

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

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FAO-3897-2022 (O&M)
Date of decision:- 15.12.2022

Manpreet Kaur

....Appellant

VS.

Gagandeep Singh

...Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Namit Khurana, Advocate for the appellant.

Mr. Abhinav Kalia, Advocate for the respondent.

Ritu Bahri, J. (Oral)

The appellant has come up in appeal against the order dated 06.08.2022 passed by the Additional Principal Judge, Family Court, Yamuna Nagar at Jagadhri, whereby petition under Section 13-B of the Hindu Marriage Act, 1955 seeking dissolution of marriage by way of mutual consent, filed by the appellant and respondent, has been dismissed.

A perusal of the impugned order shows that marriage of the parties was solemnized on 13.02.2022 according to Hindu rites and rituals at Ambiance Resort Jagadhri. Soon after the marriage, differences cropped up between the couple and they realized that they could not live together. Ultimately, they filed a joint petition under Section 13-B of the Hindu Marriage Act seeking decree of divorce by way of mutual consent. Both the parties are living separately since 26.05.2022, as stated in their petition under Section 13-B of the Hindu Marriage Act. Along with the said petition, they also filed an application under Section 14 of the Hindu Marriage Act

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, Yamuna Nagar at Jagadhri 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. Charanjeet 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 by Family Court below 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 the facts of the present case, marriage between the parties was solemnized on 13.02.2022. Soon after the marriage, they separated from each other. At the time of marriage, appellant-Manpreet Kaur was 31 years of age respondent-Gagandeep Singh was 29 years of age. Both are young persons. They are residing separately since 26.05.2022. Today in Court, both the parties are present and have submitted that matter has been settled

in Rs.4,00,000/- as permanent alimony (past, present and future maintenance) and the appellant-wife has received Rs.2,50,000/- as the last installment of full and final payment. No dispute is left between the parties and it has been further stated that none of them will claim anything with regard to the past or future maintenance. Statements of both the parties to this effect have been recorded in Court today.

Since, the couple had stayed together only for 3-4 months, this is the sufficient ground to allow their application filed under Section 14 of the Act for waiving off the mandatory period of one year.

In view of the above discussion, the impugned order dated 06.08.2022 is set aside. Petition under Section 13-B along with application under Section 14 of the Hindu Marriage Act 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.

(RITU BAHRI)
JUDGE

15.12.2022

pooja saini

(MANISHA BATRA)
JUDGE

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