

**CRWP-1388-2021**

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

**CRWP-1388-2021**

**Date of decision:01.03.2021**

Ruksina and another

...Petitioners

Versus

State of Haryana and others

.....Respondents

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

Present:- Mr. Mohammad Arshad, Advocate,  
for the petitioners.

Mr. Ashok Singh Chaudhary, Addl. A. G. Haryana.

**HARNARESH SINGH GILL, J. (ORAL)**

Case is taken up for hearing through video conferencing.

The present criminal writ petition has been filed under Article 226 of the Constitution for issuance of directions to respondents No.2 to 4 to provide adequate protection to the petitioners, who are newly married couple and apprehending danger to their life and liberty at the hands of respondents No.5 to 10.

Learned counsel for the petitioners contends that petitioner No.1, who was earlier married to respondent No.7, had left him due to some compelling circumstances. Even as per the affidavit dated 09.02.2021 (Annexure P-4) filed by petitioner No.1, she has developed a liking for petitioner No.2 and as per the customs, she can perform more than one marriage. Therefore, the petitioners decided to solemnize marriage with each other. It is further contended that the petitioners, who are major, are

**CRWP-1388-2021**

apprehending a threat to their life and liberty at the hands of respondents No.5 to 10. It is also contended that when there is a mutual consent for a divorce between the parties, the decree for divorce is not necessary. Moreover, a woman married under Muslims law can terminate the contract of marriage at any stage without the consent of her husband.

I have heard the learned counsel for the petitioners and gone through the case file.

Before proceedings further, it would be apposite to reproduce Section 2 of the Dissolution of Muslim Marriages Act, 1939, as under:

*“2. Grounds for decree for dissolution of marriage. - A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely:*

- (i) that the whereabouts of the husband have not been known for a period of four years;*
- (ii) that the husband has neglected or has failed to provide for her maintenance for a period of two years;*
- (iii) that the husband has been sentenced to imprisonment for a period of seven years or upwards;*
- (iv) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;*
- (v) that the husband was impotent at the time of the marriage and continues to be so;*
- (vi) that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease;*
- (vii) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years:*

*Provided that the marriage has not been consummated;*

- (viii) that the husband treats her with cruelty, that is to say, -*
  - (a) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or*
  - (b) associates with women of evil repute or leads an infamous life, or*
  - (c) attempts to force her to lead an immoral life, or*

**CRWP-1388-2021**

- (d) disposes of her property or prevents her exercising her legal rights over it, or*
  - (e) obstructs her in the observance of her religious profession or practice, or*
  - (f) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Qoran;*
  - (ix) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law:*
- Provided that -*
- (a) no decree shall be passed on ground (iii) until the sentence has become final;*
  - (b) a decree passed on ground (i) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfied the Court that he is prepared to perform his conjugal duties, the Court shall set aside the said decree; and*
  - (c) before passing a decree on ground (v) the Court shall, on application by the husband, made an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.”*

The aforesaid provision specifically provides that a woman married under Muslim law is entitled to obtain a decree for the dissolution of her marriage. In K.C.Moyin vs. Nafeesa and others 1973 AIR Kerala 176, it has been observed by the Kerala High Court that the reply to the question posed in the criminal appeal as to whether a Muslim wife can repudiate the marriage with her husband *de hors* the provisions of the Dissolution of Muslim Marriages Act, 1939 (Act 8 of 1939), was in negative.

There is nothing on record to show that there is a mutual consent for divorce between petitioner No.1 and respondent No.7 at any stage. Even there is no assertion in the petition that petitioner No.1 has terminated the contract of marriage with respondent No.7 at any stage.

**CRWP-1388-2021**

In view of the above, I do not find any merit in the present petition.

Dismissed.

**01.03.2021**

parveen kumar

**(HARNARESH SINGH GILL)**  
**JUDGE**

Whether reasoned/speaking?  
Whether reportable?

Yes/No  
Yes/No