

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.927 of 2018

Arising Out of PS. Case No.- Year-1111 Thana- District-

Chandra Mohan Prasad @ Chandra Mohan Prasad Singh @ Lalan Prasad Singh son of Late Mahendra Prasad Singh @ Mahendra Narayan Singh resident of Village- Ektara, P.S.- Arer, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Smt. Pooja Kumari, wife of Chandra Mohan Prasad Singh @ Lalan Prasad Singh resident of Village- Ektara, P.S.- Arer, District- Madhubani, D/o Sri Birendra Chaudhary, resident of village-Paktda (Jogiyara), P.S.-Jale, Post-Radhi, District-Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vinay Ranjan, Advocate
For the O.P.No.2	:	Mr. Aaruni Singh, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

12 22-08-2022 This Court is in agreement with the joint submissions of learned counsel for the petitioner as well as the opposite party no.2 that the order dated 06.01.2018 is contrary to the mandate of Section 13(B) of the Hindu Marriage Act, 1955 (in short ‘the Act of 1955’). It is submitted that the learned Principal Judge, Family Court, Madhubani has disposed of the application seeking divorce filed by the parties with their mutual consent on the solitary ground that the application was filed more than 18 months back.

Having heard learned counsel for the parties and on perusal of the records, this Court notices that Section 13(B) of



the Act of 1955 reads as under:-

“13B.Divorce by mutual consent.—(1) Subject to the provisions of this Act a petition for dissolution of marriage by a decree of divorce may be presented to the district court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 1976 (68 of 1976), on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

(2) On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in subsection (1) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime, the court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.”

Apparently the learned court below has misconstrued the provision of law and rejected the application as having become infructuous. The impugned order dated 06.01.2018 is



thus set aside. The application under Section 13(B) of the Act of 1955 is hereby restored.

The parties are ready to appear in the learned court below after four weeks on or about 27.09.2022.

The learned court below is directed to record their appearance and proceed to pass an appropriate order on the application under Section 13(B) of the Act of 1955. It is expected that the application shall be disposed of within a period of thirty days from the date of appearance of the parties.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

