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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010274632022**

\+ CONT.CAS(C) 752/2022

MANPREET SINGH .....Petitioner

Through: Mr. Anil Kumar Pruthi and Ms. Rachna, Advocates with Petitioner.

versus

HARLEEN KAUR KHURANA .....Respondent

Through: Mr. Ayush Jain, Mr. Tushar Thakur, Mr. Yahsovardhan Upadhyay, Mr. Vishwas Verma, Mr. Saksham Tungar, Advocates with Respondent.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

O R D E R

% 14.10.2026

1. Contempt Petition under Section 10 and 12 of the Contempt of Courts Act, 1971, has been filed on behalf of the Petitioner for willful breach and disobedience of the Order dated 22.09.2020 in HMA No. 1248/2020, of the Court of Principal Judge Family Court, South West District, Dwarka.

2. It is submitted in the Application that the parties had arrived at a Settlement dated 01.09.2020, wherein both the parties had agreed to take divorce. It was further agreed that Rs.20,00,000/- would be paid at the time of First Motion and the balance sum of Rs.20,00,000/- were payable at the time of Second Motion. The First Motion was accepted, *vide* Judgement dated 22.09.2020.

3. Thereafter, the parties had filed the Petition under Section 13 B(2) of HMA *vide* HMA No. 1824/2020 on 29.10.2020, but the statement of the

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parties, could not be recorded due to certain disputes, which arose *inter se* the parties and the Second Motion could not be completed, which was disposed of *vide* Order dated 02.01.2021.

4. The Petitioner filed the Application under Section 26 of the HMA bearing HMA No. 63/2021 for modification of the Order with regard to the custody of the child. The Application was necessitated for the well-being of the child as the Respondent was not keeping the child properly. The Notice on the Application, was issued to the Respondent.

5. The Respondent had agreed, as per the terms of the Compromise Deed dated 01.09.2020, that she shall not seek any maintenance in future from the Petitioner. However, she filed a **Maintenance Petition No.374/2021** against the Petitioner, even though, she had received Rs.20,00,000/- from the Petitioner, as well as, all her *istri dhan* articles. The Maintenance Case is still pending in the Court of learned Principal Judge Family Court, South West District, Dwarka.

6. It is claimed that the Respondent has deliberately and intentionally, violated the Settlement Order dated 22.09.2020 passed in HMA No. 1248/2020. It is further stated that the Respondent in the Compromise Deed dated 01.09.2020, had agreed not to file any complaint against the Petitioner and the family members. However, she has filed a Complaint Case **No.719/2021 under Section 12 of the Domestic Violence** Act against the Petitioner and his family members, which is pending in the Mahila Court, South West District, Dwarka. The Petitioner and his family members have been summoned and they are facing trial.

7. Thereafter, not only this, the Respondent filed a **Complaint in CAW Cell, which has resulted in FIR No.464/2021** under Sections 406/498A/34

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of the Indian Penal Code registered at Police Station Hari Nagar.

8. It is further stated that while the Second Motion Petition was pending and the Application under Section 26 of the HMA, had been filed, the parties were again referred back to the Principal Judge, to resolve the matter, through the Counsellor where the parties again resolved their matter. On 10.05.2022, in addition to the terms already existing in the Compromise Deed, it was agreed that the custody of the child would remain with the Respondent and the Petitioner shall have visitation rights twice a month, on Second and Forth Saturday of every month between 2 PM to 7 PM, and the child would be picked up and dropped from the house of the Respondent.

9. Further, the parties had agreed that the child would have a night stay with the Petitioner during Summer and winter vacations for the first 10 days of the summer holidays and 50% of the winter vacation.

10. The Petitioner was responsible for the child's activities and studies, for the period when the child was in the custody of the Petitioner and he could take the child with him for a vacation anywhere in India, during this period. The yearly academic progress report of the child, was agreed to be sent by the Respondent, to the Petitioner.

11. The Petitioner also agreed to contribute to the fee of the child till he attains 18 years of age, subject to a maximum amount of Rs.5,000/- per month. The Respondent agreed not to take the child outside India, without informing the Petitioner.

