

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

MAT. APP. No. 1 of 2026

1. Rinki Pal, aged about 23 years, W/o Devanan Barman of Chandamari, Cooch Behar – I, P.O. & P.S. Putimari, Koch Bihar District, West Bengal – 736157, presently residing at Mantripukhri, P.O. Mantripukhri, P.S. Heingang, Imphal East District, Manipur – 795002.
2. Devanan Barman, aged about 31 years, S/o Ratan Barman of Masuwa, Gobardhana, Masua, Barpeta, P.O. Bhella, P.S. Barpeta, District – Barpeta, Assam – 781313, presently residing at Mantripukhri, P.O. Mantripukhri, P.S. Heingang, Imphal East District, Manipur – 795002.

... Appellants

- Versus -

NEMO

... Respondent

B E F O R E

**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For appellants : Mr. Anjan Prasad Sahu, Advocate
For respondent : NEMO
Date of order : **13.07.2026**

O R D E R
[M. Sundar, CJ]

[1] The following abbreviations/short forms have been used in this order (for the sake of brevity, convenience and clarity):

Sl. No.	Abbreviation/Short Form/other short references	Full Form/Expansion
1.	Hindu Marriage Act	The Hindu Marriage Act, 1955 (25 of 1955)
2.	Child Marriage Act	The Prohibition of Child Marriage Act, 2006 (6 of 2007)
3.	CPC	Code of Civil Procedure, 1908
4.	said Family Court	Family Court, Imphal East, Manipur at Lamphelpat
5.	said matrimonial suit	Matrimonial (Divorce) Suit No. 95 of 2025
6.	impugned order	Order dated 06.12.2025 made by said Family Court in said Matrimonial Suit
7.	Family Courts Act	Family Courts Act, 1984 (66 of 1984)
8.	DoB	Date of Birth

[2] Captioned matrimonial appeal has been presented in this Court on 13.01.2026 and it is a statutory appeal under Section 19 of Family Courts Act, assailing impugned order.

[3] Mr. Anjan Prasad Sahu, learned counsel on record for the two appellants (to be noted, two appellants, as of today, are spouses, Hindus, their marriage having been solemnized in accordance with Hindu Rites and customs on 25.08.2016).

[4] The two appellants joined together and filed said matrimonial suit in said Family Court *inter alia* under Section 13B of Hindu Marriage Act with a prayer for dissolution of their marriage as they are convinced that their marriage has *inter alia* irretrievably broken down.

[5] The afore-referred said matrimonial suit is dated 01.12.2025, it was taken on the file of said Family Court on 06.12.2025 and said Family Court *vide* impugned order, which is a short order, dismissed the said matrimonial suit on the short point that marriage between the appellants is void as the bride (1st appellant) had not completed 18 (eighteen) years of age on the date of marriage. Aggrieved both appellants have filed captioned statutory appeal in this Court. Captioned statutory appeal was taken up and heard out with the consent of Mr. Anjan Prasad Sahu, learned counsel on record for both appellants.

[6] Short facts (shorn of elaboration) i.e., facts that are imperative for appreciating instant order are that DoB of second appellant is 01.02.1994 and DoB of first appellant is 12.01.2002 (to be noted, in the impugned order, it has been erroneously recorded that plaintiff No. 2 who is appellant No. 2 before this Court was 14 years of age on the date of marriage); that 'appellant No. 1' shall be referred to as 'wife' and 'appellant No. 2' shall be referred to 'husband' for the sake

of convenience and clarity; that marriage between the appellants was solemnized as per Hindu rites and customs on 25.08.2016; that from the wedlock a male child was born on 23.11.2018; that as already alluded to *supra*, said matrimonial suit under Section 13B of Hindu Marriage Act dated 01.12.2025 was taken on the file of said Family Court on 06.12.2025; that said Family Court dismissed the said matrimonial suit on the short point that marriage between the appellants was void as wife had not completed the age of 18 years on the date of marriage i.e., 25.08.2016 (to be noted, wife was 14 years, 7 months and 13 days old on the date of marriage).

[7] The entire captioned appeal turns on a very short point and that short point is, whether the marriage that was solemnized between the appellants as per Hindu rites and customs on 25.08.2016, is void.

[8] To address the afore-referred point, it will suffice to examine/advert to Section 5, more particularly Section 5(iii), Sections 11 and 12 of Hindu Marriage Act and Section 3 of Child Marriage Act. Before proceeding further, it is deemed appropriate to record that Hindu Marriage Act kicked in i.e., came into force on 18.05.1955 and Child Marriage Act which is a conditional legislation kicked in vide Notification of Central Government being SO 1850(E) dated 30.10.2007. It will suffice to record that this Court notices that both

Hindu Marriage Act, more particularly Sections 5(iii), 11 and 12 as well as Section 3 of Child Marriage Act were operating on the date of marriage of appellants.

