

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

FAO-3308-2022 (O&M)
Date of decision:- 25.08.2022

Rinku Bansal

....Appellant

VS.

Mohit Jain

...Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: Mr. Munish Kumar Garg, Advocate for the appellant.

Respondent in person.

Ritu Bahri, J. (Oral)

The appellant has come up in appeal against the order dated 31.05.2022 passed by the Principal Judge, Family Court, Hisar, whereby application (which was filed along with petition under Section 13-B of the Hindu Marriage Act seeking dissolution of marriage by way of mutual consent) for waiving off the stipulated period of minimum one year of separation prior to filing of the petition under Section 13-B of Hindu Marriage Act, 1955, has been dismissed.

A perusal of the impugned order shows that marriage of the parties was solemnized on 18.04.2022 according to Hindu rites and ritual. Later on, differences cropped up between the couple and they could not live together. They are residing separately since 29.05.2022. Ultimately, they filed a joint petition under Section 13-B of the Hindu Marriage Act on 31.05.2022 seeking decree of divorce by way of mutual consent. Along with the said petition, they also filed an application with a prayer that mandatory period of one year before filing the petition under Section 13-B of the Act be reduced/condoned. However, the Family Court, Hisar has not allowed the said

application as well as petition under Section 13-B of the Act.

For the purpose presenting a petition under Section 13-B of the Hindu Marriage Act before expiry of one year, Section 14 of this Act would be relevant, which reads as under:-

“14 No petition for divorce to be presented within one year of marriage .

(1) Notwithstanding anything contained in this Act, it shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce, unless at the date of the presentation of the petition one year has elapsed since the date of the marriage:

Provided that the court may, upon application made to it in accordance with such rules as may be made by the High Court in that behalf, allow a petition to be presented, before one year has elapsed, since the date of the marriage on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent, but if it appears to the court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the court may, if it pronounces a decree, do so subject to the condition that the decree shall not have effect until after the expiry of one year from the date of the marriage or may dismiss the petition without prejudice to any petition which may be brought after the expiration of the said one year upon the same or substantially the same facts as those alleged in support of the petition so dismissed.

(2) In disposing of any application under this section for leave to present a petition for divorce before the expiration of one year from the date of the marriage, the court shall have regard to the interests of any children of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said one year.”

Proviso to the above said section lays down that in case of exceptional hardship or exceptional depravity, if it appears to the Court, the time of one year can be reduced. A Coordinate Bench of this Court in ***Mandeep Kaur Bajwa vs. Chetanjeet Singh Randhawa***, 2015 (40) RCR (Civil) 198 was considering a case, where an application under Section 14 of the Hindu Marriage Act had been dismissed and the parties were not allowed

to present the petition under Section 13-B of the Act before expiry of one year. In that case, the parties had lived together as husband and wife for about three months after marriage. Both were young and keeping in view that they were at the marriageable age, condonation of the period of one year was allowed. It was further observed that such exceptional hardship and depravity has to be established by the petitioner(s) in order to avail the benefit of the provision of Section 14 (1) of the Act. In this regard, further reference can be made to the judgment passed by Hon'ble the Supreme Court in ***Amardeep Singh Vs. Harveen Kaur***, Civil Appeal No.11158 of 2017 (decided on 12.09.2017).

In the facts of the present case, marriage between the parties was solemnized on 18.04.2022. Appellant-Rinku Bansal is 28 years of age and respondent-Mohit Jain is 30 years of age. Both are young persons. They are residing separately since 29.05.2022. Today, both the parties (Rinku Bansal and Mohit Jain) have come present before the Court. It has been stated that they have compromised the matter and the appellant-wife has received Rs.21 Lacs by way of a demand draft towards permanent alimony and both the parties shall remain bound by the terms and conditions of the settlement/compromise deed dated 29.05.2022. Statements of both the parties to this effect have been recorded today in Court. Photocopies of their Aadhaar cards are taken on record. Since, the parties have already resolved their disputes, this is the sufficient ground to allow their application for waiving off the mandatory period of one year. Moreover, as per petition filed under Section 13-B of the Hindu Marriage Act (Annexure A-1), the mutual agreement has been duly complied with by the parties and nothing is due against each other.

In view of the above discussion, the impugned order dated 31.05.2022 is set aside. Petition under Section 13-B along with application for waiving off the mandatory period of living separately for one year, is allowed.

The parties are granted a decree of divorce by mutual consent under Section 13-B of the Act. Decree sheet be drawn accordingly.

Since the main appeal stands allowed, civil misc. applications, if any, shall also stand disposed of.

(RITU BAHRI)
JUDGE

25.08.2022
pooja saini

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No