

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

**FAO No. M-221 of 2015 (O&M)
DATE OF DECISION :- July 22, 2015**

Rashmi Arora

...Appellant.

Versus

Munish Kumar

...Respondent

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present:- Mr. Varun Garg, Advocate for the appellant.

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

M.JEYAPPAUL, J.

C.M. No.10713-CII of 2015

There is a delay of 150 days in re-filing the appeal. For the reasons set out in the application, the application is allowed.

FAO No. M-221 of 2015

1. The appeal has been preferred by appellant Rashmi Arora, aggrieved by the dismissal of the petition filed by her under Section 25 of the Hindu Marriage Act, 1955 claiming permanent alimony not only for herself but also for her male child.

2. There is no dispute to the fact that the appellant and the respondent jointly moved a petition under Section 13B of the Hindu Marriage Act, 1955 before the competent Court and obtained a decree of divorce dissolving the marriage by mutual consent.

3. Appellant Rashmi Arora had received a sum of ₹7,08,500/- along with a gold chain towards past, present and future maintenance of herself and her minor son before ever she consented for passing a decree of divorce by mutual consent by the trial Court.

4. The appellant filed the petition under Section 25 of the Hindu Marriage Act, 1955 before the District Judge, Patiala praying for permanent alimony from her ex-husband Munish Arora. Her contention in the said petition was that she was under mental depression and, therefore, she was unable to think of her future. She was, in fact, persuaded by the respectables of the village to get divorce from her husband. She has further alleged that she was in mental trauma and was not in a fit state of mind to foresee the difficulty which would arise in future.

5. It is the submission of learned counsel for the appellant that some provision will have to be made at least for the male child born out of the wedlock. As the appellant was under depression, she could not take proper decision as regards her entitlement of permanent alimony when the petition under Section 13 of the Hindu Marriage Act, 1955 was taken up for consideration by the competent Court.

6. It is not as if the trial Court which dealt with the petition under Section 13B of the Hindu Marriage Act, 1955 passed a decree for

divorce by mutual consent on the very day the petition was filed. There was 1st motion as well as 2nd motion before ever the petition jointly filed by both the parties under the aforesaid provision of law was allowed. Consistently, the appellant had stated that she had received a sum of ₹7,08,500/- along with a gold chain for her permanent alimony as well as for the maintenance of her minor son. There is nothing on record to show that she was depressed or mentally upset when the joint petition was moved before the trial Court for passing a decree of divorce by mutual consent.

7. In our considered view, it is totally unjustifiable to re-open the agreement entered into between the parties which ultimately culminated in passing a decree of divorce by mutual consent, settling for ever the permanent alimony to be paid to the appellant and the maintenance to be paid to the minor son by the respondent.

8. In view of the above, we find that the trial Court has rightly dismissed the claim for permanent alimony set up by the appellant under Section 25 of the Hindu Marriage Act, 1955. Therefore, the appeal is dismissed.

**(M. JEYAPPAUL)
JUDGE**

**(RAJ RAHUL GARG)
JUDGE**

July 22, 2015
p.singh