12. Further, the Petitioner undertook not to interfere in the child's school or activity place. The Petitioner further had a right to call the child on phone every Tuesday between 5 PM to 6 PM and also, on the child's birthday, he could call him on that day for 30 minutes instead of the scheduled Tuesday.

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13. The parties agreed to withdraw their respective cases.

14. The Respondent undertook to withdraw the Domestic Violence Case and the Petitioner also undertook to withdraw his Application under Section 26 of the HMA. The Respondent was to withdraw her Maintenance Petition, at the time of recording of the statement in Second Motion.

15. The parties had further agreed that the Petitioner would pay Rs.10,00,000/- by DD, at the time of making of statements in the Second Motion, instead of Rs.10,00,000, which had been agreed *inter se* the parties. The balance sum of Rs.10,00,000/- was agreed to be paid at the time of quashing of the FIR No. 464/2021.

16. It was further agreed that the Quashing Petition shall be filed within two months, after the Second Motion, which was agreed to be filed, within 10 days from 10.05.2022. All other terms of the Agreement, were agreed to be the same.

17. The Petitioner has submitted that despite the **Settlement dated 10.05.2022**, the Respondent not withdrawn the Domestic Violence Complaint. She has also not co-operated in filing of the Second Motion Divorce Petition. Therefore, she is not only liable for the contempt of the Orders of the Court, but also is liable to pay Rs.20,00,000/- along with the interest @ 2% per month. Hence, a prayer is made that the Contempt proceedings, be initiated against the Respondent for wilfully disobeying the Order dated 22.09.2020.

18. **The Respondent has submitted the Reply** to the Contempt Petition, wherein it is asserted that the settled principle of law is that the Contempt proceedings lie only when there is a wilful, deliberate and contumacious disobedience of a clear, unambiguous and subsisting direction of a Court

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and not where the dispute arises, out of alleged non-compliance of contractual terms, private settlements or voluntary undertakings. The Order dated 22.09.2020 of the learned Principal Judge, Family Court merely records the Settlement arrived at between the parties and the statements made pursuant thereto.

19. There exists no executable or mandatory command, in the said Order, directing the Respondent to necessarily give consent for the Second Motion or to compel her to dissolve the marriage. The Petitioner has failed to point out any specific direction of the Court, which is alleged to have been violated by the Respondent. It is well-settled that the consent in a Petition for divorce by mutual consent must subsist, till the date of recording of the statement in Second Motion; either party is legally entitled to withdraw the consent for valid reasons.

20. The Petitioner's prayer for return of Rs.20,00,000/- is, in substance, a recovery of money, which is totally alien to the jurisdiction of the Contempt Court. The Contempt jurisdiction being punitive and extraordinary in nature, cannot be invoked as a substitute for civil remedies nor can it be used as a coercive tool to extract money or to pressurise a party into acting against her free will, particularly in sensitive matrimonial matters.

21. It is *in fact* the Petitioner, who is in breach of the Court-recorded Settlement and cannot maintain a Contempt Petition. He filed a custody Application during the pendency of the Second Motion, contrary to the Settlement terms. He has not approached the Court in equity with clean hands and himself has violated the solemn undertaking given to the Court and cannot be permitted to allege contempt. The Contempt jurisdiction cannot be converted into a forum for adjudicating disputed questions of fact,

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particularly when the controversy revolves around alleged breach of Settlement, forfeiture of money and jurisdiction for withdrawal of consent.

22. It is, therefore, stated that in terms of the Settlement, which contained a clear and unambiguous forfeiture Clause, the Respondent has forfeited the amount on account of Petitioner's failure, to co-operate in filing or concluding the Second Motion. The Petitioner has acted in complete breach of Settlement terms and the solemn undertaking given to the Court.

23. The Respondent came to know about the pendency of the custody Application, only upon reaching the Court, in the Second Motion proceedings. The Petitioner not only committed a material and fundamental breach of the Settlement, but also destroyed the mutuality, trust and voluntariness required for a decree of divorce by mutual consent. The Petitioner resiled from the Settlement and simultaneously, sought custody of the minor child.

