

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

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**FAO-M-71-2019 (O&M)
Date of Decision : 05.03.2019**

Mania Sharma

... Appellant No.1

And

Gourav Sharma

... Appellant No.2

**CORAM:HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. B.D.Sharma, Advocate for the appellants.

RAKESH KUMAR JAIN, J.(ORAL)

This is yet another case where an appeal has been filed by both the parties to the marriage as appellants in order to seek the intervention of this court for setting aside the order passed on a joint petition filed under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act') by which their marriage was dissolved by a decree of divorce by mutual consent.

Earlier this court had passed an order in FAO-M-363-2018; ***Jyoti versus Neeraj Kumar Saini*** on 10.01.2019 whereby a similar petition was allowed and the decree of divorce by mutual consent was set aside after holding that against the said decree, having been passed under Section 13-B of the Act, appeal would be maintainable in view of the judgment of division Bench of this Court rendered in the case ***Krishna Khetarpal, Headmistress, Government Girls High School, Bhuna, Tehsil Fatehabad, District Hisar Versus Satish Lal***; 1986(2) PLR 608. This court had taken a

view that the first hour of justice is hour of compromise and if the husband wife who had for some reason or the other, because of their unfounded emotions and momentary temperamental differences, committed a serious mistake of obtaining decree of divorce by mutual consent, door of the court is not closed for them for mending their mistake as the purpose of the court is to reunite the couples, with the intervention of the mediation and other alternate dispute redressal mechanism than to separate them by way of decree of divorce even if the same has been obtained by them by their consent. The present appellants have also submitted to this court instead of getting re-married after the decree of divorce has been passed against them on their asking, by filing this appeal, repenting and forgiving each other for whatever had transpired between them in the past.

Briefly stated, marriage of the appellants was solemnized on 08.12.2014 as per Hindu rites at Amritsar but there is no child out of the said wedlock. They could not pull on well due to their temperamental differences and lived separately for a period of more than a year from each other which is the mandate to maintain a petition under Section 13-B of the Act. They agreed to part ways on payment of ₹6.5 Lacs by the husband and after recording both statements of first and second motion stage, court undisputedly has passed a decree of divorce under Section 13-B of the Act and their marriage was dissolved w.e.f. 04.10.2018. Both the parties are present in the court along with their advocates. Husband-Gourav Sharma has submitted that both are repenting. We have asked specifically to both of them as to whether they are repenting about the decision taken in haste for dissolution of their marriage earlier to which they have agreed. The husband-Gourav Sharma has also stated before us that he would not take

refund of ₹6.5 Lacs which he had already given to his wife-Mania Sharma during the previous proceedings in which the decree of divorce was passed. Both of them have made earnest request before this court stating that since they have buried the hatchet and are no more at loggerheads, therefore, in order to give them one more chance to live together as husband and wife as ever, their appeal may be accepted and judgment and decree passed by the trial court against them, on their asking, may be set aside.

We have given our due consideration to the submissions made by learned counsel for the appellants and both the parties present before us and taking cue from the order passed by this court in the case of *Jyoti's* (supra), are of the considered opinion that when both the parties have forgiven each other and decided to live together for a better future, it would be never late to mend and therefore we allow this appeal and set aside judgment and decree passed by the trial court so that the present couple who had tread on a path of disaster, by seeking dissolution of their marriage with their mutual consent, may be under the unfounded emotions, have ultimately come back on the right track.

With these observations, appeal is allowed and judgment and decree of the trial court is set aside.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

05.03.2019

pooja saini

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No