

In the Court of Principal Judge, Family Court, Siwan
Present- Manoj Kumar-II, Principal Judge Family Court.

Divorce Case No.- 61/2026
U/s 13B of Hindu Marriage Act
Page No.-1/4

1. Saarika Barnawal, aged 32 years, W/o-Vivek Kumar Barnawal, R/o village-Bhatpaar Rani Purana Post Office Road, P.O.+P.S.- Bhaatpar Rani.

At present- D/o-Shivnath Prasad Barnawal, R/o village-Mairwa Main road, P.O.+P.S.- Mairwa, District-Siwan, Pin code-841239, Mob. No.-7004124741.

..... Petitioner No.1

And

2. Vivek Kumar Barnawal, S/o-Suresh Barnawal, aged 35 years, R/o village-Bhatpaar Rani Purana Post Office Road, P.O.+P.S.- Bhaatpar Rani, District-Deoria, Pin code-2784702, Mob. No.-9798339973.

..... Petitioner No.2

Learned Counsel for the Petitioner No.- 1	- Ld. Advocate Sri Bhrigunath Prasad Gupta
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Learned Counsel for the Petitioner No.- 2	- Ld. Advocate Sri Vikash Kumar Pandey
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Date of Judgment- 26.05.2026

JUDGMENT

1. The petitioners named above, instituted instant petition on 28-04-2026 u/s 13B of the Hindu Marriage Act, 1955, seeking dissolution of their marriage by way of mutual consent.

2. As per the case of the parties, the petitioners were married to each other on 04.12.2015 as per the Hindu rites and customs at Mairwa Bazar, District-Siwan. After marriage, the petitioner no.2 came at her matrimonial house and on 08.05.2017, they were blessed with a son. Thereafter, due to poor behaviour and relationship with each other, they have been living separately since 12.05.2022. They both have a son named Aditya Kumar, who age is 9 years, and living with his mother/petitioner No.1. The petitioners no longer have a husband-wife relationship as of 12.05.2022 and there is no hope of them living together in the future. Both parties are willing to dissolve their marriage by mutual consent. The consent has not been given by either party by fear, force, fraud, coercion or undue influence. Both the parties are agreed to dissolve their marriage. Therefore, petitioner No.2 ready to pay a lump sum amount towards maintenance /alimony to the petitioner No.1 along with her child through demand draft. Both the parties are agreed that when petitioner No.1 will adduce her evidence and Maintenance Case No.151/2024 disposed of. Petitioner No.2 shall submit a Demand Draft of Rs.2,00,000/-(Rupees Two Lakh) in her name on the date of evidence. Both parties are also agreed that when the petitioner No.1 will give evidence and get Trial No.1738/2025 pending before the court of Ld. A.C.J.M.-1 disposed of. Petitioner No.2 shall submit a Demand Draft of Rs.2,00,000/-(Rupees Two Lakh) in her name

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Saarika Barnawal and Vivek Kumar Barnawal

Page No.-2/4

before recording of her evidence. Both parties are further agreed that petitioner No.2 shall give a Demand Draft of Rs.2,00,000/-(Rupees Two Lakh) to petitioner No.1 at the time of the first motion in the present case and another Demand Draft of Rs.1,00,000/-(Rupees One Lakh) to petitioner No.1 at the time of second motion. No other legal issues remains involved in the present case for which any further relief is required to be sought from this court, and the present matter falls within the jurisdiction of this court. Petitioner No.1 resides at Mairwa Bazar, P.S.-Mairwa, District-Siwan, which falls within the jurisdiction of this court. The cause of action arose on 20.03.2022, when both parties mutually agreed that they did not wish to live together and accepted dissolution of marriage by mutual consent. At last, they prayed for a decree of divorce.