24. The Respondent was morally and legally justified in declining to proceed with the Second Motion. It is a classic case where the Petitioner, after committing a deliberate breach of Settlement, seeks to arm-twist the Respondent, to return Rs.20,00,000/-, despite they having been fortified. It is, therefore, submitted that the aforesaid Contempt Petition be dismissed.

25. **Learned counsel for the Petitioner** has clarified that though, an interim custody Application was filed under Section 26 HMA, but the same has since been withdrawn on 27.01.2026.

Submissions heard and record perused.

26. The Petitioner Manpreet Singh has alleged wilful and contumacious disobedience of the Settlement dated 01.09.2020 entered into between the

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parties, which was recorded in HMA No. 1248/2020 by the Principal Judge, Family Court, Dwarka. Before adverting to the facts, it would be pertinent to first understand the meaning of the term 'Civil Contempt', which is defined under Section 2(b) of the Contempt of Courts Act, 1971, as follows:

> *"Wilful disobedience to any judgment, decree, direction order, writ or other process of a court or wilful breach of an undertaking given to a court."*

27. The Contempt jurisdiction has been conferred with the legislative intent of upholding the majesty of the Court and ensuring compliance with its Orders. However, at the same time, it needs to be emphasized that this power is to be exercised with circumspection, only when the non-compliance is demonstrably wilful, deliberate, contumacious and without lawful justification.

28. The Supreme Court in the case of *Ashok Paper Kamgar Union vs. Dharam Godha & Ors., (2003) 11 SCC 1*, observed that wilfulness requires a conscious, voluntary breach done with a bad motive or purpose. Moreover, the act complained of, must not be dependent on the conduct of a third party, nor should it require extraordinary effort for compliance. It observed thus:

> *"17. Section 2(b) of the Contempt of Courts Act defines "civil contempt" and it means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of undertaking given to a court. "Wilful" means an act or omission which is done voluntarily and intentionally and with the specific intent to do something the law forbids or with the specific intent to fail to do something the law requires to be done, that is to*

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say, with bad purpose either to disobey or to disregard the law. It signifies a deliberate action done with evil intent or with a bad motive or purpose. ***Therefore, in order to constitute contempt the order of the court must be of such a nature which is capable of execution by the person charged in normal circumstances. It should not require any extraordinary effort nor should be dependent, either wholly or in part, upon any act or omission of a third party for its compliance. This has to be judged having regard to the facts and circumstances of each case****. …"*

29. The concept of '**Wilful Disobedience**' under Section 2(b) of the Act involves more than mere non-compliance. It is a deliberate, intentional act, done with the objective of undermining or disregarding the authority of the Court. An inadvertent, partial or constrained inability to comply, particularly when accompanied by mitigating factors of bona fide efforts, cannot be equated with '**Wilful Disobedience**'.

30. In this backdrop, the case of the parties may be considered. Admittedly, in a Settlement dated 01.09.2020, the parties agreed to obtain a divorce by mutual consent. It was agreed that the Respondent would receive Rs.20 lacs at the time of first motion and the balance Rs.20 lacs at the time of second motion. The First Motion was duly allowed and the Respondent received Rs.20,00,000/- in terms of the Settlement.

31. Thereafter, the second motion, HMA No.1824/2020, was duly presented before the Court on 29.10.2020, and the matter was adjourned. The Respondent thereafter, resiled from signing the Second Motion on the ground that an Application bearing HMA No. 63/2021 under Section 26 of

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the HMA was filed by the Petitioner on 16.12.2020, seeking the custody of the child. The sole reason for alleging a breach of the Settlement was the filing of this Application under Section 26 of the HMA.

32. It is also on record that, during the pendency of the Second Motion, the parties were again referred to the Counsellor, wherein they renegotiated the terms and worked out the revised terms on 10.05.2022. In this revised compromise, the modalities of sharing the custody of the child, were redefined.

