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2023 SCeJ 0234 = PLRonline 445602 (SC)

SUPREME COURT OF INDIA

Present: Justice Sanjay Kishan Kaul, Justice Ahsanuddin Amanullah.

MANSI KHATRI – Petitioner,

versus

GAURAV KHATRI – Respondent.

Transfer Petition (Civil) No. 1595 of 2022

Hindu Marriage Act, 1955, Section 13(1) - Constitution of India, 1950, Article 142 - Transfer Petition - Mediation failed - Respondent expressed willingness for divorce though mutual consent - No agreement could be reached as regards permanent alimony - Court is of the opinion that the parties, in praesenti, husband and wife have suffered an irretrievable breakdown of marriage - In order to render complete justice, it is a fit case to exercise the power vested under Article 142 of the Constitution of India by closing all cases filed by the parties against each other and also granting a decree of mutual consent divorce, with alimony of Rs. 35 lacs.

Ahsanuddin Amanullah, J.

1. Heard learned counsel for the parties.
2. This Transfer Petition has been filed by the Petitioner-wife seeking transfer of the Divorce Petition No.802 of 2022, filed by the Respondent-husband under Section 13(1) of the Hindu Marriage Act, 1955, titled “Gaurav Khatri versus Mansi Khatri” pending before the learned Principal Judge, Family Court, Indore, Madhya Pradesh to the Family Court, Lucknow, Uttar Pradesh.
3. The parties married on 12.12.2016 and separated on 29.10.2021 without the birth of any child. Although the present Petition, as filed, is limited to the transfer of the aforesaid Divorce Petition viz. No.802 of 2022, filed by the Respondent, but the petitioner’s father, Mr Shyam Krishna Mehrotra, has also filed a First Information Report No.0234 of 2022 registered at Police Station Ghazipur, Uttar Pradesh for offences punishable under Section 498A, 323 and 354 of the Indian Penal Code, 1860 and Sections 3 & 4 of the Dowry

Prohibition Act, 1961. The petitioner has herself filed Maintenance Case No.749 of 2022 under Section 125 of the Code of Criminal Procedure, 1973, which is pending before the learned Family Court, Lucknow.

4. The order passed by this Court on 07.12.2022 records that learned counsel for both the parties had taken the stand that they were desirous of settlement through mediation and thus, the matter stood referred to the Supreme Court Mediation Centre. Though the mediation was unsuccessful but before this Court on 14.03.2023, learned counsel for the respondent had submitted that he was willing for a mutual consent divorce, but no agreement could be reached insofar as permanent alimony was concerned, and thus on that date, learned counsel for the petitioner took time to obtain instructions as to whether the petitioner was agreeable to a mutual consent divorce.

5. Even on 04.05.2023, when judgment was reserved by us, the order records that the "only question is the extent of permanent alimony on grant of divorce". Further, it was noted that learned counsel for the parties had left it to this Court to fix the permanent alimony on the basis of materials placed on record. This was in the background of the stand taken by the learned counsel for the petitioner that the petitioner desired Rs.70,00,000/- (Rupees Seventy Lakhs) as permanent alimony, whereas the respondent had offered only Rs.25,00,000/- (Rupees Twenty-Five Lakhs).

6. Though we would have ordinarily not liked to disclose the pleaded financial position of the parties herein, yet noting that this Court has to quantify the permanent alimony, it is deemed appropriate to summarise their financial status hereinbelow:

Petitioner-wife:

Bank A/c Balance Rs.20,712/-

Monthly Expenses Rs.25,000/-

No Assets (only Mangal Sutra & engagement ring)

No Income.

Financially dependent on her father.

Respondent-husband:

Annual Emoluments Rs.15,90,788/-

Take Home Salary Rs.87,538/- per month

LIC Policy Premium Paid Rs.2,61,364/-

EPF Account Rs.4,47,240/-

PPF Account Rs.3,28,923/-

CBI A/c Balance Rs.5,515/-

SBI A/c Balance Rs.62,629/-

ICICI Bank A/c Balance Rs.30,744/-

Bank of Baroda A/c Balance Rs.10,417/-

LIC Policy (Wife) Premium Paid Rs.1,40,592/-

Car Loan Rs.5,75,000/- @EMI of Rs.8,850/- per month

His parents (mother and father) are Dependants.

7. In the facts and circumstances of the case, the Court is of the opinion that the parties, in praesenti, husband and wife have suffered an irretrievable breakdown of marriage. In such view, in order to render complete justice, it is a fit case to exercise the power vested under Article 142 of the Constitution of India by closing all cases filed by the parties against each other and also granting a decree of mutual consent divorce.

8. Accordingly, FIR No.0234 of 2022 registered at Police Station Ghazipur, Uttar Pradesh and Maintenance Case No.749 of 2022 filed under Section 125 of the Code of Criminal Procedure, 1973, which is pending before the learned Family Court, Lucknow are quashed. Divorce Petition No.802 of 2022 shall stand withdrawn.

9. Parties are granted a decree of divorce by mutual consent. Decree to be issued after payment of permanent alimony.

10. The amount of permanent alimony to be paid by the respondent to the petitioner is quantified at Rs.35,00,000/- (Rupees Thirty-Five Lakhs), to be paid within six months from today.

11. It is made clear that if the permanent alimony quantified supra is not paid by the respondent to the petitioner within the stipulated time-period, FIR No.0234 of 2022 and Maintenance Case No.749 of 2022 shall stand revived.

12. The Transfer Petition stands disposed of in terms aforementioned.

13. Pending application(s), if any, shall stand closed.