

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

102

FAO-M-121-2005

(converted to petition u/s 13-B
of Hindu Marriage Act 1955)

Date of Decision: 06.10.2018

SANJAY MOHAN

....Petitioner No.1.

and

MANJULA PARMAR

...Petitioner No.2.

**CORAM:- HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Petitioner No.1 in person with
Mr. Harparteek S. Sandhu, Advocate.

Petitioner No.2 in person with
Mr. Nakul Sharma, Advocate.

ANUPINDER SINGH GREWAL, J.

The appellant-husband has challenged the judgment and decree dated 04.04.2005 passed by the Additional District Judge (ad hoc), Jalandhar, whereby petition under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act') filed by him had been dismissed.

2. During pendency of the appeal, the parties have entered into an amicable settlement for getting the marriage dissolved by a decree of divorce by mutual consent.

3. In view of the settlement arrived at between the parties, this Court had permitted the appeal to be converted into a petition under Section 13-B of the Hindu Marriage Act in the eventuality of the parties

filing an application along with a joint petition under Section 13-B of the Hindu Marriage Act.

4. Subsequently, civil miscellaneous application (CM-21036-CII-2018) was allowed and petition under Section 13-B of the Act was taken on record by the order dated 27.09.2018.

5. The parties appeared before this Court on 27.09.2018 and the statements of the husband and wife were recorded at first motion stage. Petitioner No.1 in his statement had stated that on account of temperamental differences, they have not been able to stay together since 1989. He admitted to have entered into an amicable settlement Ex.CX with petitioner No.2 and stated that they agreed to dissolve their marriage by decree of divorce by way of mutual consent. He had also handed over a bank draft of ₹ 10 lakh to petitioner No.2 out of total sum of ₹ 23 lakh agreed as permanent alimony and undertook to pay remaining amount of ₹ 13 lakh on or before the date of second motion stage. He had prayed that the marriage should be dissolved by a decree of divorce by mutual consent.

6. Petitioner No.2 had admitted the statement of petitioner No.1. She had stated that on account of temperamental differences, they have not been able to stay together since 1989. She had acknowledged the receipt of sum of ₹ 10 lakh in the shape of a bank draft out of ₹ 23 lakh agreed as permanent alimony. She had undertaken to abide by the terms and conditions of the settlement and had got no objection in case the marriage is dissolved by a decree of divorce by mutual consent, at first motion stage.

7. Both the petitioners had filed an application (CM-21349-CII-2018) under Section 151 CPC seeking waiver of the statutory waiting period of 6 months was filed, which was allowed today in the light of the observations in **Amardeep Singh Vs. Harveen Kaur, 2017(4) R.C.R. (Civil) 608** and the appeal is taken up for hearing today by preponing it from 29.03.2019.

8. The parties are present in Court today as well. Statement of petitioner No.1 has been recorded at second motion stage wherein he is stated to have handed over two bank drafts for total sum of Rs.13 lakh towards the balance lump sum alimony as agreed to between them. He has also stated that he has not changed his mind and that their marriage has been irretrievably broken down and all the differences have been genuinely settled. Therefore, he prayed for dissolution of their marriage by decree of divorce on mutual consent. Similarly, petitioner No.2 made her statement that she has received a sum of ₹ 13 lakh by way of two bank drafts today in court as the balance of permanent alimony agreed to between them. She adhered to her statement recorded at first motion stage on 27.09.2018 and acknowledged the receipt of total sum of Rs.23 lakh. On account of marriage having broken down, she prayed that their marriage be dissolved by decree of divorce on mutual consent.

9. In view of the statements of the parties, we are satisfied that the parties have been living separately for a long duration and efforts of reunion have completely failed. Parties have genuinely settled their differences regarding alimony and other pending issues. There is no child born out of the wedlock. They have not changed their mind and got their statements recorded at second motion stage. Marriage has

irretrievably broken down and there are no chances of reunion. We are also satisfied that the parties have entered into settlement for dissolving their marriage by mutual consent on their own volition, without any undue pressure or influence.

10. Therefore, the petition is allowed. The marriage between the parties is ordered to be dissolved by decree of divorce through mutual consent. The parties shall remain bound by their statements. Decree sheet be prepared accordingly. Parties to bear their own costs.

(M.M.S. BEDI)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

06.10.2018
SwarnjitS

Whether speaking/reasoned :	YES/NO
Whether reportable :	YES/NO