[9] Section 5 of the Hindu Marriage Act to the extent relevant reads as follows:

'5. Conditions for a Hindu Marriage. - A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:-

- (i)
- (ii)
 - (a)
 - (b)
 - (c)
- (iii) the bridegroom has completed the age of twenty-one years, and the bride, the age of eighteen years at the time of marriage;
- (iv)
- (v)

Section 11 and 12 of Hindu Marriage Act read as follows:

'11. Void Marriages. - Any marriage solemnized after the commencement of this Act shall be null and void and may, on a petition presented by either party thereto against the other party, be so declared by a decree of nullity if it contravenes any one of the conditions specified in clauses (i), (iv) and (v) of Section 5.'

'12. Voidable marriages. -

(1) Any marriage solemnized, whether before or after the commencement of this Act, shall be voidable and may be annulled by a decree of nullity on any of the following grounds namely:-

(a) that the marriage has not been consummated owing to the impotence of the respondent; or

(b) that the marriage is in contravention of the condition specified in clause (ii) of section 5; or

(c) that the consent of the petitioner, or where the consent of the guardian in marriage of the petitioner [was required under section 5 as it stood immediately before the commencement of the Child Marriage Restraint (Amendment) Act, 1978 (2 of 1978)], the consent of such guardian was obtained by force or by fraud as to the nature of the ceremony or as to any material fact or circumstance concerning the respondent); or

(d) that the respondent was at the time of the marriage pregnant by some person other than the petitioner.

(2) Notwithstanding anything contained in sub-section (1), no petition for annulling a marriage-

(a) on the ground specified in clause (c) of sub-section (1) shall be entertained if-

(i) the petition is presented more than one year after the force had ceased to operate or, as the case may be, the fraud had been discovered; or

(ii) the petitioner has, with his or her full consent, lived with the other party to the marriage as husband or wife after the force had ceased to operate or, as the case may be, the fraud had been discovered;

(b) on the ground specified in clause (d) of sub-section (1) shall be entertained unless the court is satisfied-

(i) that the petitioner was at the time of the marriage ignorant of the facts alleged;

(ii) that proceedings have been instituted in the case of a marriage

solemnised before the commencement of this Act within one year of such commencement and in the case of marriages solemnised after such commencement within one year from the date of the marriage; and

(iii) that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the said ground.'

[10] A careful perusal of Sections 11 and 12 of Hindu Marriage Act brings to light that it does not take within its sweep / purview clause (iii) of Section 5 of Hindu Marriage Act. This statutory scheme/legal architecture of Hindu Marriage Act necessarily means that a marriage solemnized between two Hindus, where at the time of marriage, the bride has not completed 18 years of age, is neither void nor voidable under Hindu Marriage Act but it has been explicitly set out to be voidable *vide* Section 3 read with Section 2(b) and 2(a) of Child Marriage Act which to the extent relevant to instant case read as follows:

'3. Child marriages to be voidable at the option of contracting party being a child. -

(1)

(2) If at the time of filing a petition, the petitioner is a minor, the petition may be filed through his or her guardian or next friend along with the Child Marriage Prohibition Officer.

(3) The petition under this section may be filed at any time but before the child filing the petition completes two years of attaining majority.

(4) While granting a decree of nullity under this section, the district court shall make an order directing both the parties to the marriage and their parents or their guardians to return to the other party, his or her parents or guardian, as the case may be, the money, valuables, ornaments and other gifts received on the occasion of the marriage by them from the other side, or an amount equal to the value of such valuables, ornaments, other gifts and money:

Provided that no order under this section shall be passed unless the concerned parties have been given notices to appear before the district court and show cause why such order should not be passed.'

'2. Definitions. - In this Act, unless the context otherwise requires, -

(a) "child" means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age;

(b) "child marriage" means a marriage to which either of the contracting parties is a child;'

[11] To sum up, a conjoint reading of Sections 5(iii), 11 and 12 of Hindu Marriage Act and Sections 3, 2(b) and 2(a) of Child Marriage Act in that order, makes it clear that marriage between the two appellants which was solemnized as per Hindu rites and customs on 25.08.2016 is voidable and not void.

[12] As regards the point that is being examined, this Court deems it appropriate to write that two case laws rendered by two other High Courts are relevant. The first is ***T. Sivakumar -vs- Inspector of Police, Thiruvallur Town Police Station, Thiruvallur District*** rendered by a Hon'ble Full Bench (3 Hon'ble Judges) of Madras High

Court, reported in ***AIR 2012 Mad 62 (FB) : 2011 SCC OnLine Mad 1722. T. Sivakumar*** was on a reference, and one of the points of reference was whether a Hindu marriage contracted by a person with a girl of less than 18 years of age could be said to be valid marriage and the custody of the said girl be given to the husband. Hon'ble Full Bench of Madras High Court, after making a survey on Hindu Marriage Act, Child Marriage Act and predecessor statute of Child Marriage Act i.e., Child Marriage Restraint Act 1929, concluded that marriage between two Hindus where the bride has not completed 18 years of age, is voidable. In the instant case, neither party has chosen to opt and take the Section 3 of Child Marriage Act or any other route and sought a decree of annulment/nullity *qua* their marriage. To be noted, as of 01.12.2025/06.12.2025 two years after attending majority had been completed/had elapsed. This means that the option of appellants to take voidable route is closed owing sub-Section (3) of Section 3 of Child Marriage Act. On the contrary, both appellants have joined together (joined together solely for filing a suit for dissolution of marriage) and filed a joint petition (said matrimonial suit) under Section 13B of Hindu Marriage Act about which there is allusion *supra*. In this view of the matter, the marriage between the appellants is not void as held by said Family Court in the impugned order. This further means that the impugned order of the said Family Court is plainly incorrect.

