

FAO-M-359-2015 (O&M)

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

(PROCEEDINGS THROUGH VIDEO CONFERENCING)

FAO-M-359-2015 (O&M)

Date of Decision: 23.04.2021

Ravi Chawla

...Appellant/petitioner No.1

Versus

Sunita

...Respondent/petitioner No.2

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Jatin Bansal, Advocate with
Mr. Ravi Chawla – petitioner No.1.

Mr. Jatinder Nagpal, Advocate with
Ms. Sunita – petitioner No.2.

AUGUSTINE GEORGE MASIH, J.

FAO-M-359-2015 was filed by petitioner No.1 – Ravi Chawla, challenging the judgment and decree dated 06.05.2015 passed by the Additional District Judge, Patiala, dismissing the petition filed by him under Section 13 of the Hindu Marriage Act, 1955.

2. During the pendency of the appeal, an application i.e. CM-610-CII-2021 was filed praying therein for placing on record compromise/settlement deed dated 11.01.2021 as Annexure A-1 and for conversion of the above referred appeal into petition under Section 13-B of the Hindu Marriage Act, 1955, which application was allowed vide order dated 15.02.2021. Along with the said application, an application bearing number

CM-893-CII-2021 was filed under Section 13-B of the Hindu Marriage Act, 1955 and vide order of same date i.e. 15.02.2021, petitioner No.1 – Ravi Chawla and petitioner No.2 – Sunita were directed to appear before the Family Court at Patiala on 18.02.2021 at 11:00 AM for recording their statements at first motion. The Family Court was directed to send the so recorded statements to this Court.

In compliance with the above order passed by this Court, report of the Principal Judge, Family Court, Patiala, was received by this Court along with the statements of the parties so recorded, which were taken on record vide order dated 04.03.2021, as Annexures A-1 and A-2.

3. An application bearing number CM-2308-CII-2021 was filed by the petitioners for waiver of the mandatory period of six months, as provided under Section 13-B of the Hindu Marriage Act, 1955. This application was moved in the light of the fact that the matter has been amicably resolved and settled between the parties. With all disputes having come to an end and the process for quashing of FIR No.320 of 2020, registered under Sections 506, 324, 323 and 341 of IPC, at Police Station Kotwali, District Patiala, at the behest of petitioner No.1 – Ravi Chawla, being CRM-M-4631-2021 preferred by petitioner No.2 – Sunita and another, has been started, where Ravi Chawla had stated that he had no objection to the prayer made in the petition for quashing being accepted. The remaining amount which was payable to petitioner No.2 – Sunita, petitioner No.1 – Ravi Chawla was ready to hand-over the drafts for the said amount. It was further stated that they have been living separately from each other since 26.12.2010, which is more than 10 years and during this period, they had endless litigations leading to complete

disruption of marital relations between them. They failed to adjust with each other and there is no scope of their living together as husband and wife in future as well. Reliance was placed upon the judgment of the Hon'ble Supreme Court in **Amardeep Singh Vs. Harveen Kaur** 2017 (8) SCC 746 for pressing their prayer for waiver of the mandatory period.

4. This Court proceeded to consider the facts and circumstances of the case and recorded its satisfaction that the petitioners had not been able to live together and there has been complete disruption of matrimonial relations between them, with no possibility of reconciliation leading to the marriage having been broken irretrievably. There was no hope for bringing them together and the parties are unable to live with each other in future. This Court proceeded to wave off the mandatory period of six months as provided under Section 13-B (2) of the Hindu Marriage Act, 1955, vide order dated 04.03.2021.

On the same date, the Court directed the petitioners to appear before the Principal Judge, Family Court at Patiala, on 12.03.2021 at 11:00 AM for recording their second motion statements. In compliance with the said order passed by this Court, parties appeared and got recorded their respective statements before the Principal Judge, Family Court at Patiala, on 12.03.2021.

5. On 25.03.2021, report of the Principal Judge, Family Court at Patiala, along with the statements of the petitioners at second motion were taken on record. Petitioner No.2 – Sunita informed the Court that in the quashing petition preferred by her i.e. CRM-M-4631-2021, statements of the parties were to be recorded before the Judicial Magistrate 1st Class (Duty), Patiala, on 31.03.2021. The case was adjourned to 08.04.2021.

