

IN THE COURT OF THE DISTRICT JUDGE, DIBRUGARH

Title Suit (M) No. 66 of 2021

(1) Sri Anku Dey,
S/o- Sri Chittaranjan Dey,
R/o- Ushapur, Moranhat,
PO & PS- Charaideo, Assam.

(2) Smt. Sangita Sutradhar,
W/o- Sri Anku Dey,
D/o- Sri Mrinal Sutradhar,
R/o- Santipara,
PO, PS & District- Dibrugarh, Assam.

.....Petitioners

Advocate for the petitioners: Smt. Bully Dowarah.

Date of Hearing : 06-12-2021.

Date of Order : 06-12-2021.

O R D E R

1. Petitioners, Sri Anku Dey and Smt. Sangita Sutradhar have filed the instant petition u/s 28 of the Special Marriage Act, 1954 for dissolution of their marriage by a decree of divorce by mutual consent.

2. The petitioners have contended that their marriage was solemnized on 26-02-2019 according to social customs which was subsequently registered under the Special Marriage Act, 1954 on 11-03-2019 before the Marriage Officer, Dibrugarh and Marriage Certificate No. 190 was issued in proof thereof. Out of their wed-lock, a female child, namely, Smt. Ankita Dey was born on 03-11-2019.

3. The petitioners have stated that over a period of time, differences arose between them and they have not been able to carry forward their marital relationship. It has been stated that they have been staying separately since 12-05-2020. Hence, they have decided to mutually dissolve their marriage. It has been further stated that the petitioner No. 1 will pay Rs. 3,00,000/- to the petitioner No. 2 as permanent alimony and petitioner No. 1 will open a Recurring Deposit in a nationalized bank from January, 2022 in the name of his daughter Smt. Ankita Dey for payment of Rs. 2,000/- per month till 18 years of age and the original documents of the said account will be handed over to the petitioner No. 2. It has been further stated that both parties will

withdraw all the cases which are pending against each other and that the minor daughter will continue to be in the custody of the petitioner No. 2.

4. The instant petition was filed on 06-12-2021 and another joint petition being Petition No. 2078/2021 has been filed praying that the waiting period of 6 (six) months as provided u/s 28 (2) of the Special Marriage Act, 1954 be waived, in as much as, the parties have been living separately for more than 18 months and that any further waiting period would only increase their agony.

5. Both the petitioners are present in the Court today and reiterated their desire to separate. The petitioners have also filed evidence on affidavit re-iterating that their marriage may be dissolved on mutual consent. The petitioners stated that they have filed the instant petition voluntarily without any force or undue influence and there is no collusion between them. It has been also submitted that they do not have any demand against each other and that the petitioner No. 1 has made the payment to the petitioner No. 2 as agreed to between the parties.

6. I have heard the Learned Counsel for the petitioners and perused the materials on record.

7. It is apparent that marriage between the parties was solemnized in 2019, but over the period of time, their relationship as such has eroded. The petitioners have been living separately since 12-05-2020, till date. Seeing no scope for their reunion, the petitioners have instituted the present petition u/s 28 of the Special Marriage Act.

8. Considering the fact that there is no possibility of reunion between the parties, this Court is of the considered view that if the parties are to wait for another 6 (six) months as required u/s 28 (2) of the Special Marriage Act, 1954, the same will prolong their agony. As the parties have settled their disputes, this Court, following the ratio laid down in the judgment of the Hon'ble Supreme Court of India in **(2017) 8 SCC 740 Amardeep Singh v. Harveen Kaur**, is of the opinion that it is a fit case for waiving the waiting period of 6 (six) months as required u/s 28 (2) of the Special Marriage Act, 1954, which I accordingly do.

9. Both the petitioners have appeared and stated that they cannot live together as husband and wife and have therefore prayed for dissolution of their marriage by a decree of divorce on mutual consent. They have also stated that they have no claim against each other in the event of decree of divorce is granted.

10. Considering the matter in its entirety, this Court is of the considered view that there is no impediment in granting a decree of divorce on mutual consent. Consequently, the instant petition is allowed. Marriage solemnized between the petitioners, namely, Sri Anku Dey and Smt. Sangita Sutradhar is dissolved on mutual consent.

11. Prepare a decree accordingly within 15 (fifteen) days from today.

12. Issue precept to the Marriage Officer, Dibrugarh to cancel the Marriage Certificate No. 190.

Given under my hand and seal of this Court on this the 6th day of December, at Dibrugarh.

District Judge,
Dibrugarh