

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO-M-182-2018

Date of Decision : 16.08.2018

Ankush Aggarwal

...Appellant No. 1

Versus

Priya Garg

...Appellant No. 2

**CORAM:** *HON'BLE MR. JUSTICE M.M.S. BEDI*  
*HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL*

Present: Ms. Supriya Garg, Advocate and  
Mr. Rajan Bansal, Advocates for the appellants.

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**M.M.S. Bedi, J.(Oral)**

Aggrieved by dismissal of application filed under Section 14 of the Hindu Marriage Act (for short 'the Act') to grant leave for divorce by mutual consent in a joint petition under Section 13-B of the Act seeking divorce by mutual consent before the expiry of one year of the marriage, the present appeal has been preferred.

The divorce petition under Section 13-B of the Act was filed and registered on 21.05.2018 along with an application under Section 14 of the Act. It is averred in the divorce petition filed under Section 13-B of the Act that the marriage had taken place on 10.03.2018. The lower Court has refused to grant the permission under Section 14 of the Act observing as follows :-

*“5. After going through the provisions of Section 14 of the Hindu Marriage Act, this Court finds that normal rule is that no petition is to be entertained unless one*

*year since the date of marriage has elapsed. The proviso to the said Section provides that in case of exceptional hardship to the petitioner or exceptional depravity on the part of respondent, the Court can allow the petition to be presented even before one year. The further proviso has been made where the leave has been obtained by misrepresentation or concealment of facts. The instant application under Section 14(1) of the Hindu Marriage Act has been filed on the ground of irreconcilable differences in temperaments. The petition has been filed only after about two months of the marriage. They have claimed that everything has been settled and all the things have been exchanged between the parties. They claimed that the period be condoned as it would lead to irreversible mental and psychological damage. However, no specific incident or circumstances are stated on account of which the living together has been impossible. It is not a case of exceptional circumstance. Temperamental differences are the bone of contention in every failed marriage. The same cannot be considered to be exceptional circumstances because the parties do not want to live together on account of incompatibility. The only cursory reason has been given for granting exemption for filing the petition before the expiry of one year of the date of marriage. In the pleadings, there is no exceptional hardship to the parties. There is also no deprivation to parties. Merely hypothetical consequences are narrated in case the application is not allowed. They are without any merit. No pressing circumstance has been pleaded. There is certainly reasonable probability of reconciliation between the parties and for that statutory period of one year after the date of marriage has been granted by the Constitution for the filing of divorce petition. The authorities relied by the learned counsel for the*

*applicants are clearly distinguishable. In the authority cited as AIR 2015 Punjab and Haryana 160, one of the party has gone abroad; in the authority cited as 2008(2) MLJ 526 the parties never resided together; and in authority cited as MAT App. 58/2011 there was on the ground of extreme cruelty. The circumstances narrated in the present petition are totally different and are not shown to be very serious in any manner.*

6. *Moreover, this Court is of the view that it is a normal case of the parties marrying and then differences arising. If it is held that due to young age, it is a case of undue hardship and there is no coercion or misrepresentation and, therefore, permission should be granted, then the exception will become the rule. The mere fact that parties are sufficiently grown, educated and aware of their responsibilities, is no ground to grant the relief. Similarly irreconcilable differences in temperaments, is also of no ground to grant the relief. After going through the facts and circumstances of the case, I find that it is not a case of undue hardship to any of the applicants-petitioners, nor it is a case of exceptional depravity for any of the party. Therefore, the permission is declined and accordingly, the petition stands dismissed being premature. It shall also be open to the parties to move this Court after the expiry of one year of the marriage.”*

Both the parties are present in Court today along with their counsel. They have affirmed that it is not feasible for them to stay together. They have reiterated the ground as pleaded in the application under Section 14 of the Hindu Marriage Act, which reads as follows :-

*“2. That the marriage between the parties took place on 10.03.2018 and the parties lived together at Bathinda*

*for few days only after marriage. However, the marriage failed and could not be consummated due to irreconcilable differences in temperaments of the parties giving rise to extreme bitterness and rancor between the parties and their relatives.*

*3. That the parties are now living separately from one another. There are no chances of reconciliation/reunion.*

*4. That on the intervention of city respectable and family friends, parties have voluntarily decided to get the marriage dissolved by decree of divorce by mutual consent.*

*5. That both the sides have settled the terms of dissolution of marriage. They have taken back their respective belongings and articles of jewellery from each other. Side of petitioner No. 2 has also settled all accounts of marriage with the parents of petitioner No. 1 and received back their entire expenses. Now nothing is due against one and another on account of any item.*

*6. That under the exceptional circumstances petitioner No. 2 has forgone the claim for award of maintenance (present and future) or alimony of any kind against petitioner No. 1 rather is insistent on dissolution of marriage straight away without any unnecessary delay.*

*7. That both the petitioners are well educated. Petitioner No. 1 has done MBA from Narsi Moonjie Institute in Business stream from Mumbai whereas petitioner No. 2 has done her MSC and M. Phil in Statistics from Punjab University, Chandigarh. Both the petitioners are sufficiently grown, educated and aware of their responsibilities. They are mature enough to comprehend all pros and cons of the decision to take divorce.*

*8. That the decision containing divorce by mutual*

*consent is not caused by any coercion intimidation or undue influence from any side rather is voluntary acceptance of the ground reality by both the petitioners with intent to avoid growth of rancor bitterness and hostility between their respective families and to avoid any untoward happening or occurrence.”*

We have considered the facts and circumstances of this case and gone through the averments in the application for leave to file the petition for divorce by mutual consent prior to the expiry of one year after the marriage.

We find that both the parties are highly educated as one of the parties is MBA whereas the other party has done MSC and M. Phil. They claim to be sufficiently grown up, educated and aware of their responsibilities and mature enough to comprehend all pros and cons of the decision to take divorce. They have averred that they stayed together at Bathinda for few days after marriage. As per their opinion the marriage failed and could not be consummated due to irreconcilable differences in temperaments of the parties giving rise to extreme bitterness and rancor between the parties and their relatives. Both of them have reiterated the same feelings by appearing in the Court.

We, on the basis of above said circumstances, find that it is a case of exceptional hardship to both of them as they appear not to be willing enough to re-settle. It does not appear to be a case where a petition has been filed under any misrepresentation or by coercion. We have also made an attempt to find out if there is any reasonable probability of reconciliation but both appear adamant not to resume

parameters to determine the exceptional hardship and the exceptional circumstances, which would constitute factors for permitting parties/party to file petition for divorce prior to the expiry of one year after the marriage and it has to be seen in the circumstances of each case. No straight jacket formula can be laid down for defining the extra ordinary exceptional circumstances to grant such leave.

This appeal, in view of above discussion, deserves to be allowed. Ordered accordingly. Order dated 21.05.2018 based on the subject to satisfaction of the learned District Judge, Bathinda, is hereby set-aside. The application under Section 14 of the Act filed by the parties along with joint petition under Section 13-B of the Act is hereby allowed and the petition under Section 13-B of the Act is restored. The parties will be permitted to proceed ahead with the petition under Section 13-B of the Act in accordance with law. They will appear before the District Judge, Bathinda for further proceedings on 01.09.2018. The said Court shall register the petition under Section 13-B of the Act at its original number and take up the same in accordance with law.

**(M.M.S. BEDI)**  
**JUDGE**

**August 16, 2018**  
*kanchan*

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

*Whether speaking/reasoned?*      *Yes*  
*Whether reportable?*                *Yes*