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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-6968-2019 (O&M)
Date of decision: 01.03.2024

Sonia

... Appellant

Vs.

Parveen Kumar

... Respondent

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

Present: Dr. Payel Mehta, Advocate (legal aid counsel)
for the appellant.

Mr. Jagdish Saini, Advocate
for the respondent.

SUDHIR SINGH, J. (ORAL)

CMs-3653 & 3654-CII-2024

Prayer in these applications is for converting the present appeal into a joint petition under Section 13-B of Hindu Marriage Act, 1955 (for short 'the Act') and for placing on record the same.

Learned counsel for the parties submit that the parties have mutually decided to part their ways on the basis of terms and conditions contained in the compromise effected between them.

For the reasons stated in the applications, same are allowed and

the present appeal is ordered to be converted into the joint petition under Section 13-B of the Act and the same is taken on record.

CM-3655-CII-2024

Prayer in this application is for waiving off the cooling period prescribed under Section 13-B(2) of the Act.

Learned counsel for the parties have submitted that the parties are living separately since 2013 and now, a compromise has been effected between them and they have decided to part their ways.

For the reasons stated in the application, which is duly supported by joint affidavit of both the parties, same is allowed and cooling period as prescribed under Section 13-B of the Act is waived off.

FAO-6968-2019

Vide judgment and decree dated 20.09.2019 passed by the learned Additional Principal Judge, Family Court, Rohtak, the petition filed by the petitioner-husband under Section 13(1)(ia) and (ib) of the Act for dissolution of marriage between the parties, was allowed.

On the last date of hearing i.e. 26.02.2024, cheque of Rs.9.00 lacs favouring appellant Sonia was handed over to learned counsel for the appellant by learned counsel for the respondent and the case was adjourned for today i.e. 01.03.2024 to know the status of the cheque whether it is honoured or not.

Today, appellant Sonia is present in person before this Court and she stated that the aforesaid cheque of Rs.9.00 lacs has been honoured by the Bank and money has been transferred to her bank account.

Learned counsel for the parties submit that marriage between the parties was solemnized in on 03.12.2005 according to Hindu rites and ceremonies and out of the said wedlock, two children i.e. one son and one daughter were born. It is further submitted that daughter is in custody of petitioner No.2 Parveen Kumar and son is in custody of petitioner No.1 Sonia.

It is worth noticing that an out of Court settlement has been arrived at between the parties. The terms and conditions of the said compromise arrived at between the parties, as contained in para No.3 of CM-3654-CII-2024, would read as under: -

- “a. That the marriage between the parties took place on 03.12.2005 at Village Chauhan Joshi, Police Station Bahalgarh, District Sonipat by way of Hindu rites and rituals governed by Hindu Marriage Act.*
- b. That out of the wedlock two children i.e. daughter named Bhumi @ Mansi (Date of Birth -04.02.2007) and son named Aryan @ Aaru (Date of Birth – 16.06.2010) were born. The above named minor daughter of the parties is residing with respondent husband and minor son of the parties is residing with the petitioner wife.*
- c. That there were huge temperamental differences between the parties to the present petition and as such they could not pull on matrimonial relationship together and both the parties to the petition have been living separately for more than 10 years. No cohabitation took place between the parties to the petition since then and as such the parties to the petition have been residing separately from each other for last more than 10 years continuously.*

- d. *That both parties have clearly stated that it has become impossible for them to live together as husband and wife. Keeping in view their age and future prospects, both parties have decided to live separately by obtaining divorce by mutual consent.*
- e. *That as per the mutual decision taken by both the parties, the respondent husband has agreed to pay a lump-sum amount of Rs.9 Lakhs (Rupees Nine Lakhs) to the petitioner wife and their minor son towards one time settlement of past, present and future maintenance and permanent alimony.*
- f. *The respondent husband undertakes to pay the stated amount of Rs.9 Lakhs (Rupees Nine Lakhs) to the petitioner wife & his son towards the above settlement on the upcoming date of hearing before this Hon'ble High Court by way of Demand Draft/Bank Transfer/Cheque.*
- g. *The custody of the minor son of the parties shall remain with the petitioner-wife and the respondent husband will not interfere in the same nor will seek any visitation or custody rights. Similarly, the custody of minor daughter of the parties shall remain with the respondent husband and the appellant/petitioner No.1 wife will not interfere in the same nor will seek any visitation or custody rights.*
- h. *That there remains nothing to be claimed by the petitioner-wife against the respondent husband or his family members, thereafter. The entire claim related to articles and istridhan belonging to the petitioner-wife stand settled between the parties.*
- i. *That similarly it is undertaken that even the respondent husband has nothing to be claimed from the petitioner-wife*

or any of her relatives, family etc.

- j. That both the parties shall withdraw all complaints, petitions, appeals, execution petitions pending before District Court Sonapat and any other litigations pending amongst them, against each other or their family members (if any) and they shall not press any complaint or litigation against each other or their family members or any relatives ever after in future.*
- k. That both the parties also undertake not to initiate any fresh complaints, litigation or give any statement/evidence against each other or their family members or relatives ever in future directly or in connivance with any third party, before any court, police authority, tribunal etc.*
- l. That both the parties shall not claim and counter claim anything what so ever against each other.*
- m. That the aforesaid compromise-cum-settlement is in the interest and for the benefit of both the parties & their minor children and has been arrived at between the parties in order to maintain peace and harmony in the family & society and in order to avoid unnecessarily litigation and harassment to any of the parties.*
- n. That both the parties shall be bound by the above terms and conditions and contents of the present application.”*

In view of the settlement/compromise effected between the parties, present petition under Section 13-B of the Act is allowed and the marriage between the parties shall stand dissolved by way of mutual consent.

Since the divorce is being granted to the parties by way of mutual consent under Section 13-B of the Hindu Marriage Act, it goes without saying that the judgment and decree dated 20.09.2019 passed by the learned

Additional Principal Judge, Family Court, Rohtak shall have no effect and the same shall stand set aside.

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

Decree sheet be drawn accordingly.

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

[SUDHIR SINGH]
JUDGE

[HARSH BUNGER]
JUDGE

01.03.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No