6. On 08.04.2021, when the case was taken up for consideration, both the petitioners acknowledged the fact that their statements have been recorded by the Judicial Magistrate 1st Class (Duty) Patiala on 31.03.2021, however, the statement of the Investigating Officer was still pending. Further, petitioner No.2 – Sunita had expressed apprehension that petitioner No.1 – Ravi Chawla may resile and not support and acknowledge his statement, which he has given before the Judicial Magistrate 1st Class (Duty), Patiala, on 31.03.2021, where he had stated that he has no objection to the quashing of the FIR, which had been got recorded by him. This Court had categorically stated while passing the order that this apprehension of petitioner No.2 – Sunita appears to be unfounded, however, the matter was adjourned to 23.04.2021 on her statement that the Investigating officer has still not appeared before the Judicial Magistrate 1st Class (Duty), Patiala, for recording his statement.

7. The case has come up for hearing today i.e. 23.04.2021 when petitioner No.1 – Ravi Chawla acknowledged the fact that the statement of the Investigating Officer of FIR No.320 of 2020, registered under Sections 506, 324, 323 and 341 of IPC, at Police Station Kotwali, District Patiala, stands recorded by the Chief Judicial Magistrate, Patiala on 09.04.2021. In the light of the above, there is no impediment for proceeding to decide the application which has been preferred by the parties under Section 13-B of the Hindu Marriage Act, 1955, specially in the light of the fact that petitioner No.1 – Ravi Chawla, who is present along with his counsel, makes a statement in Court that he would appear before this Court, if called upon to make a statement that he has no objection for quashing of FIR No.320 of 2020, which was recorded at his behest, he being complainant against petitioner No.2 – Sunita.

8. Counsel for the parties have taken us through the statements of the parties as recorded before the Principal Judge, Family Court at Patiala, on 18.02.2021 and 12.03.2021, wherein it has been stated by the parties that the compromise/settlement deed dated 11.01.2021 has been entered into between them and in pursuance thereto, parties have taken further steps to give effect to the settlement including the payment of the total amount of Rs.10,50,000/- to petitioner No.2 – Sunita by petitioner No.1 – Ravi Chawla and the statements of the parties have also been recorded for the purpose of quashing of FIR No.320 of 2020, registered under Sections 506, 324, 323 and 341 of IPC, at Police Station Kotwali, District Patiala, at the behest of petitioner No.1 – Ravi Chawla, as has been recorded above. Parties have also acknowledged this factum. Even today, petitioner No.1 – Ravi Chawla had made a statement in Court that he has no objection for quashing of the FIR got registered by him as referred to above. Both the petitioners have prayed for passing a decree of divorce by mutual consent as per the provisions of Section 13-B of the Hindu Marriage Act, 1955.

9. Having considered the submissions made by the learned counsel for the parties and on going through the statements recorded by the Principal Judge, Family Court at Patiala, dated 18.02.2021 and 12.03.2021, we are satisfied that the likelihood of both the parties living together again is not there and thus, the marriage between them has broken down irretrievably. However, the parties have now amicably resolved their disputes vide compromise/settlement deed dated 11.01.2021, in pursuance whereof, they have acted to give effect to the same leading to the amicably resolution of the disputes. It would, therefore, be just and expedient that the marriage between

the parties be dissolved by a decree of divorce with mutual consent.

In the light of the above, the joint petition, filed by the petitioners, under Section 13-B of the Hindu Marriage Act, 1955, is allowed and the marriage between them shall stand dissolved by a decree of divorce by mutual consent. The parties shall remain bound by the terms and conditions as recorded in their respective statements before the Principal Judge, Family Court at Patiala as well as before the Judicial Magistrate 1st Class (Duty), Patiala, relatable to quashing of FIR No.320 of 2020 pending in CRM-M-4631-2021. Decree-sheet be prepared accordingly.

10. Learned counsel for Ravi Chawla submits that in view of the joint petition being accepted, FAO-M-359-2015 preferred by Ravi Chawla against the judgment and decree dated 06.05.2015 passed by the Additional District Judge, Patiala, has been rendered infructuous.

11. Accordingly, FAO-M-359-2015 filed by petitioner No.1 – Ravi Chawla is disposed of as infructuous. Pending application(s), if any stand(s) disposed of accordingly. The parties shall bear their own costs.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

23.04.2021

Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No