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CM-4668-CII-2021 in/&
FAO-2389-2017

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

CM-4668-CII-2021 in/&
FAO-2389-2017

Date of Decision: 21.05.2021

Smt. Rinku

...Petitioner No.1

Versus

Ankur

...Petitioner No.2

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

Present: Mr. Rahul Deswal, Advocate
for petitioner No.1 along with petitioner No.1 – Smt. Rinku.

Mr. Vivek Khatri, Advocate
for petitioner No.2 along with petitioner No.2 – Ankur.

AUGUSTINE GEORGE MASIH, J.

FAO No.2389 of 2017 was preferred by petitioner No.1 – Smt. Rinku challenging the judgment and decree dated 07.03.2017 passed by the District Judge, Family Court, Bhiwani, whereby petition under Section 13 of the Hindu Marriage Act, 1955, preferred by petitioner No.2 – Ankur son of Ved Parkash was allowed and the marriage between the petitioners was dissolved.

2. During the pendency of the above appeal, an application i.e. CM-2874-CII-2021 was filed for converting and treating the appeal as a petition under Section 13-B of the Hindu Marriage Act, 1955. This application was preferred in the light of the fact that the matter had been amicably resolved and settled between the parties. It has been asserted that

both the parties have agreed that petitioner No.2 – Ankur (husband) would pay an amount of ₹ 31,00,000/- (rupees thirty one lacs only) as permanent alimony for settlement of all matters once and for all. The compromise deed was placed on record as Exhibit-A on 13.01.2021. Prayer had also been made in para 3 of the said settlement that the matter be treated as a petition under Section 13-B of the Hindu Marriage Act, 1955, on the basis of the mutual consent. It was also mentioned in the said settlement that both the parties will withdraw all kind of cases or get the same quashed which have been earlier filed by either of the parties against the opposite party or their family members in appropriate forum/Court on the basis of this compromise and there will be no litigation pending against each other. Both the parties will not claim any type of maintenance or any right in the property(s) of each other or in-laws in future and there will be no interference in the life of each other.

3. The above mentioned application came up for hearing before this Court on 10.03.2021, where this Court accepted the prayer made by the parties and the appeal was converted and treated as a petition under Section 13-B of the Hindu Marriage Act, 1955.

4. Counsel for the parties submitted that the parties would appear before the Principal Judge, Family Court at Bhiwani, on 22.03.2021 at 11:00 AM for recording their first motion statements. Prayer was also made that petitioner No.2 – Ankur may be permitted to get recorded his statement through video conferencing because of certain duties which he owes towards the nation being a member of the defence services.

5. Prayer made by the counsel for the parties was accepted and the parties were accordingly ordered to appear before the Principal Judge, Family Court at Bhiwani on the time and date as stated above for recording their respective statements. The next date of hearing was fixed as 20.04.2021.

6. On 20.04.2021, when the case came up for hearing, it transpires that the statements of the parties had been recorded of first motion by the Principal Judge, Family Court at Bhiwani, on 22.03.2021 and report in this regard was submitted to this Court along with the copies of the statements of the parties, which were taken on record.

7. A prayer made by the counsel for the parties for waiver of the mandatory period of six months for recording the second motion statements in the light of the peculiar facts and circumstances especially in the light of the long period, which has been spent by them living away from each other as they are residing separately since October, 2014. It was also stated that all efforts of reconciliation and to reunite the parties have failed both at the level of the families as also the friends and respectables. The Court finding that there was no likelihood of the petitioners cohabiting together as husband and wife because of temperamental and other differences, which being of such a nature where reconciliation was not possible, it was concluded that the marriage between the parties has broken irretrievably. The Court also observed that the compulsorily waiting period would only prolong their agony by six months and keeping in view the fact that all disputes had been amicably resolved, the said prayer of the counsel for the

parties was accepted in the light of the judgment of the Hon'ble Supreme Court in the case of Amardeep Singh Vs. Harveen Kaur 2017 (8) SCC 746.

