

In the High Court of Punjab and Haryana at Chandigarh

FAO-M-14-2011 (O&M)

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

Date of decision: March 22, 2018

1. Lakhwinder Singh son of Ajit Singh, resident of Plot No.74-B, Sandeep SHS
Four Bunglowes Andheri West, Mumbai

.....Petitioner No. 1

2. Kuldeep Kaur daughter of Jang Singh resident of H.No.7579/2, Street No. 3,
New Amar Nagar, Behind ATI College, Ludhiana.

.....Petitioner No. 2

Petition u/s 13-B of Hindu Marriage Act
1955 for dissolution of marriage by
decree of divorce through mutual
consent.

(converted from Appeal vide order dt.
14.3.2018)

**CORAM: HON'BLE MR. JUSTICE M.M.S.BEDI
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present : Mr. Jangjit Singh Dahiya, Advocate and
Ms. Gul Madnani, Advocate for petitioner no.1.

Ms. G.S.Turka, Advocate and
Ms. Vinod Agnihotri, Advocate for petitioner no.2.

GURVINDER SINGH GILL J.

1. Lakhwinder Singh and Kuldeep Kaur have filed this joint petition under
Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred to as

“the Act”) seeking dissolution of their marriage by grant of divorce by mutual consent.

2. It may here be mentioned that initially petitioner no.1-Lakhwinder Singh had filed a petition under Section 13 of the Act seeking dissolution of his marriage with petitioner no.2-Kuldeep Kaur on the ground of cruelty, which was dismissed by the Court of learned Additional District Judge, Ludhiana on 3.11.2010. Aggrieved with dismissal of the same, petitioner no.1-Lakhwinder Singh challenged the aforesaid judgement and decree by way of filing an appeal in this Court.
3. During pendency of the appeal, the petitioners were referred to the Mediation and Conciliation Center of this Court, where they entered into a settlement dated 9.1.2018, Ex.CX for dissolving their marriage by mutual consent. Pursuant to the said settlement Ex.CX, an application was moved for converting the proceedings of the appeal into a petition under Section 13-B of the Act which was allowed by this Court vide order dated 14.3.2018. A joint petition filed by the petitioners under provisions of Section 13-B of the Act was taken on record.
4. Statements of both the petitioners were recorded on the first motion on 14.3.2018 wherein both of them admitted having entered into settlement dated 9.1.2018 Ex.CX. Petitioner No.1-Lakhwinder Singh stated that he was married to petitioner no.2-Kuldeep Kaur on 21.11.1999 and two children were born out of the wedlock. However, on account of temperamental differences, they have been unable to stay together and have been residing separately since 2008. He further stated that now they had entered into a

settlement Ex.CX and in accordance with the terms of compromise, he has paid an amount of ₹ 60 lacs to petitioner no.2-Kuldeep Kaur as full and final payment towards permanent alimony. He further stated that custody of children will remain with petitioner no.2 and that their marriage may be dissolved by a decree of divorce by mutual consent.

5. Petitioner no.2-Kuldeep Kaur has also stated to an identical effect. She also admitted having received an amount of ₹ 60 lacs, as agreed amongst the petitioners. She also stated that marriage may be dissolved by a decree of divorce by mutual consent. The matter was adjourned to 17.9.2018 for recording statements on the second motion. However, the matter was taken up today pursuant to an application filed by the petitioners seeking waiving off the statutory waiting period of six months as mandated under provisions of Section 13-B of the Act and for preponing the date by recording statements on the second motion. The learned counsel relies upon judgment of Hon'ble Supreme Court reported as **2017(4) RCR (Civil) 608 Amardeep Singh Vs. Harveen Kaur** to press upon his aforesaid prayer.
6. Statements of the petitioners have been recorded today, wherein they have reiterated their stand of getting their marriage dissolved by mutual consent. Petitioner no.1 Lakwinder Singh has stated that since they have been living separately since 2008 and there are no chances of reunion, therefore, their marriage may be dissolved by a decree of divorce by mutual consent. To a similar effect is the statement of petitioner no. 2-Kuldeep Kaur who while admitting the terms of settlement Ex. CX has stated that she has already received an amount of ₹ 60 lacs towards permanent alimony and that there

are no chances of reunion. She has also stated that the marriage may be dissolved by passing a decree of divorce.

7. We have heard learned counsel for the petitioners to consider their prayer for condoning statutory waiting period of 6 months before dissolving marriage as mandated under provisions of section 13-B of the Act. In the present case, the parties have been litigating since the year 2008. The matter was referred to Mediation and Conciliation Centre of this Court, where with the efforts of the Mediator, the parties reached at settlement Ex.CX so as to dissolve their marriage by mutual consent. Forcing the parties to wait for another month would only prolong their agony especially when the decision taken by them after due deliberations to part ways certainly cannot be said to have been taken in a hurry as the parties have been litigating since the year 2008. Hon'ble the Supreme Court in Amardeep Singh's case (supra) has held that it is open to the Court to exercise its discretion in the facts and circumstances of the case for waiving off the statutory period especially when there is no possibility of the parties resuming cohabitation. In the present case, as noticed above, all efforts for bringing about rehabilitation had failed and a conscious decision has been taken by the parties to dissolve their marriage by mutual consent. As such, in view of the ratio of Amardeep Singh's case, the statutory waiting period of six months as prescribed under provisions Section 13-B(2) of the Act is condoned.
8. The parties are present in person. Their statements have again been recorded today, wherein they have reiterated their statements recorded in the first motion. Petitioner No.2-Kuldeep Kaur has stated that she has already

received an amount of ₹ 60 lacs towards permanent alimony. Petitioner No.1-Lakhwinder Singh and petitioner No.2-Kuldeep Kaur have both stated that their marriage may be dissolved by condoning the statutory waiting period of six months as per their settlement Ex.CX.

9. On perusal of the statements, recorded before this Court, we are satisfied that the parties, with their free will, and without there being any kind of pressure or coercion, have decided to dissolve their marriage as they have been unable to pull on together. The said decision has been taken by them on account of temperamental differences, which could not be patched up. It is apparent that the marriage has broken down irretrievably and there are no chances of reunion amongst the parties. As such, no useful purpose would be served by forcing the parties in the matrimonial bond, which in fact has completely broken down. The petition, as such, merits acceptance and is hereby accepted. The marriage between the parties is hereby dissolved by passing a decree of divorce by mutual consent in terms of Section 13-B of the Act.
10. Decree sheet be prepared. Parties to bear their own costs.

(M.M.S. Bedi)
Judge

(Gurvinder Singh Gill)
Judge

March 22, 2018
kamal

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No