

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE T. AMARNATH GOUD**

**I.A.No.1 of 2018
in/and
FAMILY COURT APPEAL No.400 of 2018**

COMMON ORDER:

(Per Suresh Kumar Kait, J)

Vide I.A.No.1 of 2018, applicant/appellant seeks directions, thereby to condone the delay of 285 days in filing F.C.A.No.400 of 2018.

In the affidavit filed in support of the application, it is stated by the applicant that since the respondent has kept her with him for nearly five months, she thought that divorce is a sham proceeding, the relation between them is not broken and by the time she realized the hard fact, there was delay of about 285 days in filing the appeal, which is not intentional. It is further stated that the respondent has kept all her jewellery with him, including the documents pertaining to her; the respondent may marry some other lady and if that happens, another innocent person would suffer and that should not happen; therefore seeks stay of operation of the impugned decree.

It is not in dispute that the applicant and the respondent filed petition under Section 13-B of Hindu Marriage Act, for dissolution of marriage on mutual consent. It is also not in dispute that while granting divorce on mutual consent, there would be first motion proceeding wherein the Family Court gives counselling and thereafter, there would be second motion proceedings after expiry of statutory

period. Even at that point of time, Family Court gives counselling to the parties. After the aforesaid exercise, divorce has been granted on mutual consent and, now, after 285 days, the applicant has filed the appeal due to the reasons mentioned above. The said delay has not been properly explained. Moreover, the appeal seems to have been filed with some ulterior motive. Therefore, we are not inclined to condone the unexplained and inordinate delay.

I.A.No.1 of 2018 is accordingly dismissed.

Consequently, F.C.A.No.400 of 2018 is dismissed.

Miscellaneous petitions if any pending in the appeal stand closed as a consequence.



SURESH KUMAR KAIT, J

T. AMARNATH GOUD, J

September 14, 2018
MRR