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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.4715 of 2015

Date of decision: July 29, 2015

Harjinder Singh

.....Petitioner

Versus

Sukhvinder Kaur

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sanjay Jain, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 01.05.2015.

Learned counsel for the petitioner has submitted that petition under Section 12 of the Hindu Marriage Act, 1955 ('Act' for short) could be filed within one year of marriage. However, in the present case, the marriage between the parties was solemnised on 28.05.2012, whereas, petition under Section 12 of the Act had been filed on 11.10.2013.

In the present case, respondent has filed petition under Sections 12 and 13 of the Act for annulment of marriage. During the pendency of the petition, petitioner moved an application to dismiss the petition as being not maintainable on the ground that annulment of marriage could not have been sought after one year of marriage.

Section 12(2) of the Act reads as under:-

“12(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;”

Thus, as per above provision, the petition can be filed within one year from the date of fraud was discovered. Thus, the question regarding limitation in the facts of the present case would be a mixed question of law and fact. In these circumstances, the learned trial Court rightly held that the petition was not liable to be dismissed at the very threshold as the parties were required to lead evidence qua their respective pleas.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

July 29, 2015

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