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

FAO-M-24-2024 (O&M)
Date of decision: October 04, 2024

Navneet Kumar
.....Appellant
versus
Bintu
.....Respondent

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

Present:- Mr. Pradeep Virk, Advocate for the appellant.

SUDHIR SINGH, J. (ORAL)

Challenge in the present appeal is to order dated 20.07.2024 passed by learned Additional District Judge, Charkhi-Dadri (for short ‘Family Court’), whereby, the petition under Section 13-B of the Hindu Marriage Act, 1955 (for short ‘the Act’), filed by the parties, for dissolution of marriage by a decree of divorce by mutual consent, was dismissed as withdrawn.

2. The parties had filed the aforesaid petition for dissolution of their marriage by way of mutual consent. In the said petition, first motion statements were recorded and the appellant/husband had paid the respondent/wife an amount of Rs.4,50,000/- in cash in the Court and agreed to clear balance amount of Rs.4,50,000/- at the time of recording the statement of second motion. It was further agreed upon between the parties that they would withdraw all civil and/or criminal proceedings against each other before recording the second motion statement.

3. However, later on, the respondent/wife appeared and suffered a statement that while making the first motion statement and receiving the amount of Rs.4,50,000/- as part payment against maintenance, she had been under the influence of her husband. It was further stated by her that subsequently, she thought about the consequences and the pros and cons of the court proceedings, and that she was never in favour of the divorce and thus, she sought to withdraw her consent. She deposited back the amount of Rs.4,50,000/- along with Rs.31,500/- as accrued interest on the said amount, so that the same could be handed over to the appellant/husband.

4. Learned Family Court, allowed the respondent-wife to withdraw the petition on her behalf.

5. Learned counsel appearing on behalf of the appellant/husband contends that once the respondent/wife had made the first motion statement and had also accepted part payment of Rs.4,50,000/-, she could not be allowed to retract from her statement and thereby, the impugned order of learned Family Court allowing her to withdraw the petition, is not justified in the eyes of law. He relies upon the decision rendered by a Co-ordinate Bench of this Court in **FAO-M-220-2017-Ajinder Kaur versus Sharanpreet Singh**, decided on 26.07.2024.

6. It is a settled law that a petition under Section 13-B of the Act is only maintainable when both the parties agree for the divorce by mutual consent. In such proceedings, the statements of the parties are recorded at two stages i.e., first motion and second motion. After recording first motion statement, the second motion statement is required to be recorded after a period of 06 months and not later than 18 months. Such period is provided to give time and opportunity to the parties to reflect on their move and seek advice

from relatives and friends and in the transitional period, one of the parties may have second thoughts and change his/her mind and choose not to proceed with the petition.

7. In the instant case, the respondent/wife, after recording first motion statement, had retracted from second motion statement by suffering a statement that she did not want divorce from her husband and rather, the first motion statement was recorded by her under the influence of her husband. While doing so, she had also returned the amount received by her, i.e., Rs.4,50,000/-, at the time of recording first motion statement, along with the interest accrued thereon.

8. As the petition under Section 13-B of the Act can only be allowed when both the parties agree to the same and after both motion statements are recorded, we do not find any illegality or perversity in the impugned order passed by learned Family Court. The order passed by the Coordinate Bench of this Court in **Ajinder Kaur’s case (supra)** is not applicable to the facts of the present case.

9. In view of the above, finding no merit in the appeal, the same is dismissed.

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

(SUDHIR SINGH)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

October 04, 2024
mahavir

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No