

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-349 of 2019(O&M)

Date of Decision:28.02.2023

Jyoti**.....Appellant**

Versus

Dinesh**..... Respondent****CORAM:- HON'BLE MRS.JUSTICE LISA GILL****HON'BLE MRS. JUSTICE RITU TAGORE**Present: Mr. Naren Pratap Singh, Advocate
for the appellant.Mr. Loveneet Thakur, Advocate
for the respondent.

LISA GILL, J(Oral).

This appeal has been filed by the appellant-wife, challenging judgment and decree dated 15.12.2018, passed by the learned Family Court, Rohtak, whereby petition under Section 13 (1) (ia) of the Hindu Marriage Act, filed by the respondent-husband has been allowed.

During pendency of this appeal, matter has been amicably resolved between the parties and it is decided amongst them that they shall part ways amicably. Statements of the parties to this effect was recorded on 22.11.2022. Appellant stated that she is ready and willing to accept a sum of Rs. 17,00,000/- as offered by the respondent-husband as full and final settlement of all her claims- past, present and future including permanent alimony etc. She further stated that the amount would be used for future benefit of the child born out of their wedlock. Rs. 4,00,000/- out of the said amount was deposited by the respondent in the account of the appellant in terms of the settlement on which Criminal Appeal No. 332 of 2019 filed by the appellant and Criminal Appeal No. 6617 of 2022, filed by her brother

pending at Sessions Court, Rohtak, were withdrawn. It was agreed that the remaining amount of Rs. 13,00,000/- would be paid to the appellant in two installments of Rs. 6,50,000/- each. Statement of respondent in this respect was also recorded.

Today, learned counsel for the respondent submits that the complete amount of Rs. 13,00,000/- has been arranged by the respondent and he may be permitted to tender the same to the appellant by way of two demand drafts of Rs. 6,50,000/- each. Photocopy of demand draft nos. 032052 and 032053, amounting to Rs. 6,50,000/- each, are taken on record subject to just exceptions. The appellant present in Court submits that she is ready and willing to accept the same. It is prayed by both the parties that application seeking conversion of the petition into one under Section 13-B of the Act, be allowed and their statements recorded on 22.11.2022 be treated to be their statements at first motion. Appellant and respondent seek waiver of statutory period of six months for recording their statements at second motion as it is submitted that there is no possibility of their cohabiting together and the settlement between them is genuine. 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 with parties being unable to live with each other in future, the said mandatory period can be waived off.

Keeping in view the facts and circumstances as above, petition under Section 13-B of the Act, is taken on record. Statements of the parties recorded on 22.11.2022 are treated to be their statements at first motion.

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 in the light of the facts and circumstances of the present case that the parties have not been able to live together since 17.09.2013 and there has been complete disruption of marital relations. With no possibility of reconciliation between them despite earnest efforts for reconciliation, the marriage has broken irretrievably. The parties have genuinely settled their differences and the waiting period will only prolong their agony. The parties have thus made out a case for waiver of the statutory period of six months.

Period of six months in the given facts and circumstances is waived off. Statements of the parties at second motion have been recorded separately. They have reiterated their statements at first motion. Appellant-wife has stated that she has received the entire agreed amount. Parties have stated that the compromise has been arrived at out of their own free will and volition without any pressure, coercion or undue influence from any quarter. Parties have stated that they shall remain bound by their statements. The entire agreed amount has been received by the appellant-wife. It is agreed that the child would remain in the custody of the mother. Parties have stated that they would not initiate any further proceedings i.e., civil or criminal against each other. Compromise/settlement between the parties appears to be genuine.

Keeping in view the facts and circumstances as above, judgment and decree dated 15.12.2018, passed by the learned Family Court, Rohtak, is set aside. Petition under Section 13-B of the Act, is allowed. Marriage solemnized between the parties is dissolved by way of mutual consent under Section 13-B of the Act. The parties shall remain bound by

the terms and conditions of the settlement arrived at between them. Appeal is disposed of accordingly. Decree sheet be prepared accordingly.

Pending miscellaneous applications, if any, shall stand disposed of accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

February 28, 2023.
s.khan

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.