

In the High Court of Punjab and Haryana at Chandigarh

FAO-M-7324-2016 (O&M)

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

Date of decision: March 21, 2018

1. Daljit Kaur daughter of Sh. Gurmail Singh, resident of House No.15/75, Mohalla Dev Nagar, Rahon Road, Tehsil Nawanshahr, District Shaheed Bhagat Singh Nagar.

.....Petitioner No. 1

2. Jagmeet Singh son of Dr. Satnam Singh resident of Arya Samaj Road, Nawanshahr, Tehsil Nawanshahr, District Shaheed Bhagat Singh Nagar.

.....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.
13.10.2017)**

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

Present : Petitioner No.1 with Mr. Sanjay Gupta, Advocate.

Petitioner No.2 with Mr. Navjot Singh, Advocate.

GURVINDER SINGH GILL, J.

1. Daljit Kaur and Jagmeet Singh 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. A few facts as to be noticed are that initially petitioner No.2-Jagmeet Singh filed a petition under Section 13 of the Act, which was decreed vide judgment and decree dated 1.11.2016 passed by the Court of learned District Judge (Family Court), SBS Nagar. Aggrieved with the same, petitioner No.1-Daljit Kaur challenged the said judgement and decree by filing an appeal in this Court.
3. During pendency of the appeal, the parties were referred to the Mediation and Conciliation Center of this Court, where they reached at a settlement on 13.9.2017 and decided to dissolve their marriage by mutual consent. Pursuant to the said settlement Ex.CX, this Court vide order dated 13.10.2017 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 13.10.2017. Petitioner No.1-Daljit Kaur stated therein that she had been married to petitioner No.2-Jagmeet Singh on 2.5.2014 and no child was born out of the wedlock. However, on account of temperamental differences, it was not feasible for them to stay together as husband and wife and they had been living separately since 1.6.2014 and had now agreed to part company and to get their marriage dissolved by a decree of divorce by mutual consent. She admitted the written settlement dated 13.9.2017 Ex.CX bearing her signatures and also stated that she had received an amount of ₹ 2.5 lacs as

part payment of the permanent alimony. She also agreed to withdraw her complaint filed by her under the Protection of Women from Domestic Violence Act.

5. Petitioner No.2-Jagmeet Singh also made an identical statement and undertook to pay the balance amount of ₹ 2.9 lacs on or before the next date of hearing. He specifically stated that he has no objection in case the decree dated 1.11.2016 is set aside and the petition under Section 13-B of the Act is allowed.
6. Today, when the matter was taken up, the learned counsel for the petitioners, at the very outset, made a prayer for waiving off the mandatory period of six months for grant of divorce 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 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 petitioners have been litigating since the year 2015. In fact, the husband had been granted divorce by the lower Court vide judgment and decree dated 1.11.2016 which was challenged by the appellant-wife by way of filing appeal. The matter was referred to Mediation and Conciliation Centre of this Court, where with the efforts of the Mediator, the petitioners reached at settlement (Ex.CX) so as to dissolve their marriage by mutual consent. It was about five months back when the statements of the petitioners were recorded on the first motion. Forcing the petitioners 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 petitioners have been litigating since the year 2015. 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 petitioners 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 petitioners to dissolve their marriage by mutual consent. As such, in view of the ratio of Amardeep Singh's case, the deficiency of about one month in statutory waiting period of six months prescribed under Section 13-B(2) of the Act is condoned.

8. The petitioners are present in person. Their statements have again been recorded today, wherein they have reiterated their statements recorded in the first motion. Petitioner No.1-Daljit Kaur has stated that she has received the balance amount of ₹ 2.9 lacs towards permanent alimony and that she has already withdrawn her complaint filed by her under the Protection of Women from Domestic Violence Act. Petitioner No.1-Daljit Kaur and petitioner No.2-Jagmeet Singh 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 petitioners, 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. Despite a period of 5 months having elapsed, none of the petitioners has withdrawn from the earlier statements for getting their marriage dissolved by mutual consent. It is apparent that the marriage has broken down irretrievably and there are no chances of reunion amongst the petitioners. As such, no useful purpose would be served by forcing the petitioners in the matrimonial bond, which in fact is completely broken down. The petition, as such, merits acceptance and is hereby accepted. The decree dated 1.11.2016 granting of divorce to husband on grounds of cruelty in terms of Section 13 of the Act is set aside. The marriage between the petitioners 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 21, 2018
pankaj

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No