

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

**F.A.O.-4832 of 2017 (O&M)
(Converted into petition u/s 13-B of
the Hindu Marriage Act, 1955)
Date of Decision: 21.05.2018**

1. Karnail Singh

....Petitioner No.1.

2. Sarabjit Kaur

....Petitioner No.2.

Petition under Section 13-B of the
Hindu Marriage Act, 1955 for
dissolution of marriage by decree of
divorce through mutual consent.

**(converted from Appeal vide order
dated 07.05.2018)**

***CORAM:- HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE HARI PAL VERMA***

Present:- Petitioner no.1 in person with
Mr. M.L. Saini, Advocate

Petitioner no.2 in person with
Mr. Kamal K. Chaudhary, Advocate

HARI PAL VERMA, J.

The present petition under Section 13-B of the Hindu Marriage Act, 1955 (for short, “the Act”) has been filed jointly by the parties and pursuant to the permission granted by this Court vide order dated 07.05.2018, the proceedings in the appeal which was filed by Karnail Singh (husband), were allowed to be converted into a petition under Section 13-B of the Act. In the appeal, challenge was laid to dismissal of

the petition filed on behalf of petitioner no.1 under Section 13 of the Act by the Court of learned District Judge, SBS Nagar vide judgment and decree dated 18.05.2017.

Briefly stated, marriage between the parties was solemnized on 02.01.2015 as per Sikh rites and was duly consummated, but no child was born out of this wedlock. It has been averred that after some time, many disputes arose between the parties on trivial issues and it was not possible for either of the couple to stay together. Ultimately, the petitioner no.1-husband filed a divorce petition under Section 13 of the Act seeking dissolution of marriage on the ground of cruelty. The said petition was dismissed by the Family Court vide judgment and decree dated 18.05.2007.

Aggrieved from the judgment and decree dated 18.05.2007 passed by the Family Court, petitioner no.1-husband Karnail Singh has preferred the instant appeal. Vide order dated 05.12.2017, the matter was referred to Mediation and Conciliation Centre, where the dispute was amicably settled between the parties. Accordingly, on a civil miscellaneous application having been filed jointly on behalf of the parties, the said appeal was converted into a petition under Section 13-B of the Act.

Accordingly, both the parties appeared in person on the first motion hearing on 07.05.2018 and got their statements recorded, whereby they have sought dissolution of marriage by a decree of divorce by mutual consent, as it is not possible for them to stay together on account of their temperamental differences. A sum of Rs.5,50,000/- was paid to petitioner no.2-wife towards full and final payment for dowry articles and permanent

alimony and the matter was adjourned for recording second motion statements of the parties for today i.e. 21.05.2018.

Though, as per statutory provisions of section 13-B of the Act, a waiting period of six months is prescribed before the marriage may be dissolved if the parties do not withdraw their consent, but the parties moved an application for waiving off the said statutory period in the light of judgment of Hon'ble the Supreme Court in **Amardeep Singh vs. Harveen Kaur, 2017(4) RCR(Civil) 608.** Considering the facts and circumstances of the case and in the light of observations of Hon'ble the Supreme Court in **Amardeep Singh's case (supra)**, we find sufficient grounds to waive off the statutory waiting period of six months. The application is, thus, allowed and the statutory awaiting period of six months is waived off.

Today, when the matter was again taken up, both the petitioners are present in Court. The petitioners have reiterated their stand for getting their marriage dissolved by mutual consent and their statements to this effect have again been recorded. Petitioner no.1-Karnail Singh has stated that the entire amount, as agreed to as per the settlement, has been handed over to petitioner no.2-Sarabjit Kaur and their marriage be dissolved by a decree of divorce through mutual consent. Petitioner no.2 – Sarabjit, in her statement, has stated that she received the amount as per the settlement and sought dissolution of their marriage by a decree of divorce by mutual consent.

In view of the aforesaid statements, we are satisfied that the marriage between the parties has been irretrievably broken down and there

are no chances of any reunion and that all the efforts for reconciliation have failed. We are also satisfied that the parties, out of their free will and consent and without any undue pressure, have entered into a settlement for dissolving their marriage by mutual consent.

Consequently, the petition merits acceptance and is hereby accepted. The marriage between the parties is ordered to be dissolved by a decree of divorce through mutual consent. Decree sheet be prepared. Parties to bear their own costs.

(M.M.S. BEDI)
JUDGE

(HARI PAL VERMA)
JUDGE

May 21, 2018
AK

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No