

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

FAO-4307-2024 (O&M)

Date of decision: 12.09.2024

Harjinder Singh

....Appellant

versus

Suman Devi

....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Vivek K. Thakur, Advocate,
for applicant-appellant.

Mr. H.S. Jaswal, Advocate,
for the respondent.

SUDHIR SINGH, J. (ORAL)

CM-15960-CII-2024

By way of present interlocutory application, the applicant-appellant seeks permission of this Court to place on record the compromise/settlement dated 10.09.2024 (Annexure A-17).

For the reasons mentioned in the application, same is allowed and the compromise/settlement dated 10.09.2024 (Annexure A-17) is taken on record.

CM-15958-CII-2024

The instant application has been filed for

permission to convert main appeal into a petition under

Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act') for grant of divorce by mutual consent, in view of the compromise/settlement dated 10.09.2024 (Annexure A-17).

Learned counsel for the applicant-appellant submits that during pendency of the appeal, parties have amicably settled the matter by way of settlement dated 10.09.2024 (Annexure A-17), and the same has been placed on record by way of CM-15960-CII-2024. They have decided to part ways on the terms and conditions as contained in the said settlement/compromise.

For the reasons stated in application, same is allowed. Main appeal is ordered to be treated as petition under Section 13-B of the Act.

Main Case (O&M)

Present appeal is directed against the judgment dated 01.07.2024 passed by the Principal Judge, Family Court, Camp Sri Anandpur Sahib, whereby the petition under Section 11 of the Hindu Marriage Act, 1955, filed by the appellant-husband for annulment of marriage, was dismissed.

2. Learned counsel for the petitioner submits that marriage between the parties was solemnized on 02.07.2012 according to Sikh rites at Gurudwara Singh Sabha, Kurali, District Mohali and out of the said wedlock, one male child, namely Amritjot Singh was born, on 17.11.2013. Later on, it

came to the knowledge of the petitioner-husband that prior to the aforesaid marriage, the respondent was already married with one Kulwinder Singh and no divorce was taken by her before performing second marriage with the present petitioner. The parties are living separately since 09.04.2015 i.e the date when the respondent had left the company of the petitioner and minor child. In this regard, the petitioner got registered a criminal case against the respondent-wife. However, the matter was settled between the parties vide compromise deed dated 25.04.2022 and they decided to part their ways. Thereafter, the petitioner filed the aforesaid petition under Section 11 of the Act, which was dismissed by the family Court vide impugned judgment dated 01.07.2024.

3. During the pendency of the appeal, parties amicably settled the matter by way of settlement dated 10.09.2024 (Annexure A-17), and the same was placed on record by way of CM-15960-CII-2024. They have decided to part ways on the terms and conditions contained in the said settlement/compromise.

4. From the bare perusal of the record, it appears that the parties have been living separately for more than 9 years. Keeping in view that the matter has already been settled between the parties vide compromise deed dated 10.09.2024 (Annexure A-17), learned counsel for the parties pray for

waiving off the cooling period. In this regard, the applicant-petitioner has filed CM-15959-CII-2024.

5. Considering the factum of compromise between the parties, the cooling/statutory period of 06 months is hereby waived off, as prayed in the aforesaid CM-15959-CII-2024.

6. The relevant of terms and conditions as contained in the settlement/compromise dated 10.09.2024 (Annexure A-17) arrived at between the parties, would read as under:-

“That this settlement deed is being executed on the 10th day of September, 2024 at Chandigarh between the aforementioned parties and they have settled their dispute on the following terms and conditions:-

1. *That the first party and the second party have been living separately since 09.04.2015 due to irreconcilable differences and there are no chances of reconciliation or cohabitation between them.*
2. *That both the parties have agreed to dissolve their marriage by filing a petition under Section 13-B of the Hindu Marriage Act, 1955.*
3. *That both the parties have already settled their issues w.r.t. withdrawal of cases against each other, permanent alimony and custody of children as per compromise dated 25.04.2022 annexed with the petition as Annexure A-16.*
4. *That now both the parties have agreed to file the application for seeking conversion of annulment of marriage petition into petition u/s 13-B of Hindu Marriage Act, 1955 and have no objection in case decree of divorce is passed by this Hon’ble Court by way of mutual consent with the parties.*
5. *That both the parties have agreed that they will not pursue any claim, cases or dispute against each other either civil or criminal, related to their marriage or any other matter, up to the date of the settlement deed.*
6. *That the aforementioned settlement deed is final and binding on both the parties as the*

same has been entered on their own free will without any coercion, undue influence or misrepresentation by either party or any third party.

7. *That this settlement deed written as evidence and signed by both the parties and the witnesses.”*

7. In view of the settlement/compromise effected between the parties, present petition under Section 13-B of the Act is allowed. Since the divorce is being granted to the parties by way of mutual consent under Section 13-B of the Act, it goes without saying that the judgment and decree dated 01.07.2024, passed by learned Principal Judge, Family Court, Camp at Sri Anandpur Sahib, shall have no effect, and the same stand set aside.

8. However, it is clarified that the parties shall remain bound by the terms and conditions of the aforesaid settlement/compromise, which shall form part of the decree.

9. Decree sheet be drawn accordingly.

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

**(SUDHIR SINGH)
JUDGE**

**(JASJIT SINGH BEDI)
JUDGE**

12.09.2024
Ajay Prasher