8. At this stage, learned counsel for the petitioners submitted that the petitioners are ready and willing to appear before the Principal District Judge, Family Court, Bhiwani, for recording of their second motion statements. Accordingly, direction was issued by this Court to petitioner No.1 – Smt. Rinku to appear before the Principal District Judge, Family Court, Bhiwani, in person on 07.05.2021 at 11:00 AM for recording her statement. Qua petitioner No.2 – Ankur, it was ordered that his statement be recorded through video conferencing by the Family Court on the same date during the proceedings. The case was, thereafter, fixed for hearing on 20.05.2021 to await the report of the Family Court. Bhiwani.

9. Because of the prevailing pandemic and there being spike in positive cases of COVID-19, the number of the cases to be taken up is restricted and the present case was adjourned to 08.09.2021.

10. Today, an application i.e. CM-4668-CII-2021 has been listed, wherein request for preponement of the hearing of the main case has been made. Counsel for petitioner No.2 – Ankur along with Ankur had appeared through video conferencing and similarly counsel for petitioner No.1 – Smt. Rinku as well as she herself had put in appearance by the same mode. Counsel for the parties as well as the petitioners have made a request for preponement of the hearing of the main case from 08.09.2021 and taking up of the same for consideration today. In the light of the above request, the

same was accepted and the main case was taken up on board for consideration by preponing the date of hearing of the case.

11. In compliance with the order dated 20.04.2021 passed by this Court, report of the Duty Additional District & Sessions Judge, Bhiwani, dated 07.05.2021, has been received, wherein it has been stated that the statement of both the parties on second motion in petition under Section 13-B of the Hindu Marriage Act, 1955, stands recorded on 07.05.2021. Petitioner No.1 – Smt. Rinku appeared in person along with her counsel, whereas, petitioner No.2 – Ankur joined the proceedings through video conferencing, his counsel had also appeared before the Court in person. Statement of the parties has been recorded, wherein they have acknowledged the factum of the compromise, which had been entered into between them. It has been stated that all the disputes have been settled and solved. All kinds of cases pending between them would be withdrawn and/or shall be quashed. They would not disturb the private and personal life of each other. They have decided to get the marriage dissolved by a decree of divorce with mutual consent. No further litigation would be initiated by them against each other in future. It was specifically asserted that the statement which has been given was without any fear, coercion or any pressure. Along with the report, statement of the parties stands attached, which is taken on record.

12. Both the petitioners, who had joined the proceedings through video conferencing today, have acknowledged the factum of they having got recorded their statement before the Duty Additional District and Sessions

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Judge, Bhiwani, on 07.05.2021 and also accepted the fact of having entered into a compromise 'Exhibit-A'. They stated that they stand by the said agreement/settlement. Each of the petitioners has specifically stated that because of the temperamental and other differences between them, they are not in a position to live together as husband and wife and therefore, have amicably decided to part ways for their own betterment. They have stated that they would stand by their statements which have been recorded before the Principal District Judge, Family Court at Bhiwani, on 22.03.2021 and the Duty Additional District and Sessions Judge, Bhiwani, on 07.05.2021. A joint prayer has been made for accepting the petition under Section 13-B of the Hindu Marriage Act, 1955 and to grant them the decree of divorce by mutual consent.

13. Having considered the submissions made by the learned counsel for the parties and on going through the statements recorded by the Principal District Judge, Family Court at Bhiwani, on 22.03.2021 and by the Duty Additional District and Sessions Judge, Bhiwani, on 07.05.2021, 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 Exhibit-A, in pursuance whereof, they have acted to give effect to the same leading to the amicable 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.

14. 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

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marriage between them is dissolved by a decree of divorce with mutual consent. The parties shall remain bound by the terms and conditions as recorded in the compromise/settlement Exhibit-A as well as in their respective statements before the Principal District Judge, Family Court at Bhiwani and the Duty Additional District and Sessions Judge, Bhiwani. Decree-sheet be prepared accordingly.

15. Learned counsel for petitioner No.1- Rinku submits that in view of the joint petition being accepted, FAO No.2389 of 2017 preferred by Smt. Rinku against the judgment and decree dated 07.03.2017 passed by the District Judge, Family Court, Bhiwani, has been rendered infructuous.

16. Accordingly, FAO No.2389 of 2017 filed by petitioner No.1 – Smt. Rinku is disposed of as infructuous. Pending application(s), if any stand(s) disposed of. The parties shall bear their own costs.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

21.05.2021
Harish

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