33. It is not disputed that the Petitioner has been complying with this undertaking, and making monthly payments of Rs.3,000/- towards the maintenance of the child and is also bearing the entire expenditure on the child's schooling. The Petitioner herein undeniably has been honouring his commitments, as revised in a subsequent Settlement dated 10.05.2022.

34. The sole basis on which the Respondent is asserting a breach of the terms of the Agreement by the Petitioner is that he had filed an Application for interim custody of the child under Section 26 of the HMA.

35. However, as per the submissions of the parties, while the Second Motion Petition was presented on 29.10.2020, the Petitioner had filed an Application under Section 26 of the HMA only on 16.12.2020, which means that he had not violated any terms till the filing of the Second Motion Petition. It is evident that after the Second Motion was filed, the Respondent had second thoughts and was not inclined to obtain a divorce by mutual consent.

36. The main contention of the Respondent is that it is well settled that there has to be consent to obtain a divorce till the passing of the second motion and neither party can be compelled to give a statement contrary to

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their free consent.

37. This aspect was considered by the Supreme Court in the case of *Sureshta Devi vs. Om Prakash*, (1991) 2 SCC 25, wherein it was held that the free consent of the parties must continue until the Decree of Divorce is passed and must subsist when the second motion is heard. It was observed that mere filing of a Petition with mutual consent, does not authorize the Court to pass a Decree of Divorce. There is a waiting period of 6 to 18 months. This interregnum period is provided and intended to give an opportunity to the parties to reflect on their move and seek advice from their friends and relatives. In this transitional period, either party may have second thoughts and change their mind and decide not to proceed with the Petition. Such a spouse's change of mind, cannot be termed as an act of Contempt. Where the consent is withdrawn by either party, there is no mutual consent at the time of enquiry, and the Court has no jurisdiction to grant the divorce by mutual consent. Mutual consent must continue till the divorce Decree is passed. The consent must continue to decree nisi and must be valid subsisting consent when the case is heard.

38. This Judgment was followed by this Court in *Rajat Gupta vs. Rupali Gupta* 2018 SCC OnLine, Del 9005 and reaffirmed in *Vineeta Daulet Singh vs. Bikkrama Daulet Singh* 2023 DHC 6192.

39. It is, therefore, well settled that the mere withdrawal of consent at the time of Second Motion, cannot per se amount to contempt. Neither can a party be compelled to give consent, nor can a Decree of Divorce be passed despite the withdrawal of consent.

40. However, the complete circumstances have to be considered to ascertain whether such act was wilful or contumacious or was a genuine

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second thought about obtaining a divorce.

41. In the present case, at the time of filing of Second Motion, there was neither breach of any terms nor any disputes between the parties. However, since there seems to be some disagreement in regard to the custody of the child, the parties had been referred to the Family Counsellor, wherein they again arrived at a revised Compromise Deed, on 10.05.2022. The Petitioner herein has admittedly complied with all the revised terms concerning the financial needs of the child and has also provided for his schooling and other needs.

42. The only concern of the Respondent, as is reflected from the submissions, is that the Petitioner had filed an Application for the custody of the child, while the second motion was pending. It cannot be overlooked that, till the filing of the Second Motion, there was no act attributable to the Petitioner showing any breach of the terms of the Settlement. It is only after the filing of the Second Motion that the Respondent took her time to give her statement on the ground that the Petitioner had moved an interim Application for meeting with the child, under Section 26 of the HMA. Such conduct of the Petitioner in filing the Application for custody cannot be termed as wilful disobedience of the terms of the Settlement Agreement.

43. Rather, what transpired was that, even after the parties entered into the renegotiated Settlement dated 10.05.2022, the Respondent refused to give her statement for the second motion, which she had a right to do.

44. There is nothing on record to show that the Petitioner ever declined or refused to perform his part of the Settlement. The Respondent, however, has not been able to explain her reasons for not complying with the Settlement.

45. However, the Petition for maintenance filed by the Respondent has

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since been allowed, granting maintenance of Rs.15,000/- per month for the child and Rs.10,000/- per month for the Respondent, with effect from 2021. It reflects that immediately after the filing of the second motion in 2020, she went ahead to claim maintenance from the Petitioner despite having received Rs.20 lacs at the time of the first motion.

