

In the High Court of Punjab and Haryana at Chandigarh

FAO-M-342 of 2014 (O&M)
*(converted to petition u/s 13-B
of Hindu Marriage Act 1955)*

Date of decision: March 26, 2018

1. Ajay Singh son of Jai Chand, resident of H.No.137, Sector 15-A, Hisar.
.....Petitioner No.1
2. Swati daughter of P.K.Arya, resident of H.No.2266, Sector 47-C, Chandigarh.
.....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. 22.5.2017)

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

Present : Mr. Sandeep Khunger, Advocate with
Mr. Anurag Jain, Advocate, for petitioner no.1

Mr. Nakul Sharma, Advocate with petitioner no.2.

GURVINDER SINGH GILL J.

1. Petitioners Ajay Singh and Swati have filed petition under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred to as '*the Act*') seeking dissolution of their marriage by way of mutual consent.
2. It may here be mentioned that initially petitioner no. 1 Ajay Singh had filed a petition under Section 12 of the Act seeking annulment of his marriage with

petitioner No. 2 Swati on ground of her mental disorder which was dismissed by the Court of learned Additional District Judge, Chandigarh vide judgment and decree dated 29.5.2014. Aggrieved with the same, the husband i.e. petitioner no. 1 Ajay Singh challenged the aforesaid judgment by filing an appeal in this Court. During pendency of the appeal, the parties amicably resolved their issues and agreed to dissolve their marriage by mutual consent. An application for converting the appeal into a petition under Section 13-B of the Act was filed which was allowed by this Court vide order dated 22.5.2017 and the petition under Section 13-B of the Act was taken on record.

3. Statements of both the petitioners were recorded on 22.5.2017. Petitioner no.1 Ajay Singh stated that he was married to petitioner no. 2 Swati on 23.11.2008 but on account of differences having cropped up between them, they have now decided to dissolve their marriage by way of divorce by mutual consent. He further stated that he agrees to abide by the terms of the settlement reached at between them and that he shall remain bound by the terms mentioned therein. Petitioner no. 2 Swati also made an identical statement. She specifically stated that an amount of ₹ 26 lacs has been agreed to be paid to her by petitioner no. 1 Ajay Singh, as permanent alimony and that as per the settlement, she agrees for dissolving marriage by mutual consent in terms of Section 13-B of the Act.
4. After recording the aforesaid statements on the first motion on 22.5.2017, the matter was adjourned to 28.11.2017 for recording statements on the second motion. However, on 28.11.2017, petitioner no. 2 Swati sought more time to think over the matter and the matter was adjourned to 12.1.2018. On 12.1.2018, petitioner no. 2 again had some reservations to get her statement

recorded and expressed that her articles amounting to ₹ 3 lacs to 5 lacs are to be returned by petitioner no. 1 and that she needs more time to think over the matter. In view of the aforesaid position, this Court further adjourned the matter for 23.3.2018, by extending the period for recording statements on the second motion. On 23.3.2018, parties finally came to terms and it was agreed that a total amount of ₹ 16 lacs (₹ 3 lacs more than the earlier amount agreed) will be paid by the husband to wife Swati on 26.3.2018.

5. Today, when the matter was taken up, both the petitioners expressed consent for dissolving their marriage. Statements of both the petitioners have been recorded on the second motion. Petitioner no. 1 Ajay Singh stated that he has already deposited an amount of ₹ 13 lacs in the High Court and that he has paid another amount of ₹ 16 lacs in the shape of two bank drafts to petitioner no. 2. He further stated that since they have been living separately since the year 2009 on account of temperamental differences and there are no chances of their reunion, the marriage may be dissolved by passing a decree of divorce by mutual consent. Petitioner No. 2 Swati also made an identical statement. She admitted her signatures on the settlement Ex.CX which was arrived at before the Mediation and Conciliation Centre of this Court. She admitted having received an amount of ₹ 16 lacs today in the Court. She also stated categorically that their marriage may be dissolved by passing a decree of divorce as they are no chances of reunion and the marriage has broken beyond repair.
6. In view of the aforesaid statements, we are satisfied that the petitioners have mutually decided to dissolve their marriage out of their free will and consent and without their being any kind of pressure or coercion. The petitioners have

been residing separately since the year 2009. Despite the fact that the statements of the parties on the first motion were recorded about 10 months earlier, both the petitioners have reiterated their stand for getting their marriage dissolved by mutual consent. Though, initially it had been agreed amongst the petitioners that the husband would pay an amount of ₹ 26 lacs towards permanent alimony but since petitioner no. 2 had expressed some reservations in respect of her articles which were to be returned by petitioner no.1, the petitioner no.1 has paid an amount of ₹ 29 lacs instead of the agreed amount of ₹ 26 lacs which has been accepted by petitioner no. 2 and she has expressed her consent for dissolving her marriage by mutual consent.

7. In these circumstances, the petition merits acceptance. Accordingly, the petition under Section 13-B of the Act is hereby accepted and marriage of the petitioners is hereby dissolved by passing a decree of divorce by mutual consent. Amount of ₹ 13 lacs along with interest which stands deposited in the shape of FDR shall be released to petitioner no.2, upon an application made by her in this regard. Miscellaneous application moved in this regard is disposed of accordingly.
8. Decree sheet be prepared. Petitioners are left to bear their own costs.

(M.M.S.Bedi)
Judge

(Gurvinder Singh Gill)
Judge

26.3.2018
Kamal

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No