[13] The second case law of relevance was rendered by a Hon'ble Division Bench of Punjab & Haryana High Court, Chandigarh and this is a decision dated 26.08.2021 made in FAO-855-2021 in the case of ***Yogesh Kumar -vs- Priya***. In ***Yogesh Kumar***, in a factual matrix that is very close to the case at hand, Division Bench of Punjab & Haryana High Court followed ***Sivakumar*** rendered by Madras High Court, another judgment of Delhi High Court and held that parties are entitled to a decree of divorce *vide* Section 13B of Hindu Marriage Act.

[14] Before writing the operative portion of instant order, this Court deems it appropriate to record some more facts. These facts are, while wife was 14 years, 7 month and 13 days old on the date of marriage as already alluded to *supra*, the husband was 22 years 6 months and 24 days old on the date of marriage (to be noted, this means that husband had completed 21 years on the date of marriage). On 06.12.2025 when the said matrimonial suit dated 01.12.2025 was taken on the file of said Family Court, wife was 23 years, 11 months and 24 days old and husband was 31 years, 10 months and 5 days old. This only reinforces the position that both appellants were clearly entitled to resort to Section 13B of Hindu Marriage Act and they did not have the option seeking annulment/nullity of their marriage by resorting to 'voidable at the option of contracting parties' route as two years from the dates of attaining majority had elapsed and sub-Section

(3) of Section 3 of Child Marriage Act extinguishes their rights in this regard.

[15] As regards the minor child born from the wedlock (to be noted, a male child from the wedlock was born on 23.11.2018 and therefore is a little over 7 and half years of age as of today) is said to be residing with his maternal grandparents in West Bengal. It is also to be noted that there is a specific averment in this regard in the said matrimonial suit filed in said Family Court. However, this Court refrains itself from expressing any opinion or view on the custody *qua* minor child and/or the joint prayer for dissolution of marriage made by the appellants as this Court deems it appropriate to set aside the impugned order of said Family Court and remit the matter back to Family Court for considering the Section 13B matrimonial suit dated 01.12.2025 on its own merits and in accordance with law.

[16] As regards said Family Court, considering the convenience of the parties who may have to be present before said Family Court, Mr. Anjan Prasad Sahu, learned counsel on record for appellants made a request to this Court that the said matrimonial suit may please be remitted to Family Court, Manipur at Lamphelpat instead of said Family Court i.e., Family Court, Imphal East at Lamphelpat. In this regard, this Court deems it appropriate to record one aspect i.e., an aspect on law. Section 24 of CPC makes it clear that a High Court can transfer any suit

or proceedings to any competent Court subordinate to it and that a High Court can do so on its own motion also.

[17] Therefore the afore-referred request of learned counsel on record for appellants to remit the matter to Family Court, Manipur at Lamphelpat instead of Family Court, Imphal East at Lamphelpat is acceded to.

[18] In the light of narration, discussion and dispositive reasoning set out *supra*, the following order is made :

- (a) impugned order dated 06.12.2025 made in Matrimonial (Divorce) Suit No. 95 of 2025 on the file of Family Court, Imphal East, Manipur at Lamphelpat is set aside;
- (b) Matrimonial (Divorce) Suit No. 95 of 2025 is remitted back to Family Court but to Family Court, Manipur at Lamphelpat for taking up the matter considering the same and disposing of the said matrimonial suit on its own merits and in accordance with law;
- (c) Family Court, Manipur at Lamphelpat shall now retry the matrimonial suit i.e., Matrimonial (Divorce) Suit No. 95 of 2025 on its own merits and in accordance with law. Family Court, Imphal East,

Manipur is directed to transfer/transmit entire suit file and suit records *qua* Matrimonial (Divorce) Suit No. 95 of 2025 to Family Court, Manipur at Lamphelpat forthwith.

[19] Captioned matrimonial appeal is allowed in part albeit with afore-referred observations and directions. There shall be no order as to costs.

JUDGE

CHIEF JUSTICE

FR/NFR

Bipin

P.S. I : Upload forthwith.

P.S. II : All concerned will stand bound by web copy uploaded in High Court website inter alia as the same is QR coded.

P.S. III : On instant order being uploaded on official website of this High Court, Family Court, Imphal East at Lamphelpat shall forthwith transfer the entire case records and case files of Matrimonial (Divorce) Suit No. 95 of 2025 to Family Court, Manipur at Lamphelpat, without waiting for communication of this order.

P.S. IV : Registry to communicate this order to Family Court, Imphal East at Lamphelpat and Family Court, Manipur at Lamphelpat forthwith.

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