

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CM-25457-CII-2017 &
FAO-7730-2017**

Date of decision: 29.11.2017

Seema

...APPELLANT

VERSUS

Anil Hans

....RESPONDENT

**CORAM: HON'BLE MR. JUSTICE M. M.S.BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Ms. Neeru Bansal, Advocate,
for the appellant.

M.M.S.BEDI, J. (ORAL)

CM-25457-CII-2017

Prayer in this misc. application is for condonation of delay of 45 days in filing of the appeal.

For the reasons mentioned in the application, the same is allowed. Delay of 45 days in filing of the appeal is condoned.

FAO-7730-2017

Aggrieved by the dismissal of her application under Section 14 of the Hindu Marriage Act for seeking permission to file divorce petition under Section 13 of the Hindu Marriage Act, vide order dated 31.08.2017, the appellant-wife has preferred this appeal.

The applicant has explained in her application that it was a case of exceptional hardship and it was impossible for her to live with the

respondent as he has been very abusive towards her. Both the parties were divorcee. She was having a minor girl from her previous marriage. The respondent is alleged to be a daily drunkard. The marriage having not been consummated and the respondent having given her merciless beatings, she was forced to file divorce petition with an allegation of demand of dowry.

The learned District Judge, Family Court, Hisar has not considered the case to be in the category of exceptional hardship and was not convinced with the reasons for non-consummation of marriage and dismissed the petition.

We have considered the facts and circumstances of the case and are of the opinion that the learned District Judge, Family Court, Hisar should have issued notice of the application and made an attempt for sending the matter to the Mediator for re-conciliation and thereafter, formed an opinion whether the circumstances in the present case warranted the waiver of one year of statutory period of filing divorce petition under proviso to Section 14 of the Hindu Marriage Act. The marriage between the parties had taken place on 06.08.2017. The application under Section 14 of the Hindu Marriage Act had been filed on 25.08.2017 and it has been dismissed on 31.08.2017 without issuing notice to the respondent. The order dated 31.08.2017 is, thus, held to be an improper and illegal order and is liable to be set aside.

The appeal is allowed in limine. Impugned order dated 31.08.2017 is set aside. The District Judge, Family Court, Hisar is directed to reconsider the application under Section 14 of the Hindu Marriage Act and dispose of the same after issuing notice to the respondent and making an attempt for bringing about reconciliation as per the statutory provisions

of Section 9 of the Family Court Act, 1984.

The appellant shall appear before the Family Court, Hisar, within a period of 15 days. It will be appreciated in case the Family Court decides the application under Section 14 of the Hindu Marriage Act within a period of one month after service of the respondent.

(M.M.S.BEDI)
JUDGE

November 29, 2017
pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No