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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4914-2022 (O&M)

Date of decision: November 24, 2023

Saurabh Singh

....Appellant

versus

Gunjan Singh

....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE SUMEET GOEL**

Present:- Ms. Palak Devi, Advocate for
Mr. Anuj Balian, Advocate for appellant.

Mr. Atul Yadav, Advocate for
Mr. Neeraj Gupta, Advocate for respondent.

SUDHIR SINGH, J. (ORAL)

Appeal herein is, *inter alia*, for setting aside of the impugned order dated 22.09.2022 passed by the learned Family Court, Gurugram vide which petition under Section 6 of the Hindu Minority and Guardianship Act, 1956 (for short 'Act of 1956') read with Section 25 of the Guardians and Wards Act, 1890 (for short 'Act of 1890') seeking custody of minor, namely, Shaurya Pratap Singh, filed by respondent herein, was allowed.

2. Vide order dated 02.05.2023, on *ad idem* request of learned counsel for the parties, matter was referred to the Mediation and Conciliation Centre of this Court and parties were directed to appear before the Mediator. Placed on record is a report dated 18.08.2023 (Annexure 'X') whereby it has been reported that parties have settled their dispute by way of an amicable settlement/ agreement dated 18.08.2023.

Following are the terms and conditions of the aforesaid settlement:-

“a) That the parties to the settlement i.e. Saurabh Singh and Gunjan Singh have agreed to part their ways. The custody and guardianship of the minor son Shaurya Pratap Singh shall remain in the permanent custody of the second party-Gunjan Singh and the first party- husband-Saurabh Singh will not claim the custody of the child in future. That the responsibility and liability of the minor child shall exclusively be that of the second party/mother-Gunjan Singh. It is mutually agreed between both the parties that

- the first party shall make video call for one hour to the child once in three Months with prior intimation to second party.*
- b) *The parties have decided to part ways by getting divorce from each other on the basis of mutual consent. It has been agreed that both the parties shall file Petition under Section 13-B of Hindu Marriage Act, 1955 at Gurugram on or before 6th September, 2023. Both the parties further undertake to make statement, to file affidavit in support of the petition under Section 13B of HMA as and when directed by the learned Court. Both the parties will fully co-operate with each other in the filing the abovesaid petition. The litigation expenses in this regard will be borne by both the parties on their own.*
- c) *It has been agreed between the parties that the first party/husband-Saurabh Singh shall pay an amount of Rs.30,00,000/- (Rupees Thirty Lakhs only) to the second party/wife-Gunjan Singh in lieu of permanent alimony and maintenance (Past, present and future) for the second party/wife and their minor son Shaurya Pratap Singh who accepts the same for herself and on behalf of the minor child. The amount of Rs.30,00,000/- (Rupees Thirty Lakhs only) shall be paid by the first party/husband to the second party/wife in the following manner:-*
- (i) That the first party/husband undertakes to pay an amount of Rs.15,00,000/- (Rupees Fifteen Lakhs only) by way of Demand Draft favouring Gunjan Singh (second Party) on the first motion statement in the petition under Section 13-B of HMA before the Ld. Court at Gurugram.*
 - (ii) That the first party/husband undertakes to pay the balance amount of Rs.15,00,000/- (Rupees Fifteen Lakhs only) by way of Demand Draft favouring Gunjan Singh (second Party) on the second motion statement in the petition under Section 13-B of HMA before the Ld. Court at Gurugram.*
- d) *It is mutually agreed between the parties that both the parties shall withdraw their respective pending cases, which are filed by them and their family members against each other before any court of law/authority including the complaint filed by the second party pending in the Court of Ld. Family Court, Gurugram as mentioned in para No.7, after making the first motion statement in petition under Section 13B of Hindu Marriage Act.*
- e) *It has been mutually agreed that the first party and other co-accused in the said FIR shall file a petition for seeking quashing of FIR No.162 dated 14.11.2021 u/s 498-A, 406, 323, 34, 354-A, 506 IPC at P.S. Women West Gurugram on the basis of this settlement/compromise before the Hon'ble Punjab & Haryana High Court after first motion in the petition u/s 13-B of HMA and the second party shall be bound to make the statement by giving no objection to the quashing of the aforesaid case.*
- f) *That the second party and her child shall not claim any maintenance, permanent alimony, any right in the property from the first party and his family members in future.*
- g) *That the parties undertake before the Hon'ble Court to abide by the terms and conditions set out in the agreement and not to*

dispute the same hereinafter in future and no party shall file any further litigation against each other arising out of the present matrimonial and child custody dispute. It has been mutually agreed by both the parties and their family members that if any complaint/case is pending before any competent court of law/authority, which is not in the knowledge of either of the parties shall also be withdrawn by them and their family members.

In case either of the parties back out from the terms and conditions as stated above, then all the cases that were pending shall be revived.”

3. Learned counsel for the parties submits that proceedings under Section 13-B of the Hindu Marriage Act, 1955 is already pending before the Family Court at Gurugram.

4. Considering the same, the Court below is directed to pass an appropriate order in the pending petition under Section 13-B of the Hindu Marriage Act between the parties, in accordance with law, at the earliest, taking into account that parties have already settled the dispute as per settlement agreement dated 18.08.2023 as already stated above. The parties are directed to abide by the terms and conditions of the aforesaid settlement arrived at between them.

5. Appeal stands disposed of, accordingly.

6. Pending application(s), if any, shall also stand disposed of.

(SUDHIR SINGH)
JUDGE

(SUMEET GOEL)
JUDGE

November 24, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No