



In the High Court of Punjab and Haryana at Chandigarh

FAO No. 3039 of 2024

Reserved on : 02.7.2024

Date of Decision: 11.7.2024

Rachna Dahiya

.....Appellant

Versus

Sandeep Antil

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. Kanwal Goyal, Advocate
Mr. Prince Singh, Advocate
for the appellant.

Mr. Ashwariya Bajaj, Advocate
for the respondent.

SURESHWAR THAKUR, J.

1. The instant appeal is preferred against the impugned order dated 30.5.2024 rendered on an application filed under Section 14 of the Hindu Marriage Act, 1955 (for short 'the Act of 1955') whereby became declined, thus the espoused permission for relaxing the rigor of the bar against the presentation of a petition, thus seeking the segregation of marital ties, through rendition of a decree of mutual consent, rather till the expiry of one year since the solemnization of their marriage.

2. Before proceeding to adjudicate upon the validity of the making of the impugned order, it is deemed appropriate to ad verbatim extract the mandate as carried in Section 14 of the Act of 1955. The said provisions become extracted hereinafter.

"14. No petition for divorce to be presented within one year of marriage.-



(1) Notwithstanding anything contained in this Act, it shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce, unless at the date of the presentation of the petition one year has elapsed since the date of the marriage:

Provided that the court may, upon application made to it in accordance with such rules as may be made by the High Court in that behalf, allow a petition to be presented before one year has elapsed since the date of the marriage on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent, but if it appears to the court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the court may, if it pronounces a decree, do so subject to the condition that the decree shall not have effect until after the expiry of one year from the date of the marriage or may dismiss the petition without prejudice to any petition which may be brought after the expiration of the said one year upon the same or substantially the same facts as those alleged in support of the petition so dismissed.

(2) In disposing of any application under this section for leave to present a petition for divorce before the expiration of one year from the date of the marriage, the court shall have regard to the interests of any children of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said one year.”

3. A reading of the above extracted provision thus displays, that the said provision contemplates a rigid bar against the presentation of a petition for segregating the marital ties inter se the litigants concerned, through a decree of mutual consent becoming passed by the learned Family

Court concerned. However, the said bar is subject to a statutory proviso.



The said statutory proviso bestows a right, upon the estranged marital partners to before the expiry of one year from their entering into a lawful wedlock, yet with the leave of the Court, thus present a petition under Section 13-B of the Act of 1955, for therebys their marital knot, becoming undone through a decree of divorce by mutual consent becoming passed. However, the sine qua none, for the learned Family Court concerned, entertaining the said petition, thus within the ambit of the proviso to Section 14 of the Act of 1955, is that, there emerging evidence thus personificatory of exceptional hardship being caused to the parties or qua exceptional deprivation on the part of the respondent.

4. Be that as it may, even if the said sine qua none for the parties rather becoming well leveraged to claim the benefit of the apposite statutory endowment purveyed to them, thus though also may become well established, whereupon the learned Family Court concerned, may entertain the petition for divorce by mutual consent, as cast under Section 13-B of the Act of 1955. However, yet if on the first hearing of the said petition, the learned Family Court concerned receives evidence qua the said leave becoming obtained by misrepresentation or concealment of the nature of the case. Resultantly, the Family Court concerned, may yet pronounce a conditional decree, to the extent, that the decree shall not have effect until the expiry of one year from the date of the marriage or may dismiss the petition without prejudice to any petition, which may be brought after the expiry of the said one year, upon the same or substantially the same facts as those alleged in support of the petition so dismissed.



5. The statutory bestowment (supra), as embodied in the proviso, to Section 14 of the Act of 1955, and, with the said proviso carrying therein the above alluded to sine qua none, besides the said sine qua none, thus requiring its becoming cogently established. Resultantly, this Court is required to be gauging from the material on record, whether the declining of espoused leave to the contesting litigants, as became claimed by them within the ambit of the proviso to Section 14 of the Act of 1955, thus was a well informed declining, besides was anchored upon a perusal of the relevant material on record.

6. For the reasons to be advanced hereinafter, this Court is of the firm opinion, that the reasons as carried in the impugned verdict, and, which become carried in paragraphs 8 and 9 thereof, paras whereof are extracted hereinafter, are entirely surmisal, or may be also are hyper conjectural, besides they appear to overlook the factum, that the parties at lis had resolved their marital dispute, through theirs drawing a deed of settlement for divorce, which became prepared on 15.4.2024, whereby they also settled all the claims which arose amongst them.

“8. Bare persual of Section 13-B of HMA indicates that the cause of action to file the petition under this provision accrues only after one year or more. The intent and object behind Sections 13-B and 14 of HMA and establishment of the Family Courts is to keep the marital ties intact so far as possible, and if not possible at any stage then to give adequate and reasonable time to the parties to weigh their decision and to think twice before taking such extreme step for seeking dissolution of their marriage.

