

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : FAO-M No.10 of 2020

Date of Decision : January 27, 2020

Mandeep Kaur Appellant

vs.

Amandeep Singh Respondent

**CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY.
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA.**

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

Ms. Ritu Punj, Advocate
for the respondent.

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MEENAKSHI I. MEHTA, J. :

This appeal has arisen out of the judgment and decree, as passed by the Additional Principal Judge, Family Court, Ludhiana (for short 'the Trial Court') on 18.11.2019, whereby the petition, as preferred by the parties jointly under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act') seeking dissolution of their marriage by way of decree of divorce on the basis of their mutual consent, was dismissed.

2. Shorn and short of unnecessary details, the facts, as canvassed by the appellant (wife) and the respondent (husband) in their joint petition,

are that their marriage was solemnized on 26.11.2004 as per Sikh rites and customs. Two sons were born out of the said wedlock. However, due to marital discord between them, they have been living separately from each other since November 2017. All the endeavours of the parents, relatives and the *Panches* to get the dispute between them reconciled have proved futile but due to their intervention, they have amicably agreed to get their marriage dissolved on the basis of their mutual consent. They have also agreed on the amount of permanent alimony to be paid by the husband to the wife and to get the criminal proceedings, pending in the Court, wound up. Both the children are to stay with the father.

3. The parties presented their joint petition in the Court on 19.03.2019 and their statements were also recorded on that very day. On 14.11.2019, their statements, on the second motion, were recorded in the Court. However, learned Trial Court observed that in Mark-A, the copy of Aadhar Card of the wife, i.e. the appellant, her date of birth was mentioned as 15.08.1987 whereas the marriage between the parties was solemnized on 26.11.2004, i.e. before the appellant attained the age of 18 years and thus, it was not a valid marriage and in this eventuality, the parties could not invoke the provisions of Section 13-B of the Act.

4. We have heard learned counsel for both the parties in the present appeal. A perusal of Annexure A-1, i.e. the copy of the Birth Certificate of the appellant, as annexed with the present appeal, reveals that her date of birth has been recorded therein as 15.08.1986 and her birth is

shown to have been registered on 22.08.1986 while mentioning the names as well as the address of her parents. In view of the date of her birth as recorded in her Birth Certificate, it becomes clear that the appellant had completed the age of 18 years at the time of her marriage with the respondent on 26.11.2004.

5. However, learned Trial Court has considered the date of birth of the appellant as 15.08.1987, as stated to have been mentioned in her Aadhar Card (Mark-A) but as per her Birth Certificate, the date of her birth is 15.08.1986 and her birth is shown therein to have been registered on 22.08.1986, i.e. just after one week, meaning thereby that her Aadhar Card has been prepared subsequent to the registration of her birth. It being so, Mark-A cannot be said to be the conclusive proof of her age. Rather, more credence is attached to the Birth Certificate or Matriculation Certificate showing the date of birth of a person and these are generally considered as the conclusive proof of one's age. Moreover, in the present case, the parties have amicably settled their dispute and have decided to live separately. The endeavour of the Court in such like cases should be to bring the dispute between the parties to an end on the basis of their settlement.

6. In view of the afore-discussed facts and circumstances, as mentioned above, we are of the considered opinion that it would be expedient and also in the interest of justice to remand the present case to learned Trial Court with the direction to adjudicate the same afresh while taking the aforesaid Birth Certificate of the appellant into consideration,

after its verification, in accordance with law. Resultantly, the impugned judgment and decree are hereby set aside and the present case is remanded to learned Trial Court with the direction as mentioned above.

7. The parties are directed to appear before the learned Trial Court on 25.02.2020.

(DAYA CHAUDHARY)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

January 27, 2020
monika

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.