

SUPREME COURT OF INDIA

Veena

Vs.

State, Govt. of NCT, Delhi

Crl.A.No.255-256 of 2011

(Dalveer Bhandari and Deepak Verma, JJ.,)

28.01.2011

ORDER

1. Leave granted.

2. The appellant Veena and respondent No.2 - Jagdish Prasad are present in Court. They were married on 30.9.1998. Out of the wedlock, they have one daughter who is in the custody of the appellant Veena. It is not disputed that the parties have been living separately for over 10 years and reconciliation is not possible now. Both the appellant Veena and respondent No.2 Jagdish Prasad pray that a decree of divorce by mutual consent be granted. The appellant Veena undertakes to withdraw all the cases filed by her against Jagdish Prasad and his family members, including the one filed under Section 498A of the I.P.C., within two weeks from today. She also undertakes not to claim any maintenance for her daughter or for herself. Respondent No.2 Jagdish Prasad undertakes to withdraw Case No.248/2004 P.S. Golakpuri, under Section 340 of the Cr.P.C., pending before the Court of Shri Rakesh Pandit, Metropolitan Magistrate, Karkardooma Courts, Delhi, within two weeks from today. We have heard the learned counsel for the parties and talked to the parties. The appellant has filed a divorce petition under Section 13(1)(ia) of the Hindu Marriage Act, 1955, being HMA No.397/2008 which is pending before the Court of Sanjeev Mattu, Additional District Judge, Karkardooma Courts, Delhi. In the peculiar facts and circumstances of this case, we deem it appropriate to transfer the said divorce petition to this Court and take the same on Board. The said divorce petition is converted into one under Section 13B of the Hindu Marriage Act and we grant divorce to the parties by mutual consent.

3. We direct that the custody of the daughter would continue to remain with the appellant. We may observe that the mere filing of the petition by the appellant would not come in the way of the father of respondent No.2 receiving pensionary and other benefits which are permissible to him under law.

4. With these observations, these appeals are disposed of.