

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 170 of 2017**

Harishankar Bhardwaj, S/o Shri Ramlal, Aged About 33 Years Caste Satnami, Occupation Constable, R/o Village Hasaud, Police Station Hasaud, Post Hasaud, Via Birra, Tahsil Jaijaipur, District Janjgir-Champa, Chhattisgarh, Chhattisgarh

---- **Petitioner****Versus**

Smt. Geeta W/o Harishankar, Aged About 29 Years S/o Vinod Kurre, Caste Satanami, At Present Pamgarh, Police Station, Tahsil And Post Pamgarh, Via Shivreenarayan, District Janjgir-Champa, Chhattisgarh, Chhattisgarh

---- **Respondent**

For Appellant	:	Mr. Deepak Kumar Singh, Advocate
For respondent	:	Mrs. Renu Kochar, Advocate

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****18/11/2019**

Heard.

1. The appellant and respondent are also present in the Court.
2. This appeal was filed against the judgment and decree dated 06.09.2017, by which, the appellant's application for grant of decree of divorce against his wife on the ground of adultery was dismissed.
3. During the pendency of this appeal, the parties jointly moved an application for grant of decree of divorce by mutual consent by moving application on 15.03.2019, supported with affidavit of both the parties and duly signed by them as also their counsel. After filing of such application, on the last date of hearing, this Court interacted with the parties in chamber and granted them sufficient time to finally make up their mind based on conscious decision on all the aspects of the matter including the condition on which the parties have agreed for divorce by mutual consent. The appellant is employed as Constable

in Government Service and appellant is aged 33 years, whereas, respondent is aged about 29 years. The application seeking decree of divorce by mutual consent contains following recitals which also includes condition as below :

“(2). That, the both are Hindu and their marriage solemnized on 16.05.2008 as per Hindu custom and rights at Village Hasaud, Tahsil Jaijaipur, District Janjgir-Champa (CG) after marriage both are reside at Kashiram Nagar, Raipur and during wedlock two daughters Ku. Anushka Bhardwaj and Ku. Anshika Bharadwaj was born now both the daughter resides with father applicant No.1.

(3). That, the 10.07.2016, applicant No.2 has left her matrimonial house and living separately that the both the party are amicus settled there dispute and ready to leave separately and also agree to dissolve of marriage dated 16.05.2008. That the both the parties have been leaving separately for a period of more than 3 year and they have not been able to leave together in future and they have mutually agreed that the marriage should be dissolved.

(4). That, the both the parties have free consent to dissolve to marriage and there is no collision between the parties to dissolve the marriage.

(5). That, the applicant No.2 has settled 02,80,000/- (Two lacs eighty thousand) for permanent alimony and she has further no claim for maintenance amongst, property and both daughter.

(6). That, the both the parties prayed and permission the time of mandatory period of 6 months cooling period for granting a decree of divorce by mutual consent waved by the Hon'ble Court.

4. It has been submitted that out of Rs.2,80,000/-, the appellant has already paid Rs.1,40,000- to respondent and balance amount has been paid today itself during the course of proceedings.

5. The respondent wife having appeared before this Court has agreed to all the terms and conditions stated in the application, particularly condition No.5 with regard to receipts of permanent alimony and no claim for maintenance property and even two daughters. Earlier, taking into consideration the aforesaid aspect, we had granted both the parties time to have serious consideration on acceptability of various condition incorporated in para 5 of the application and both the parties who are present today fully endorsed the terms and conditions on which they had agreed, signed and the application supported by an affidavit.

6. Learned counsel for the parties would jointly submit that in similar circumstances, this Court has allowed application under Section 13(B) of the Hindu Marriage Act for grant of decree of divorce by mutual consent filed during pendency of the appeal. It is also submitted that though in that case, this Court after taking into consideration all the relevant circumstances, had waived cooling off period, in the present case, cooling off period has already expired and six months elapsed since the date application for grant of decree by mutual consent was filed by the parties before this Court.

7. Having considered the joint submission made by learned counsel for the parties and what has been stated in the application, we are satisfied that the parties have taken a conscious decision to bring an end to their marital relationship. Despite time granted to both the parties to consider pros and cons of their decision as also the effect and impact of various conditions which henceforth will bind them, the parties have remained firm towards obtaining divorce by mutually consent.

8. In view of the aforesaid consideration and that in a similar circumstance, this Court in the case of **Ashish Sharma Vs. Deepshikha Tiwari in FAM No.62 of 2017 as also in Shesh Narayan Vs. Smt. Ranjeeta Baghel in FAM No.70 of 2018** granted decree of divorce by mutual consent upon due consideration of application for decree by mutual consent filed before this Court during the pendency of the appeal, present application filed by the parties also deserved to be allowed and is accordingly allowed.

9. The impugned judgment and decree passed by the Court below is set aside and the decree of divorce by mutual consent under Section 13(B) of the Hindu Marriage Act, is granted in favour of the parties.

10. Condition No.5 as incorporated in the application shall form part of the decree.

11. Let the appellate decree be accordingly drawn.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge