

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-5891-2018 (O&M)
Date of Decision:31.05.2019

Anil Kumar

. Appellant

Vs.

Kafi

. Respondent

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE HARNARESH SINGH GILL**

Present: - Mr.Satyavir Yadav, Advocate,
for the appellant/petitioner No.1.

Mr.Akshat Mittal, Advocate,
for the respondent/petitioner No.2.

RAKESH KUMAR JAIN, J. (ORAL)

CM-12164-CII-2019

This application is filed for waiving off six months cooling off period provided in Section 13B(2) of the Hindu Marriage Act, 1955 [for short 'the Act'].

In this regard, a decision of the Supreme Court rendered in the case of ***"Amardeep Singh Vs. Harveen Kaur"*** 2017(9) JT 106 has been relied upon.

Notice in the application.

At this stage, Mr.Akshat Mittal, Advocate accepts notice on behalf of the non-applicant and has submitted that he has no objection if the cooling off period of six months is waived off.

Accordingly, the application is allowed and the cooling off period of six months is hereby waived off.

On the joint request of counsel for the parties, hearing of this case is preponed to today as both the parties are present in Court for the purpose of recording of their statements at the second motion stage.

We have specifically asked both the parties as to whether they are seeking decree of divorce by way of mutual consent with their free will, without any undue influence or coercion to which they have stated in affirmative that it is voluntary.

Separate statements of both the parties, at second motion stage, are recorded today and the same are taken on record.

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In brief, Marriage of the parties was solemnized on 9.12.2012 as per Hindu rites and ceremonies at Village Jattipur, District Panipat. A male child, namely, Havil was born out of the said wedlock on 03.09.2013. The appellant/husband filed a petition under Section 13 of the Act for seeking dissolution of his marriage with the respondent-wife on the ground of cruelty. The said petition was dismissed by the trial Court vide judgment and decree dated 7.8.2017 against which the present appeal was filed.

During the pendency of this appeal, parties have entered into a written compromise on 6.2.2019 as per which they have decided to dissolve their marriage by way of mutual consent. It is stated before us that their son Havil has unfortunately expired. As per the settlement, the appellant/husband has to pay ₹25,00,000/- in total towards past, present and future claims of the respondent/wife for the grant of decree of divorce to him. It is further submitted that a sum of ₹5,00,000/- was paid at the time of recording of statements at the first motion stage and today a draft of ₹20,00,000/- is handed over by the appellant/husband to the respondent/wife towards full and final settlement.

Keeping in view the statements recorded by the parties at the first and second motion stage and that we have also specifically asked them as to whether they still wanted to dissolve their marriage by way of mutual consent to which they have stated in affirmative, we are satisfied that there is no chance of reunion between the parties and therefore, the petition filed under Section 13B of the Act is allowed and the marriage of the parties is hereby dissolved by a decree of divorce by way of mutual consent.

Decree-sheet be prepared accordingly.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

31.05.2019

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*