

In the High Court of Punjab and Haryana at Chandigarh

FAO No.2160 of 2015 (O&M)

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

Date of decision: March 27, 2018

1. Ashwani Kumar Jangra son of Tara Chand, resident of House No.174, Vikas Nagar, District Bhiwani.

.....Petitioner No. 1

2. Sneh Lata wife of Ashwani Kumar Jangra daughter of Master Umed Singh Jangra, resident of VPO Bamla II, Tehsil and District Bhiwani.

.....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.
07.02.2018)

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

Present : Mr. Akash Vashisth, Advocate for petitioner No.1.

Ms. Gunjan Gera, Advocate for
Mr. Arvind Rajotia, Advocate for petitioner No.2.

GURVINDER SINGH GILL J.

1. Ashwani Kumar Jangra and Sneh Lata have filed this 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-Ashwani Kumar Jangra filed a petition under Section 13 of the Act, which was dismissed vide judgment and decree dated 7.3.2015 passed by the Court of learned District Judge (Family Court), Bhiwani. Aggrieved with the same, petitioner No.1-Ashwani Kumar challenged the said judgement and decree by filing appeal in this Court.
3. During pendency of the appeal, the parties were referred to the Mediation and Conciliation Center of this Court but their differences remained unresolved. However, subsequently they reached at an amicable settlement on 12.1.2018 and decided to dissolve their marriage subject to the condition that permanent alimony in the sum of ₹ 11 lacs is paid by petitioner no.1-Ashwani Kumar Jangra to petitioner no.2 i.e. his wife Sneh Lata. Pursuant to the said settlement (Ex.CX), this Court vide order dated 07.02.2018 granted permission to convert the proceedings of this appeal into a petition under Section 13-B of the Act and a joint petition filed by the parties under Section 13-B of the Act was taken on record.
4. Statements of both the petitioners were recorded on first motion on 07.02.2018. Petitioner No.1-Ashwani Kumar Jangra stated that he was married to petitioner No.2-Sneh Lata on 9.7.2011 and no child was born out of the wedlock. However, on account of temperamental differences, they had been living separately since 21.6.2012 and that there are no chances of reunion. He specifically stated that he had agreed vide compromise Ex.CX

to pay permanent alimony of ₹ 11 lacs including an amount of ₹ 71,871/- paid on 14.11.2017. He stated that an amount of ₹ 5 lacs in the shape of bank draft has already been paid to petitioner no. 2 as part payment towards permanent alimony and that their marriage be dissolved by a decree of divorce by mutual consent.

5. Petitioner No.2-Sneh Lata also made an identical statement. She admitted the written settlement dated 12.1.2018 (Ex.CX) bearing her signatures and also stated that she had received an amount of ₹ 5 lacs in the shape of bank draft as part payment towards permanent alimony. She has stated that on account of temperamental differences, it is not feasible for them to stay together and that she would abide by the terms and conditions of compromise Ex.CX. She also stated that the marriage may be dissolved by a decree of divorce by mutual consent. After recording the aforesaid statements, the matter was adjourned to 10.08.2018 for recording statements on the second motion.
6. However, the matter has been taken up today on an application filed on behalf of petitioner no.1 seeking waiving off the mandatory waiting period of six months in light of judgment of Hon'ble Supreme Court reported as **2017(4) RCR (Civil) 608 Amardeep Singh Vs. Harveen Kaur.**
7. We have heard learned counsel for the petitioners while considering the aforesaid application. In the present case, the parties have been litigating since the year 2012. The matter was referred to Mediation and Conciliation Centre of this Court, where mediation failed. However, subsequently the parties reached at a settlement so as to dissolve their marriage by mutual

consent. Forcing the parties to wait for another six months 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 last about 6 years. 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 (supra), we accept the application and waive off the statutory waiting period of six months prescribed under Section 13-B(2) of the Act.

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-Sneh Lata has stated that she has received the balance amount of ₹ 5,28,129/- in the shape of bank draft towards permanent alimony. Petitioner No.1-Ashwani Kumar Jangra and petitioner No.2-Sneh Lata 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 resolved. It is apparent that the marriage has broken down irretrievably and there are no chances of reunion amongst them. As such, no useful purpose would be served by forcing the parties to continue with their 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 27, 2018
kamal

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No