3. First motion was completed on 30-04-2026. Conciliation proceedings were conducted to explore the possibilities of parties living together and maintaining matrimonial relations, but failed. Parties were found adamant to dissolve their marriage at the time of first motion. They also filed application on 13-05-2026 supported with affidavits of parties, for waiving the statutory cooling period of 6 months, and for granting the decree of divorce. It is mentioned in the the affidavit that the second marriage of petitioner no. 2 has been fixed for 10.06.2026 with Nikki Devi, D/o-Madan ji, R/o village-Karejo, P.S.-Mairwa, District-Siwan. The conciliation has already failed, there is no possibility for the parties to reconcile.
4. At the time of second motion on 13-05-2026, both parties affirm their intention to dissolve their marriage and reiterated that owing to difference in their nature, incompatible temperament, they cannot continue and maintain matrimonial relationship with each other. Petitioners admit that nothing is due or outstanding between them. They have agreed to dissolution of their marriage of their own free will and consent. The consent has not been given by each of parties by fear, force, fraud, coercion or undue influence. They have one son named-Aditya Kumar, whose age is 9 years is living with his mother/petitioner No.1. It has been mutually decided that the child shall continue to remain with his

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Divorce Case No.- 61/2026

U/s 13B of Hindu Marriage Act

Saarika Barnawal and Vivek Kumar Barnawal

Page No.-3/4

mother/petitioner No.1. In furtherance of settlement between the parties, the petitioner No.1/husband will pay to the petitioner No.2/wife, a sum of Rs. 7,00,000/- (Seven Lakh Rupees only), out of which she has already received Rs.2,00,000/- (Rupees Two Lakh) through Demand Draft in her maintenance case, and remaining Rs. 5,00,000/-(Rupees Five Lakh) has been received at the time of second motion through three Demand Draft which is D.D. bearing No.011788 dated 08.05.2026 for Rs.2,00,000/- (Rupees Two Lakh), D.D. bearing No.288513 dated 30.04.2026 for Rs.2,00,000/-(Rupees Two Lakh) and D.D. bearing No.011787 dated 08.05.2026 for Rs.1,00,000/-(Rupees One Lakh) will be given by him to her/petitioner No.1. Now, nothing remains due between them. Thereafter, she will not claim any maintenance in future. There is no other pending litigation between them except this case. She also expressed her desire for granting a decree of divorce on mutual consent. The same thing is admitted by the petitioner No.2 in his deposition.

5. In **Amit Kumar vs. Suman Beniwal, 2021 SCC Online SC 1270** it was held by Hon'ble Apex Court that-

For exercise of the discretion to waive the statutory waiting period of six months for moving the motion for divorce under section 13B of the Hindu Marriage Act, the court would consider the following amongst other factors:-

- (i) the length of time for which the parties has been married;*
- (ii) how long the parties had stayed together as husband and wife;*
- (iii) the length of time the parties had been staying apart;*
- (iv) the length of time for which the litigation had been pending;*
- (v) whether there were any other proceedings between the parties;*
- (vi) whether there was any possibility of reconciliation;*
- (vii) whether there were any children born out of the wedlock;*
- (viii) whether the parties has freely, of their own accord, without any coercion or pressure, arrived at a genuine settlement which took care of alimony, if any maintenance.*

6. In the present case, the parties were married on 04.12.2015, admittedly, the parties have been living separately since 12-05-2022, and

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Divorce Case No.- 61/2026

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Saarika Barnawal and Vivek Kumar Barnawal

Page No.-4/4

no cohabitation took place between them during this period. Present petition has been filed on 28-04-2026 that is after Three years and Eleven months of living separate. As of now, the parties have been living separate for around four years and no possibility of restoring their matrimonial relationship appears, despite efforts made by relatives and the court. First motion was completed on 30-04-2026. Second motion was completed on 13-05-2026. The parties have now mutually settled all their disputes including alimony, maintenance etc. Further, new alliance of petitioner No.2 with another lady has already been fixed on 10.06.2026. Therefore, in the light of law as laid down by Hon'ble Apex Court in Amit Kumar's case (supra), the instant petition falls under such special category of the cases where no useful purpose would be served by making the parties wait for statutory cooling period, except prolonging their agony.

7. Considering all these facts and circumstances, waving off statutory cooling period between the first motion and the second motion, the petition u/s 13(B) of the Hindu Marriage Act, 1955 filed on behalf of the petitioners is hereby by **allowed**. Accordingly, the marriage between Saarika Barnawal (petitioner No.- 1) and Vivek Kumar Barnawal (petitioner No.- 2) is hereby dissolved by way of decree of divorce on mutual consent on the above terms as agreed between the parties.
8. Copy of the judgment be given free of cost to the parties. Office is directed to consign the record to the record-room after completing formalities.

Dictated & corrected

(Manoj Kumar-II)
Principal Judge
Family Court, Siwan
Dated: 26th of May, 2026.

Pronounced in the open court

(Manoj Kumar-II)
Principal Judge
Family Court, Siwan
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