9. Further as per Section 14 of HMA only in case of exceptional hardship to the parties or in case of exceptional



depravity, the discretion to relax the period of one year after the marriage to entertain the divorce petition can be judiciously excercised. The petitioners herein are young and educated persons. Chances of their coming together and the reasonable probability of their reconciliation at the stage cannot altogether be ruled out. Nor there is any serious issue between them which has impelled and compelled them as such to take such extreme step for divorce. Morevoer, no formal efforts of reconciliation or through process of court have been made as yet.”

7. The relevance and import of the said deed of settlement, is both sombre and grave, especially when it became drawn between the parties at contest on 15.4.2024, besides became entered, merely after two months elapsing since their solemnizing marriage on 14.2.2024, subsequent whereto they cohabited only for three days. Moreover, when no child was born from the wedlock. In addition when both are young, and, have a promising career ahead. Moreover also when their freedom to re-marry is required not to be fettered through any intrusion thereto becoming made rather by the Family Court, that too but only for conjectural reasons. In sequel, the lack of reverence to the said settlement deed wherebys the parties at lis settled all the claims, thus was completely inapt. Moreover, the learned Family Court concerned in paragraphs (supra) yet insisting upon the parties living together, thus to the considered mind of this Court appears to be but banked upon ill informed reason(s).

8. An added strength of the above made inference by this Court, is garnered from the factum, that no such evidence became adduced before the learned Family Court concerned, thus suggestive that the deed of settlement drawn inter se the parties at lis was ridden with the vices of suppression or fraud. Even if it was purportedly so ridden with the vices of suppression or



fraud, thereby yet the learned Family Court concerned, was not required to be treating the lis to be not of exceptional hardship, rather only after leave being granted in terms of the proviso to Section 14 of the Act of 1955, evidence in respect thereof may have been adduced before the learned Family Court, thus by the contesting litigants, whereby the Family Court concerned may thus make the above conditional decree, to the extent that the decree shall not have effect until the expiry of one year from the date of the marriage or may have dismissed the petition without prejudice to any petition, which may be brought after the expiry of the said one year, upon the same or substantially the same facts as those alleged in support of the petition so dismissed.

9. In aftermath, in the declining of the espoused relief to the contesting litigants, thus through the making of the impugned order, there has been not only an unnecessary fettering of the freedom of choice, and, exercising of options rather by the contesting litigants concerned, but also thereby the Family Court concerned, has inhibited the parties at lis to after leave being granted, adduce evidence displaying that the deed of settlement was obtained through fraud or suppression. Moreover, the Family Court concerned, has also thereby inhibited itself to thereupon pronounce a conditional decree to the extent, that the decree shall not have effect until the expiry of one year from the date of the marriage or to may have dismissed the petition without prejudice to any petition, which may be brought after the expiry of the said one year, upon the same or substantially the same facts as those alleged in support of the petition so dismissed. The sequel of the above, is that, the jurisdiction as became exercised on the relevant application was exercised with the vice of gross non-application of mind.



Resultantly also, the learned Family Court concerned, may not have in paragraphs 8 and 9 yet insisted that since the parties at lis are educated, and, that therebys there are chances of reconciliation, nor thereafter could it decline the espoused leave, reiteratedly when a deed of settlement became presented by them, deed whereof has not been established to become obtained by fraud or collusion or through misrepresentation.

9. In other words, on the said conjectural reasons, the leave as claimed by the petitioner, thus within the ambit of the proviso, rather was not to be declined. Enigmatically, the learned Family Court concerned, has ignored all the above, and, as stated (*supra*) has proceeded to make ill informed, and, conjectural reasons, while declining the espoused relief to the contesting litigants, despite the fact, that their espousal was covered within the bestowment of jurisdiction upon it through the proviso to Section 14 of the Act of 1955. As such, the said jurisdiction bestowed upon it, has been most erringly failed to become well exercised, despite the same becoming well anchored upon the settlement of deed, wherebys the espoused leave was rather required to be construed to be a case of exceptional hardship.

10. Consequently, the impugned order is quashed and set aside. The learned Family Court concerned, is directed to proceed to register the Hindu Marriage Petition cast under Section 13-B of the Act, and, to thereafter proceed to issue summons to the contesting litigants to make their respective personal appearances for theirs making their first statement before the learned Family Court concerned. Subsequently, the learned Family Court concerned, may deem it fit and appropriate to relax the apposite statutory period of six months as envisaged under Section 13-B of the Act of 1955. If it so does, it may even on the first appearance of the contesting litigants



before it, and, on theirs making their consensual statements, for therebys theirs seeking the segregation of their marital knot, thus may proceed to pass a decree annulling their marital ties by mutual consent.

- 11. With the afore observations, the petition stands disposed of.
- 12. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

July 11th, 2024
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No