s 13-B of
the Hindu Marriage Act, 1955)**

Date of Decision: 16.05.2018

1. Ramesh Chander

....Petitioner No.1.

2. Smt. Urmila Devi

....Petitioner No.2.

Petition under Section 13-B of the
Hindu Marriage Act, 1955 for
dissolution of marriage by decree of
divorce through mutual consent.

**(converted from Appeal vide order
dated 03.04.2018)**

***CORAM:- HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE HARI PAL VERMA***

Present:- Petitioner no.1 in person with
Mr. N.K. Malhotra, Advocate

Petitioner no.2 in person with
Mr. Gagandeep Rana, Advocate

HARI PAL VERMA, J.

The present petition under Section 13-B of the Hindu Marriage Act, 1955 (for short, “the Act”) has been filed jointly by the parties and pursuant to permission granted by this Court vide order dated 03.04.2018, the proceedings in the appeal filed by Ramesh Chander (husband) were allowed to be converted into a petition under Section 13-B of the Act. In the said appeal, challenge was laid to dismissal of the

petition filed on behalf of petitioner no.1 (husband) under Section 13 of the Act by the Court of learned Additional District Judge, Sonapat vide judgment and decree dated 30.11.2002.

Briefly stated, marriage between the parties was solemnized on 04.12.1994 as per Hindu rites and was duly consummated, but no child was born out of this wedlock. It has been averred that after some time, the behaviour of petitioner no.2-wife became peevish many differences/ disputes arose between the parties. Petitioner no.1 was given beatings by the brothers of petitioner no.2, at her instance. Ultimately, the petitioner no.1-husband filed a divorce petition under Section 13 of the Act for dissolution of marriage by way of decree of divorce on the ground of cruelty. However, the said petition was dismissed by the Family Court vide judgment and decree dated 30.11.2002.

Aggrieved against the judgment and decree dated 30.11.2002 passed by the Family Court, petitioner no.1-husband Ramesh Chander has preferred the instant appeal. However, on a civil miscellaneous application having been filed jointly on behalf of the parties, the said appeal was converted into a petition under Section 13-B of the Act for dissolution of marriage by way of mutual consent.

Accordingly, both the parties appeared in person at first motion hearing on 03.04.2018 and got their statements recorded, whereby they have sought dissolution of marriage by a decree of divorce by mutual consent, as it is not possible for them to stay together on account of their temperamental differences. A sum of Rs.8 lac was paid to petitioner no.2-wife, in the shape of two bank drafts and the matter was adjourned for

recording second motion statements of the parties for 30.04.2018, which was further adjourned for today i.e. 16.05.2018.

Though, as per statutory provisions of section 13-B of the Act, a waiting period of six months is prescribed before the marriage may be dissolved if the parties do not withdraw their consent, but the parties moved an application for waiving off the aforesaid statutory period in the light of judgment of Hon'ble the Supreme Court in **Amardeep Singh vs. Harveen Kaur, 2017(4) RCR(Civil) 608.** Considering the facts and circumstances of the case and in the light of observations of Hon'ble the Supreme Court in **Amardeep Singh's case (supra)**, we find sufficient grounds to waive off the statutory waiting period of six months. The application is, thus, allowed and the statutory awaiting period of six months is waived off.

Today, when the matter was again taken up, both the petitioners are present in Court. The petitioners have reiterated their stand for getting their marriage dissolved by mutual consent and their statements to this effect have again been separately recorded. Petitioner no.1-Ramesh Chander has stated that the entire amount, as agreed to as per the settlement, has been handed over to petitioner no.2-Urmila and their marriage be dissolved by a decree of divorce through mutual consent. Petitioner no.2 – Urmila Devi, in her statement, has stated that she has received the amount as per the settlement and sought dissolution of their marriage by a decree of divorce by mutual consent.

In view of the aforesaid statements, we are satisfied that the marriage between the parties has been irretrievably broken down and there

are no chances of any reunion and that all the efforts for reconciliation have failed. We are also satisfied that the parties, out of their free will and consent and without any undue pressure, have entered into a settlement for dissolving their marriage by mutual consent.

Consequently, the petition merits acceptance and is hereby accepted. The marriage between the parties is ordered to be dissolved by a decree of divorce through mutual consent. Decree sheet be prepared. Parties to bear their own costs.

(M.M.S. BEDI)
JUDGE

(HARI PAL VERMA)
JUDGE

May 16, 2018
AK

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No