

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-943-2019 (O&M)

Date of Decision: 22.12.2022

Yogesh

.....Appellant

Vs.

Pooja

.....Respondent

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr.Pardeep Singh Poonia, Advocate for the appellant.

Mr.Anshuman Dalal, Advocate for the respondent.

HARPREET KAUR JEEWAN,J.

Challenge in the present FAO was made to the judgment and decree dated 07.01.2019 passed by the Principal Judge, Family Court, Rohtak, vide which the divorce petition filed by the appellant-husband Yogesh against his wife Pooja was dismissed.

2. The appellant-husband Yogesh filed a divorce petition under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as '*the Act*') for grant of decree of divorce by way of dissolution of the marriage of the parties which was solemnized on 13.03.2013 at Rohtak. The petition was contested by the respondent- Pooja and after obtaining the evidence of both the parties, the divorce petition was dismissed vide impugned judgment and decree dated 07.01.2019.

3. During the pendency of the present appeal and with the intervention of the Court, the parties agreed to settle their dispute amicably. Statement of both the parties were recorded on 12.12.2022 and the instant appeal was converted into a petition under Section 13-B of the Act. The order dated 12.12.2022 reads as under:

“Parties are present in the Court today and with the intervention of this Court, they have settled their dispute amicably. Statements of the parties to this effect have been recorded in the Court today. As per the statements, the appellant-husband is ready to give Rs.20,00,000/-, to the respondent-wife towards permanent alimony (past, present and future maintenance). Out of agreed amount, Rs.5,00,000/- will be transferred through RTGs by 15.12.2022 in the account of the respondent-wife (mentioned in the statement). The remaining amount will be paid by the appellant-husband to the respondent-wife on the next date of hearing. The respondent-wife also accepted the aforesaid amount. The parties undertake to withdraw all the pending/registered cases filed against each other in the concerned Courts. The respondent has also no objection if the present petition is converted into divorce petition under Section 13-B of the Hindu Marriage Act, 1955. The parties also undertake not to file any case against each other and their family

members in future also.

Resultantly, the instant appeal suo motu is converted into Section 13-B of the Act.

Adjourned to 22.12.2022 for recording second motion statements of the parties.”

4. On 22.12.2022, statement of the parties were again recorded. Appellant Yogesh stated as under:

“ Stated that I am a resident of the above mentioned address. I have heard the statement of my wife Pooja, to whom I have paid Rs.15,00,000/- by way of demand draft dated 16.12.2022 bearing No.285577. I undertake to withdraww the criminal revision bearing CRR(F)-751-2019 which is pending as stated in my earlier statement recorded on 12.12.2022. Accordingly, the marriage between us be dissolved as such and I have no objection to the same. None of us would have any claim against each other in future or initiate any proceedings with regard to this marriage.”

Respondent Pooja stated as under:

“Stated that I am a resident of the above mentioned address. In pursuance of the statement recorded on 12.12.2022, I have received a sum of Rs.5,00,000/- in my bank account maintained with Punjab National Bank. I also accept the demand draft dated 16.09.2022 bearing No.285547 for the

balance amount of Rs.15,00,000/-. I undertake to stand by my statement recorded on an earlier occasion for withdrawal of all proceedings and also give my no objection regarding quashing of FIR No.107 dated 07.07.2017 which is pending before this Court for 24.01.2023. I also reiterate that I have no objection of the marriage between us is dissolved under Section 13-B of the Hindu Marriage Act, 1955. I accordingly stand by my earlier statement. I also undertake not to file any case against the appellant-husband and his family members in future with regard to this marriage. All matters regarding past, present and future stand resolved.”

5. Learned counsel for the parties submitted that both the parties have effected a compromise at the appellate stage. They have undergone a long litigation whereas they have hardly lived together for few months after marriage. So in such circumstances, there are no chances for the parties to again live together as husband and wife. Hence he requested for waiving off the period of six months specified in Section 13-B (2) of the Act.

6. We have considered the aforesaid submissions and the facts of the present case. The marriage between the parties were solemnized about 9 and half years ago but in a period of less than one month after the marriage, the *panchayats* were convinced to settle the matrimonial dispute between the parties which is evident from the contents of the petition, which was filed before the Family Court. Even the criminal case was got registered against the appellant-husband and the family member of the appellant-husband also filed a petition under Section 9 of the Hindu

Marriage Act. The long standing litigation, which arose on account of the matrimonial dispute between the petitioners, has now been settled. The parties are young and can restart their life. The statutory period of six months specified in Section 13-B (2) in addition to the statutory period of one year under Section 13-B (1) of separation of parties is already over, when the parties have finally settled their dispute on 13.12.2022. The facts further reveals that efforts for conciliation were also made. The matter was also sent to Mediation Centre and as evident from the noting of the Director of Mediation and Conciliation Centre dated 06.05.2019. The proceedings further reveals that the mediation was held at length with the parties and many sittings were held and ultimately, the Mediation was unsuccessful.

7. Now, the parties have genuinely settled their differences including the issue of past, present and future alimony. Hence, the waiving period will only prolong their agony.

8. The Hon'ble Supreme Court of India in **Amardeep Singh versus Harveen Kaur, 2017(8) SCC 746**, has held that the period mentioned in Section 13-B (2) of the Act is not mandatory but directory and it is open for the Court to exercise its discretion in the fact and circumstances of each case.

9. After having heard the learned counsel representing the parties, this bench is of the considered view that once the parties have decided to part ways and live separately and they have settled all their disputes and even the mediation has failed, this Court cannot any further prolong their agony.

10. In the facts of the case, we are of the considered view that there is no possibility of the parties assuming cohabitation and their marriage has irretrievably broken up.

11. Consequently, the decree of divorce by a mutual consent under Section 13-B of the Hindu Marriage Act, 1955 waiving the statutory period of six months under Section 13-B (2) of the said Act, is granted to the appellant and the marriage between the parties solemnized on 13.03.2013 stands dissolved from the date of this order by mutual consent. Pending applications, if any, stands disposed of.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

December 22, 2022
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Whether Speaking	Yes
Whether Reportable	No