

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-M-25-2018 (O&M)

Date of decision: 10.02.2022

Varun Aggarwal

..... Appellant

Versus

Pooja Aggarwal

..... Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

PRESENT: Mr. Rishab Garg, Advocate with
Mr. Varun Aggarwal, appellant-in-person.

Mr. Aayush Gupta, Advocate with
Mrs. Pooja Aggarwal, respondent-in-person.

RITU BAHRI, J. (ORAL)

CM-906-CII-2022

Prayer in this application filed under Section 151 CPC is for converting the present appeal into a petition under Section 13-B of the Hindu Marriage Act, 1955 (for short-'the Act') for divorce by way of mutual consent.

Both the parties who are present in Court are *ad idem* that they have no objection, if, the present appeal is converted into divorce petition under Section 13-B of the Hindu Marriage Act, 1955.

In view the above, the application is allowed and the present appeal is converted into divorce petition under Section 13-B of the Act.

CM-907-CII-2022

This application has been filed for waiving off the period of six months stipulated under Section 13-B of the Act.

In the said application, it has been stated that marriage between the parties was solemnized on 02.06.2011 and out of this wedlock one male child was born on 05.04.2012. It has further been stated that parties are living separately from each other since, 2012 which is more than 10 years and now the parties have compromised the matter vide compromise deed dated 10.01.2022 (Annexure R-4) and they have decided to take divorce under Section 13-B of the Act, as the marriage between them is irrevocably broken down.

In support of this assertion, reliance has been placed upon the judgment of the Hon'ble Supreme Court in Amardeep Singh Vs. Harveen Kaur, 2017(8) SCC 746, wherein the Hon'ble Supreme Court has held that the Court in case of there being no hope for bringing together the parties and that the parties are unable to live with each other in future, the said mandatory period can be waived off.

In the light of the above and keeping in view the judgment passed by the Hon'ble Supreme Court in Amardeep Singh's case (supra), this Court is satisfied that the parties in the light of the facts and circumstances of the present case have not been able to live together and there has been complete disruption of marital relations with no possibility of reconciliation between them, the marriage has broken irretrievably and, therefore, the mandatory period of six months as provided under

Section 13-B of the Act, is waived off.

Application stands disposed off.

FAO-M-25-2018 (O&M)

The appellant has come up in this appeal against the judgment and decree dated 15.11.2017, passed by the learned Additional District Judge, Ludhiana, whereby his petition under Section 13 of the Act, for dissolution of marriage by a decree of divorce was dismissed.

In the present appeal, notice of motion was issued on 05.02.2018 and thereafter, the parties were relegated to the Mediation and Conciliation Center of this Court vide order dated 07.08.2018. However, the mediation has failed. Now, the parties have again reconciled and they have arrived at a compromise vide compromise deed dated 10.01.2022 (Annexure R-4).

Today, both the parties are present in person in Court with their counsels and they are not disputing the compromise Annexure R-4 arrived at between them. The parties have been duly identified by their respective counsel as well and their statements have also been recorded, which are taken on record. Self attested copies of Aadhar Cards of both the parties are taken on record.

In her statement, recorded today in Court, respondent-Pooja Aggarwal, stated that she has compromised the matter with the appellant and is ready and willing to give divorce to him by way of mutual consent. She will withdraw all the cases filed by her against appellant-husband and his family members. She further stated that she has received an

amount of Rs.39,00,000/- in lump sum as permanent alimony for herself and her minor son namely; Shaurya @ Meghansh Mittal @ Meghansh Aggarwal, who is in her custody. She has also received all the dowry articles lying with the appellant-husband. She will not claim any further alimony for herself and her minor son in future and will not file any petition or case against the appellant and his family members. She will abide by the terms and conditions as mentioned in compromise deed dated 10.01.2022 (Annexure R-4).

In his statement, recorded today in Court, appellant-Varun Aggarwal, stated that he has compromised the matter with the respondent. He is ready and willing to give divorce to the respondent by way of mutual consent subject to withdrawal of all the cases filed against him and his family members by the respondent-wife. He has paid an amount of Rs.39,00,000/- in lump sum as permanent alimony to the respondent as well as for the future his minor son, namely; Shaurya @ Meghansh Mittal @ Meghansh Aggarwal. He has returned all the dowry articles to the respondent-wife. He will not file any case or petition against the respondent or her family members. He will abide by the terms and conditions as mentioned in compromise deed dated 10.01.2022 (Annexure R-4).

A perusal of the compromise shows that marriage between the parties was solemnized on 02.06.2011 and out of this wedlock one male child was born on 05.04.2012 and parties are living separately from each other for the last 10 years. Since, the matter has been compromised

between the parties vide compromise deed Annexure R-4 and their statements have also been recorded in Court today, the present appeal is allowed. Appellant-husband is granted divorce in view of compromise Annexure R-4 and the impugned judgment and decree dated 15.11.2017, is hereby set aside.

Decree-sheet be prepared, accordingly.

Since, the main appeal has been allowed, therefore, all the pending miscellaneous applications, if any, stand disposed of.

(RITU BAHRI)
JUDGE

February 10, 2022
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No