

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

FAO-M-160 of 2018 (O&M)

Decided on:-May 14, 2018.

Sarabjit Kaur.

.....Appellant.

Versus

Gopal Singh.

.....Respondent.

***CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE HARI PAL VERMA***

Present:- Mr. Arshdeep Singh Sra, Advocate for
Mr. Baltej Singh Sidhu, Advocate for the appellant.

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

The wife has preferred this appeal against the judgment and decree dated 19.03.2018 dissolving her marriage with the respondent under Section 13-B of the Hindu Marriage Act after recording statements of the parties.

The appellant has approached this Court on the ground that her husband is a very clever person. They had been living happily and blessed with two children i.e. one daughter Husanpreet Kaur, born in the year 2014 and a son Harshdeep, born in the year 2007. Taking advantage of the innocence of the appellant, the husband had taken her in confidence for getting a divorce as he wanted to settle abroad for the welfare of the family. As such, divorce papers were got signed on the pretext that it was difficult to get Visa for whole of the family for permanent immigration to some good country. The appellant was allegedly taken in confidence by the husband that she will not tell anything about the divorce to her parents or any of the

relatives as it was not sure whether he would get the Visa or not.

Allured by such promise and expecting a better life, the appellant agreed and went with her husband to District Courts, Sangrur, where she signed the documents and also made a statement. As such, divorce was granted under Section 13-B of the Hindu Marriage Act vide judgment and decree dated 19.03.2018.

It is averred by the counsel for the appellant that behaviour of the respondent-husband changed after 19.03.2018 and he allegedly solemnized marriage with some other girl. A complaint was made regarding the abovesaid allegations to SSP, Sangrur on 25.04.2018 for playing fraud with the appellant. It is urged by the counsel for the appellant that a fraud has been played with the appellant as well as with the Court.

We have considered the grievance of the appellant-wife, and are of the opinion that in view of the law laid down in ***Sarabjit Singh Versus Gurpal Kaur 2013 (3) RCR (C) 125*** and ***Indian Bank Vs. M/s Satyam Fibers (India) Pvt. Ltd. AIR 1996 SC 2592***, a decree which is obtained by playing a fraud upon the Court is liable to be set aside by the same Court. The said judgments have been followed by this Court in ***FAO-M-213 of 2007*** titled as ***Amita Joshi Versus Sandeep Kumar*** decided on 21.08.2017.

Faced with this situation, counsel for the appellant states that the appellant may be given liberty to approach the trial Court.

The appeal, in the above circumstances, is disposed of *in liminie*, with an observation that in case an application for recalling the judgment and decree dated 19.03.2018 is filed before the trial Court within a

period of fifteen days, the same will be entertained and liberty shall be granted to the appellant to satisfy the Court that fraud has been played upon her as well as the Court. The operation of impugned judgment and decree dated 19.03.2018 shall remain stayed for next fifteen days. The trial Court shall have power to review the order in case the ingredients of fraud are established. It will be open to the said Court to exercise discretionary power to grant any interim relief.

We have opted to dispose of this appeal *in limine* in the interest of justice and to avoid unnecessary expenses upon the respondent. In case the order is not acceptable to the respondent, it will be open for him to approach this Court.

In case the application is filed by the appellant within the period mentioned above, the trial Court shall make an endeavour to decide the same within six months, after giving a fair opportunity to the parties.

(M.M.S. BEDI)
JUDGE

(HARI PAL VERMA)
JUDGE

May 14, 2018
Yag Dutt

Whether speaking/reasoned:	Yes
Whether Reportable:	Yes