In the High Court of Punjab and Haryana at Chandigarh

FAO-M-50-2016 (O&M)
(converted to petition u/s 13-B of Hindu Marriage Act 1955)

Date of decision: 1.5.2018

1. Sandeep Kumar son of Hawa Singh resident of H.No. 1377, Sector 15, Chandigarh.

.....…...*Petitioner No. 1*

2. Meera Sharma wife of Sandeep Kumar daughter of Pran Nath Sharma, resident of H. No. 3884, Sector 22, 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. 29.8.2017)

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

Present : Mr. P.S. Brar, Advocate for petitioner No.1.

Mr. Aman Dhir, Advocate for petitioner No.2.

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GURVINDER SINGH GILL, J.

1. Sandeep Kumar and Meera Sharma have filed this petition under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred to as *"the Act"*)

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seeking dissolution of their marriage by passing a decree of divorce by mutual consent.

2. Initially, petitioner No.2-wife Meera Sharma had filed a petition under Section 13 of the Act seeking dissolution of her marriage with petitioner No.1-husband Sandeep Kumar which was decreed in her favour and the marriage was ordered to be dissolved vide impugned judgment and decree dated 12.1.2016 passed by learned Additional District Judge, Chandigarh, which was challenged in this Court by petitioner No.1-husband Sandeep Kumar by way of filing appeal.

3. During the pendency of the appeal, the parties were referred to the Mediation and Conciliation Center of this Court, which effectively mediated and a settlement/compromise dated 19.4.2017 (Ex.CX) was arrived at between the parties, as per which the parties mutually agreed to dissolve their marriage by way of divorce by mutual consent. Pursuant to the said settlement/compromise dated 19.4.2017 (Ex.CX), this Court accepted an application filed by the parties to convert the proceedings of the appeal into petition under Section 13-B of the Act and the joint petition filed by the parties under Section 13-B of the Act was taken on record.

4. Statements of the parties on the first motion were recorded on 29.8.2017. Petitioner No.1-husband Sandeep Kumar stated therein that on account of temperamental differences it was not possible for them to stay together as husband and wife and that they have been living separately since October 2014. He further stated that as per settlement Ex.CX arrived at between the

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parties, they have decided to part ways and their minor son namely Meet will stay with him and his wife will exercise visitation rights. Petitioner No.2-wife Meera Sharma in her statement also admitted that the settlement Ex.CX has been arrived at between them and that she has no objection in case the impugned judgment dated 12.1.2016 is set aside and divorce is granted by mutual consent.

5. Today, the petitioners are present in person. Both the petitioners i.e. the husband and wife reiterated that they wish to get their marriage dissolved as per the settlement Ex.CX. It may here be mentioned that though the son of the parties is also present, who has expressed that he does not wish his parents to get divorced, but in view the categoric statement of the parents, who both want to dissolve their marriage, the wish of the son can not prevail over the wishes of the parents especially when both the parents have had sufficient time to think over the matter, more particularly about the wishes of his son as well, as would be noticed from the order dated 8.3.2018, wherein the matter had been specifically adjourned, pursuant to request made on behalf of petitioner No.1-husband Sandeep Kumar and the minor son to seek additional time for amicable settlement.

6. In view of the statements made before this Court, we are satisfied that marriage of the petitioners is irretrievably broken and that they have now reached at an amicable settlement for dissolving their marriage out of their free will and consent, without there being any kind of pressure on them.

7. In view of the settlement Ex.CX and the statements of the parties, the

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petition under Section 13-B of the Act is accepted. The impugned judgment and decree dated 12.1.2016 passed by the learned Additional District Judge, Chandigarh is hereby set aside. However, the marriage of the parties is dissolved by a decree of divorce by mutual consent. The said dissolution of marriage of the parties will not affect the legal rights of their minor son qua his parents in any manner.

8. Parties are left to bear their own costs. Decree-sheet be prepared.

(M.M.S. Bedi)
Judge

(Gurvinder Singh Gill)
Judge

1.5.2018
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No

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