

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-1643-44-CII-2022 in/and
FAO-M-3-2022 (O&M)
Date of Decision: March 27, 2023

Pahalwan Appellant

Versus

Jyoti Respondent

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr.Chanderhas Yadav, Advocate for the appellant
Mr. Aditya Yadav, Advocate for the respondent.

LISA GILL, J.

CM-1643-CII-2022

There is a delay of 665 days in filing of present appeal.

For the reasons mentioned in the application, which is supported by an affidavit as well as arguments addressed, delay of 665 days in filing of the present appeal is condoned.

Application is, accordingly, disposed of.

CM-1644-CII-2022

Prayer in the application is for placing on record photographs as Annexure A1. Same is taken on record subject to just exceptions.

Application is, accordingly, disposed of.

FAO-M-3-2022 (O&M)

This appeal has been filed by the appellant – husband challenging judgment and decree dated 16.02.2018 passed by the learned Additional District Judge, Rewari whereby appellant's petition under Section 13 (1)(i-a) of the Hindu Marriage Act, 1955 (for short – 'the Act') has been dismissed.

During pendency of this appeal, matter has been amicably resolved between the parties. Prayer for conversion to petition under Section 13B of the Act was allowed and petition under Section 13B of the Act had been taken on record vide order dated 15.03.2023. Statements of the parties at first motion in respect to the agreement were recorded on 15.03.2023.

Parties, duly identified by their counsel, are present in Court. Both of them reiterate their statement recorded on 15.03.2023 as well as their resolve to part ways.

It is submitted that both appellant and respondent have decided to part ways as despite best efforts, resumption of matrimonial ties between them is not possible. They, thus, seek dissolution of their marriage solemnised on 08.12.2013. No child was born out of this wedlock. It was agreed between the parties that a sum of ₹11 lakhs shall be paid by the appellant to the respondent – wife towards full and final settlement of all her claims, past, present and future including permanent alimony, maintenance etc. It is stated that respondent – wife has received cheque No. 68879 dated 13.03.2023 amounting to ₹2 lakhs on 15.03.2023 alongwith two gold rings and one silver ring. Respondent submits that she has received balance amount of ₹9 lakhs by way of Demand Draft No. 370201 dated 23.03.2023

out of the entire agreed amount of ₹11 lakhs and she has no further claim qua the appellant – husband. She further submits that she does not have Dependent Identity card issued by the Department of her husband and in case, it is so found with her, she would not use the same. Appellant – husband is at liberty to seek cancellation of Dependent Identity Card. It is stated that all civil and criminal proceedings initiated by them stand withdrawn and in case any such proceeding is still pending, necessary steps for withdrawal of the same will be taken. Appellant as well as respondent affirm and verify the averments in petition under Section 13B of the Act.

Parties present in Court while reiterating their statements at first motion recorded on 15.03.2023, submit that as they have been living apart since 2014 with resumption of matrimonial ties not possible between them with the matter genuinely resolved, statutory period of six months for recording their statement at second motion 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 Vs. Harveen Kaur, 2017(8) SCC 746**, this Court is satisfied in the given facts and circumstances that parties have not been able to live together since 2014 and there is complete disruption of marital relations. With no possibility of reconciliation between them despite earnest efforts for reconciliation, the marriage has broken irretrievably. 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 statutory period of six months. Period of six months in the given facts and circumstances is waived off.

Statement of the parties at second motion have, accordingly, been recorded separately. It is stated that settlement has been arrived at out

of their own free will and volition, without any pressure, coercion or undue influence from any quarter and statements have been recorded accordingly. It is prayed that their marriage solemnised on 08.12.2013 be dissolved. It is apparent that despite best efforts, resumption of matrimonial ties between the parties, who have admittedly been living separately since 2014, is not possible. Settlement between the parties wherein they have resolved all their differences appears to be genuine.

Keeping in view the facts and circumstances as above, judgment and decree dated 16.02.2018 passed by the learned Additional District Judge, Rewari, is set aside. Petition under Section 13B of the Act is allowed. Marriage solemnized between the parties on 08.12.2013 is hereby dissolved.

Decree sheet be prepared, accordingly.

Appeal is, accordingly, disposed of.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

March 27, 2023

rts

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No