

Amardeep Kaur Vs. Paramjit Singh Chohan

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Court : Punjab and Haryana

Decided On : Feb-11-1993

Reported in : I(1994)DMC645; (1993)105PLR640

Judge : M.R. Agnihotri and; H.S. Brar, JJ.

Acts : [Hindu Marriage Act, 1955](#) - Sections 13 and 13B

Appeal No. : C.M. No. 6860 II of 1992

Appellant : Amardeep Kaur

Respondent : Paramjit Singh Chohan

Advocate for Def. : Surjit Singh, Adv.

Advocate for Pet/Ap. : Party-in-Person

Judgement :

M.R. Agnihotri, J.

1. Ms. Amardeep Kaur wife of Mr. Paramjit Singh Chohan, filed petition under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce against her husband. Mr. Paramjit Singh Chohan on 15th January, 1991 later on registered as Case No. 7-T under the [Hindu Marriage Act, 1955](#), on 26th February, 1990. The learned Additional District Judge, Patiala, vide his judgment

dated 29-5-91, dismissed the petition by holding that no ground has been made by the petitioner so as to grant her the decree of divorce as prayed for. Against this judgment, Ms. Amardeep Kaur filed First Appeal from order No. 40-M of 1992, mainly on the ground that as there was ample evidence on the record to prove that the appellant had been treated with cruelty by her husband-respondent, the learned Additional District Judge should have accepted the petition and granted the decree of divorce.

2. During the pendency of the appeal, that a compromise had been arrived at between the parties and permission was sought for filing the petition under Section 13B of the Hindu Marriage Act for dissolving their marriage by mutual consent. In view of the written compromise, duly signed by the parties, filed in the Court, along with the receipt dated 1st October, 1992, the permission was granted. The compromise-deed and the aforesaid receipt are reproduced below :--

WRITTEN COMPROMISE

'This compromise agreement is executed between Amardeep Kaur wife of S. Paramjit Singh Chohan daughter of S. Ranjit Singh, resident of Village Alipur Arian, Tehsil and District Patiala, Appellant, hereinafter called the First Party, and Paramjit Singh Chohan son of S. Charan Singh Chohan, resident of Tripri Town, Patiala, at present residing at 1302, New Kirk Avenue, Apt. 4--Brooklyn, New York (U.S.A.), hereinafter called the Second Party.

That the appellant-wife has received a sum of Rs. 37,000/-from her husband the respondent in full and final settlement of her claim of maintenance and dowry articles and has no other claim against him for which she has already given a separate receipt.

It is not possible for the parties to live together as husband and wife so they have decided to dissolved their marriage with mutual consent.

The parties hereby mutually agree that the will make the statement in the High Court of Punjab and Haryana at Chandigarh, for dissolving their marriage on the grounds of mutual consent where second party will be represented by his attorney,

his brother Surjit Singh. Second party has, however, signed this document while in U.S.A.

Witnesses Appellant1. Sd/- Naib Singh s/o Sh. Sd/- Amardeep Kaur wife of Chanda Singh, Village S. Paramjit Singh Chohan, D/o Salalabad, Distt. S. Ranjit Singh R/O Village Patiala. Alipur Arian Tehsil and District Patiala. Respondent2. Sd/- Surjit Singh, s/o Sd/- Paramjit Singh Chohan S. Charan Singh F-9, Paramjit Singh through has Tripri, Patiala. General Attorney Surjit Singh. Sd/- and Stamped. Alan M. Kassof, Notary Public, State of N.Y. No. 24-5982404 (etc.) RECEIPT

Received Rs. 37,000/- (Rs. Thirty-seven thousand only) on account of price of my Istridhan articles, compensation and maintenance in lumpsum from my husband Paramjit Singh of U.S.A. through his Attorney Shri Surjit Singh, his real brother, in satisfaction of my all claims against my husband. Dated : 1-10-1992 Sd/- Amardeep Kaur, wife of Paramjit Singh Chohan, Daughter of Manjit Singh, resident of Village Alipur Arian Teh. & Distt. Patiala.

3. Thereafter, joint application (C.M. No. 6860-GII of 1902) for dissolution of marriage on account of mutual consent under Section 13B of the Hindu Marriage Act, has been filed. According to this application, which has been signed by both the parties, the following facts have emerged on the record :--

'...the marriage of the parties took place according to Anand Karaj ceremony at Patiala on 20.7.88 at Village Alipur Arian, Tehsil and District Patiala. This marriage was also got registered in the office of Sub Registrar, Patiala, under Section 7 of the Hindu Marriage Act. ...the status and place of residence of the parties to the marriage before marriage and at the time of filing this petition were as follows :--

Husband	Wife	Status	Place of residence	Status	Place of residence
1302, New Kirk Hindu Village	Marriage Avenue, Apt. Alipur Arian	40, Brooklyn, Distt. Patiala	N.Y. 11230 USA	At the time of filing the petition	--do-- --do-- --do-- --do--
...the parties lived together and cohabited as husband and wife for about 1 month i.e. till 1st week of September, 1988, but no issue was born out of this marriage. ...unfortunately, the parties could not pull on together and therefore, the petition No. 1 filed a petition under Section 13 of the Hindu Marriage Act in the					

matrimonial Court at Patiala, which was contested by petitioner No. 2 and after recording the evidence, the said application was declined and petitioner No. 1 has filed an appeal against that judgment, which is pending in this Court. ...during the pendency of this appeal, the parties have decided with mutual consent to dissolve their marriage. The petitioner No. 1 has been given Rs. 37,000/- on account of maintenance and price of articles given in dowry for which she has given a receipt and it has been decided that the petitioner No. 1 will have no other claim against the petitioner No. 2. The written compromise has already been filed in the Court, which is duly signed by petitioner No. 2 and attested by Notary Public. The petitioner No. 2 has authorised his brother Surjit Singh to file this petition jointly with petitioner No. 1 by a Power of Attorney. ...one year has passed since the marriage of the petitioners and more than 6 months time has elapsed after the filing of the petition Under Section 13, Hindu Marriage Act; therefore, there is no impediment for the grant of decree of divorce on the grounds of mutual consent.

4. On the last date of hearing Mr. Surjit Singh, brother and attorney of petitioner No. 2 Paramjit Singh Chohan, was directed to file an affidavit in support of the joint application, in order to make sure that he was living in United States of America and whether he was signing of his own free will to the dissolution of marriage by filing the joint application Under Section 13B of the Hindu Marriage Act. An affidavit sworn before the Notary Public has been filed in the Court in support of the application.

5. After going through the record of the case, we allow C.M. No. 6860-CII of 1992 and declare the marriage between the parties as dissolved by mutual consent under Section 13B of the Hindu Marriage Act, as the same has become irretrievable. Resultantly, F.A.O. No. 40-M of 1992 stands disposed of as infructuous. It is also made clear that petitioner No. 1 Amardeep Kaur shall not be entitled to any future maintenance or permanent alimony under Section 25 of the Hindu Marriage Act, as she has been adequately compensated in terms of the compromise-deed filed, in these proceedings.