46. The only contention on behalf of the Respondent was that, because the custody Application was filed by the Petitioner after the filing of the Petition for Second Motion, there was a breach of the terms of the Settlement by the Petitioner, entitling her to forfeit the amount received by her under the Settlement at the time of the first motion.

47. In the similar circumstances the Coordinate Bench of this Court in case of *Avneesh sood vs. Tithi Sood* (2012) SCC OnLine Del 2445 observed as under :

> *"39. The issue which arises for my consideration is whether the conduct of the respondent in resiling from her undertaking given to the Court, by which she was bound, tantamounts to contempt of Court. "Civil Contempt" is defined to mean willful disobedience of any judgment, decree, direction, order, writ or other process of the Court or wilful breach of an undertaking given to a Court. The respondent has sought to confuse the issue by asserting that she has a right not to give her consent to proceed further under Section 13-B(2) of the Hindu Marriage Act after the "cooling off" period of 6 months has expired. No doubt, the respondent cannot be compelled to give her consent for moving the second*

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motion petition under Section 13B(2), and she has the right to withhold such consent. But does that mean that a party who has given an undertaking to the Court that he/she shall grant his/her consent for moving the second motion petition, as a part of a settlement wherein he/she has derived benefits and advantage, can simply walk out of the said agreement and undertaking given to the Court without the consequences flowing from the Contempt of Courts Act? In my view the answer to this question would normally be "No", though there may be exceptional circumstances in which a party may be justified in not granting his/her consent to move the second motion petition despite the undertaking given to the Court on account of extraordinary developments which may take place after the giving of the undertaking to the Court, and before the time for giving the consent for the second time under Section 13B(2) arrives.

xxxx xxxx xxxx

47. No doubt the law gives the right to both the parties to take a decision whether, or not, to continue with the mutual consent divorce proceedings, and for that purpose a cooling off period of at least 6 months is provided under the scheme of the Act. ***It does not mean that an undertaking given by them to the Court to continue their consent even for moving the second motion petition can be said to be an illegal consent or***

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undertaking or an undertaking recorded by the Court without jurisdiction. *She, while giving her undertaking, did not undertake to commit an illegality, or to do anything which is barred by law. No one compelled the respondent to give the said undertaking. She could have kept her options open whether, or not, to give her consent for moving the second motion petition at the end of the cooling of period of six months. But she did consciously decide to give the said undertaking to the Court. This she did to derive benefit under the agreement with the petitioner.*

48. ... ... ***It was on account of the respondent's conduct of voluntarily giving her undertaking to the Court*** *to abide by her settlement, and the acceptance thereof by the Court, which led the petitioner to agree to pay an amount of* ***Rs. 7 crores in all to the respondent, and to part with a huge amount of Rs. 1.5 cores at the first motion stage.*** *The respondent cannot make mockery of the law and mock at the Courts by now claiming that she has decided* ***not to give her consent for moving the second motion petition, and that too for the reasons that she wants to renegotiate the terms of settlement, both in relation to her monetary compensation and custody/visitation rights in respect of the minor child****. It is clear that the respondent has exploited and abused the process of the Court to serve her purpose, without*

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intending to adhere to her solemn undertaking given to the Court."

48. During the arguments, she was specifically asked whether she wanted to reside with the Petitioner or wanted a divorce, but her answer to both the questions was in the negative. In view of this conduct, it is evident that the Respondent has resiled wilfully from the Settlement, for which there is no explanation.

49. In view of the aforesaid, the conduct of the Respondent in giving an undertaking to the Court, which she has wilfully failed to honour, warrants holding her guilty of Contempt for breach of the Settlement dated 01.09.2020, as modified on 10.05.2022.

50. Therefore, she is directed to purge the contempt by refunding the sum of Rs.20 lacs within six weeks. Considering the overall circumstances, no directions are given for payment of interest on the said amount.

51. The Contempt Petition is **disposed of**, accordingly.

NEENA BANSAL KRISHNA, J.

OCTOBER 14, 2026/RS/VA

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