

2024.PHHC.067406-DB



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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**FAO-4915-2023 (O&M)
Date of Decision: 13.05.2024**

Maninder Singh Khaira

..... Appellant

Versus

Sian Marie Munroe

..... Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. Anshul Sharma, Advocate
for the appellant along with
appellant-in-person.

Mr. G.S. Madaan, Advocate
for the respondent.

SUDHIR SINGH J. (ORAL)

CM-20301-CII-2023:

Application herein is for placing on record the copy of
compromise deed dated 23.10.2023 as Annexure A-1.

For the reasons stated in application, same is allowed. Copy of
compromise deed dated 23.10.2023 (Annexure A-1) is taken on record,
subject to all just exceptions.

CM-2319-CII-2024:

Application herein is for seeking permission to convert main
appeal into a petition/proceedings under Section 28 of the Special Marriage

Act, 1954 (for short 'the 1954 Act') for grant of divorce by mutual consent, in view of compromise deed dated 23.10.2023 (Annexure A-1).

Learned counsel for the applicant-appellant submits that a compromise has been arrived at between the parties vide compromise deed dated 23.10.2023 (Annexure A-1); and they have decided to part ways on the terms and conditions contained in the said compromise deed.

For the reasons stated in the application, same is allowed. Main appeal is ordered to be treated as petition/proceedings under Section 28 of the 1954 Act.

CM-2320-CII-2024 in/and FAO-4915-2023:

1. Vide judgment and decree dated 15.07.2023 passed by the learned Principal Judge, Family Court, Camp Court, Nabha, the petition filed by the petitioner-husband seeking a decree of divorce under Section 27 of the 1954 Act, was dismissed.
2. Learned counsel for the parties submit that marriage between the parties was solemnized on 07.02.2018 under the provisions of the 1954 Act and out of the said wedlock, no child was born.
3. From bare perusal of the record, it appears that the parties have been living separately for more than four years. Learned counsel for the parties contend that now the matter has been amicably settled between the parties vide compromise deed dated 23.10.2023 (Annexure A-1); and by way of filing CM-2320-CII-2024, learned counsel pray for waiving off the cooling period.
4. Considering the fact that the parties are residing separately for last more than four years and on account of compromise between the parties, application, i.e. CM-2320-CII-2024, is allowed, and the

cooling/statutory period of six months is hereby waived off.

5. The terms and conditions of compromise deed dated 23.10.2023 (Annexure A-1) arrived at between the parties, would read as under:-

“Both the abovementioned parties have entered the present mutual agreement on the following terms :

- 1. That Party of First Part got married to Party of Second Part on 07.02.2018 before Registrar Marriage, Patiala.*
- 2. That the Party of Second Part is non-Hindu foreign Citizen and the marriage was solemnized under the provisions of Special Marriage Act.*
- 3. That Party of Second Part left the Company of Party of First part after approximately one year i.e., December 2018 finally and never joined the company of party of First Part and cohabited since then.*
- 4. That the Party of First Part preferred a petition for seeking dissolution of Marriage by way of divorce which was instituted on dated 25.02.2020 and decided on dated 20.12.2021. However, the said petition was dismissed which now stands challenged by way of appeal bearing number **FAO No.4915 of 2023 pending for 24.11.2023.***
- 5. That during the pendency of Appeal Party of Second Part and Party of First Part have mutually decided to dissolve their marriage by way of divorce.*
- 6. That both the parties have agreed that they will give statement before any court of law in support of dissolution of marriage by way of divorce and also undertakes they will not file any litigation against each other in any civil or criminal court of law against each other.*
- 7. That the Party of Second Part lives in Australia and give undertakes to statement through Video-Conferencing.*
- 8. That Party of Second part has given up on her right for any alimony/interim or Permanent Maintenance.*

9. That the both the parties shall be bound to make statements before the Hon'ble Court / legal forum, regarding the factum of present settlement deed between the parties.

10. That the parties have entered into present compromise with their mutual consent, which has been derived without any undue influence and coercion.”

6. Further, it would be relevant to take note that in compliance of orders dated 15.04.2024 and 24.04.2024, the statements of the parties recorded before the trial Court have been placed on record; and the same read as under:-

“Statement of Maninder Singh Kharia aged about 31 years son of Dharam Singh R/o Village Bhojo Marjiri, Agoul, Tehsil Nabha, District Patiala (petitioner No.1) with counsel Sh. Gurpreet Singh, Advocate.

My marriage was solemnized with co-petitioner on 07.02.2018 as per Sikh Rites at Gurudwara Sahib Bhojo Majri, Agoul, Tehsil Nabha, District Patiala. After the marriage, we lived and cohabited together as husband and wife, but no child was born out of this wedlock. Due to certain temperamental differences, we could not pull on together with each other as husband and wife and as such started residing separately from each other since 15.01.2020. The matter between us has been compromised and it has been decided by us to get our marriage dissolved by way of mutual consent. The matter with regard to past, present and future permanent alimony of petitioner no.2 stands settled amicably. All the other articles including gold ornaments have already been exchanged by both the parties and now nothing is due against each other. Petitioner no.2 will not claim any maintenance from me in future nor she will claim any right in my movable and immovable property in future. Both the parties will not

file any civil or criminal litigation against each other in future. There are absolutely no chances of our residing together under one roof.

RO&AC

Statement of Sian Marie Munroe aged about 32 years wife of Maninder Singh D/o Andre Munroe by birth R/o Wellington, New Zealand. Now R/o H.No.8505/15, Clarke Street, Southport, Gold Coast, Australia, QLD 4215 respondent (Through Video Conferencing) :

My marriage was solemnized with co-petitioner on 07.02.2018 as per Sikh Rites at Gurudwara Sahib Bhojo Majri, Agoul, Tehsil Nabha, District Patiala. After the marriage, we lived and cohabited together as husband and wife, but no child was born out of this wedlock. Due to certain temperamental differences, we could not pull on together with each other as husband and wife and as such started residing separately from each other since 15.01.2020. The matter between us has been compromised and it has been decided by us to get our marriage dissolved by way of mutual consent. The matter with regard to my past, present and future permanent alimony stands settled amicably. All the other articles including gold ornaments have already been exchanged by both the parties and now nothing is due against each other. I will not claim any maintenance from petitioner no.1 in future nor I will claim any right in the movable and immovable property of petitioner no.1 in future. Both the parties will not file any civil or criminal litigation against each other in future. There are absolutely no chances of our residing together under one roof.”

7. In view of the aforesaid statements of the parties recorded before the trial Court and the compromise effected between the parties, present petition under Section 28 of the 1954 Act is allowed. Since the

divorce is being granted to the parties by way of mutual consent under Section 28 *ibid*, it goes without saying that the judgment and decree dated 15.07.2023 passed by the learned Principal Judge, Family Court, Camp Court, Nabha shall have no effect, and the same stands set aside.

8. However, it is clarified that the parties shall remain bound by the terms and conditions of the aforesaid compromise deed dated 23.10.2023 (Annexure A-1), which shall form part of the decree.

9. Decree sheet be drawn accordingly.

10. All pending application(s), if any, shall also stand disposed of.

(SUDHIR SINGH)
JUDGE

13.05.2024
Apurva

(HARSH BUNGER)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No