

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****FAO-1142-2020 (O&M)**
Date of Decision: 04.05.2023**AMIT
&**

..... Appellant(s)

RUBAL DEVI

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**Present: Mr. Manoj Tanwar, Advocate
for the appellant.Mr. Naveen Dahiya, Advocate
for the respondent.

LISA GILL, J.

1. This appeal has been filed by the appellant-husband challenging judgment and decree dated 13.12.2019, passed by learned Additional Principal Judge, Family Court, Sonipat, whereby petition under Section 13 of Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'), filed by him was dismissed.

2. It is submitted that marriage between the parties was solemnized on 17.01.2012. Marriage was consummated, however, no child was born out of this wedlock. Dispute arose between the parties leading to filing of petition under Section 13 of the Act, by the appellant-husband, which was, however, dismissed on 13.12.2019.

3. Learned counsel for the parties submit that during pendency of this appeal, matter has been amicably resolved between the parties. Terms and conditions of the compromise have been reduced in writing. Settlement/agreement dated 13.04.2023 is available on record as A1.

4. Prayer on behalf of the parties for conversion of the petition to

one under Section 13-B of the Act stands accepted with petition under Section 13-B of the Act as well as affidavits of both the parties already been taken on record.

5. Appellant and respondent, duly identified by their counsel are present in Court. Both of them reiterate that matter has been amicably resolved. It is agreed that a sum of ₹6,45,000/- would be accepted by respondent - wife as full and final settlement of all her claims - past, present and future including permanent alimony, maintenance etc. and parties agree to seek divorce by mutual consent. Terms and conditions of the settlement as detailed in para 8(i) to (vii) of settlement agreement dated 13.04.2023 are reiterated. Terms and conditions of the settlement, it is submitted, shall be adhered to by both of them. In terms of the settlement, demand draft bearing No.764748 dated 18.04.2023 of ₹6,45,000/-, has been received by respondent - wife today in Court. She submits that petition under Section 13-B of the Act, be allowed. Photocopy of said demand draft is taken on record, subject to just exceptions. It is further agreed that respondent – wife will withdraw petition under Section 125 Cr.P.C. as well as Criminal Appeal No.143/2022, filed by her, which is pending before learned Sessions Court, Sonapat.

6. Statements of the parties at first motion were duly recorded on 19.04.2023. Parties present in Court reiterate the terms and conditions of the settlement as well as averments in the petition under Section 13-B of the Act and their statements recorded at first motion on 19.04.2023. Appellant present in Court states that he shall remain bound by the same. Respondent (wife) also reiterates the terms and conditions of the settlement dated

13.04.2023 as well as the contents of her statement recorded at first motion on 19.04.2023 besides the averments in the petition under Section 13-B of the Act. Both of them submit that they have been living separately since 06.05.2014 and there is no possibility of resumption of matrimonial ties between them despite best efforts and that there is no impediment to allow the petition under Section 13-B of the Act.

7. Appellant and respondent seek waiver of statutory period of six months for recording their statements at second motion as it is submitted that parties have been living separately since 2014 and there is no possibility of resumption of matrimonial ties between them with no possibility of their cohabiting together and the same would only prolong agony of the parties. Furthermore, there is no impediment to allow the petition under Section 13-B of the Act.

8. 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 them being unable to live with each other in future, said mandatory period can be waived off.

9. 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 parties have not been able to live together since 2014 and there has been complete disruption of marital relations. With no possibility of reconciliation between them despite earnest efforts for reconciliation,

marriage has broken irretrievably. Parties have genuinely settled their differences and waiting period will merely prolong their agony. Parties have thus made out a case for waiver of statutory period of six months. Ordered accordingly.

10. Accordingly, their statements at second motion have been recorded separately today. Both the parties while reiterating their statements at first motion, submit that they have agreed to part ways on the terms and conditions as detailed in the settlement agreement dated 13.04.2023 out of their own free will and volition, without any kind of pressure, coercion or undue influence from any quarter and that they shall remain bound by the terms and conditions of said Agreement.

11. It is a matter of record that the parties are living separately since the year 2014 and despite earnest efforts all attempts for reconciliation and resumption of matrimonial ties have failed. There is indeed no possibility of the parties resuming matrimonial ties. No impediment in allowing the petition under Section 13-B of the Act has been pointed out.

12. Keeping in view the facts and circumstances, judgment and decree dated 13.12.2019, passed by learned Additional Principal Judge, Family Court, Sonipat, is set aside. Petition under Section 13-B of the Hindu Marriage Act, 1955 is allowed. Marriage solemnized between the parties is dissolved by way of mutual consent under Section 13-B of the Act. Parties shall remain bound by the terms and conditions of the settlement agreement dated 13.04.2023. Appeal/petition is disposed of accordingly. Decree sheet be prepared accordingly.

13. Pending miscellaneous applications, if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

04.05.2023
Sunil

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