

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

**CM-7480-CII-2019 IN/AND
FAO No. 2322 of 2019 (O&M)
Date of Decision: 14.5.2019**

Neelam Narang

.....Appellant

Vs.

Gaurav Sharma

.....Respondent

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

Present: Mr. Abhimanyu Singh, Advocate
for the appellant.

Ms. Neha Rana, Advocate
for the respondent.

RAKESH KUMAR JAIN, J. (ORAL)

This is yet another case in which both the parties to the marriage have approached this Court with a prayer to set aside the judgment and decree passed by the Family Court on their petition filed under Section 13-B of the Hindu Marriage Act, 1955 ('Act' for short).

In brief, the parties are Hindus. Their marriage was solemnized on 12.10.2009 as per Hindu rites and ceremonies at Gurgaon. They were blessed with two children, namely, Devshree (daughter) and Ojas (son). Due to some temperamental differences, both started living separately from each other w.e.f 1.8.2014 and ultimately decided to part ways finally by filing a petition under Section 13-B of the Act. The petition filed by them under Section 13-B of the Act was ultimately allowed by the Family Court, Gurgaon on 25.2.2016.

condonation of delay of 1088 days. Both the husband and wife have filed this appeal as they are repenting upon their decision of separating from each other by way of decree of divorce though obtained by mutual consent. Both the husband and wife are present in Court and have stated before us that the decision taken for seeking a decree of divorce by mutual consent was on unfounded emotions and for satisfying their own egos without seriously thinking about the future of the minor children who would have to live with a single parent after the decree of divorce. After realizing their mistake and coming to know about the judgment of this Court rendered in the case of ***Jyoti versus Neeraj Kumar Saini, FAO-M-363 of 2018*** decided on 10.1.2019 in which a decision was taken in similar circumstances where the husband and wife, who had taken a decree of divorce by mutual consent, realized their mistake and decided to live together by forgiving each other for whatever happened between them and also for the better prospects and future of their children. We had observed in the case of ***Jyoti*** (supra) that it is the duty cast upon the Court to make all endeavours for reconciliation between the parties and perhaps for this reason the cooling off period of six months is provided in Section 13-B (2) of the Act and a period of one year in Section 13(B) (1) of the Act as per which a petition for seeking a decree of divorce by mutual consent is not allowed by filing a petition before one year from the date of marriage. The Family Court Act, 1984 was enacted with an object to initiate conciliation and in this regard Section 9 casts a duty upon the Family Court to make efforts for settlement. It is always said that the first hour of justice is the hour of compromise. Since we have found that both the husband and wife have now buried the hatchet and are no more on loggerheads, wanted to live together to give a good future to their

children for whom they have forgotten the past and forgiven each other, the Court would definitely help them to settle again in their life as husband and wife as it is the social object.

Thus, in view thereof, treating this appeal maintainable in view of the decision of this Court in the case of ***Krishna Khetarpal versus Satish Lal 1987(1) HLR 36*** and relying upon the previous decision of this Court in ***Jyoti*** (supra), we would definitely give another chance to the parties to live as husband and wife as ever and look after their children properly.

The application for seeking condonation of delay of 1088 days in filing the present appeal is allowed. The appeal is also allowed and the judgment and decree dated 25.2.2016 passed by the learned trial Court, is hereby set aside.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

May 14, 2019
Gurpreet

Whether speaking /reasoned : Yes/No
Whether Reportable : Yes/No