

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4583-2022

Date of decision:21.10.2022

Priyanka

....Appellant No.1

And

Neeraj Kumar

....Appellant No.2

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

Present: Mr. Akash Soni, Advocate for
the appellant No. 1.

Mr. Rakesh Kumar, Advocate
for the appellant No.2.

Ritu Bahri, J. (Oral).

The appellants have come up in appeal against the order dated 22.09.2022 passed by the Family Camp Court, Derabassi whereby their application under Section 14(1) of the Hindu Marriage Act for waiving off the mandatory period of one year has been dismissed due to which their petition under Section 13-B of the Act has not been entertained.

A perusal of the order dated 22.09.2022 shows that the marriage between the parties was solemnized on 10.04.2022 and after the marriage, appellant No. 1 lived at her matrimonial home at Kapurthala for about one month and thereafter she came to live with her parents at Zirakpur. Again she visited Kapurthala, where she stayed for sometime and thereafter since May 2022, appellant No.1 is residing with her parents. The appellant No. 1 is a doctor and appellant No.2 is M.Tech but doing his own business at Kapurthala. About 4 months have passed by, but the appellants could not be able to consummate their marriage due to unexplained reasons.

However, the Family Camp Court, Derabassi 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 the facts of the present case, marriage between the parties was solemnized on 10.04.2022. Since May 2022, appellant No.1 is residing with her parents. The appellants could not be able to consummate their marriage due to unexplained reasons as they do not want to level allegations or counter allegations against each other qua non-working of their marriage. Moreover, both the parties have entered into compromise vide compromise deed dated 03.08.2022 (Annexure A-1).

Since, the couple had stayed together only for about one month, 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.

The appellant No.1-Priyanka alongwith her father Ved Prakash is present in Court today and the appellant No.2-Neeraj Kumar alongwith his father Harish Kumar is also present in Court today. Both the appellants have got their statements recorded. As per the statement of appellant No.1, she stated that as per compromise deed (Annexure A-1), she has received Rs. 15 lacs, the details of which are mentioned in compromise deed and today she has received cheque No. 531493 dated 21.10.2022 issued by State Bank of India for outstanding amount of Rs.5 lacs. If the said cheque is not honoured, then she will have a right to re-open the proceedings again. She has also returned gold jewellery about 24 gms (5 articles) to the appellant No.2 today and all the past, present and future claims have been settled. She will never claim any maintenance after getting decree of divorce by way of mutual consent and she is ready to give divorce to the appellant No.2 without any pressure and influence and will not file any criminal/civil proceedings before any Court of law. Both the parties will be at liberty to settle their life afresh in future. The appellant No. 2 has also made statement to this effect.

Keeping in view the compromise effected and the statements made by both the parties, who are physically present to attend the Court proceedings today and are being represented through their counsels, this Court while exercising its jurisdictional power is converting the instant appeal to a petition under Section 13-B of the Hindu Marriage Act, 1955. The same is allowed and the marriage between the parties is hereby dissolved by way of mutual consent. Decree-sheet be drawn accordingly.

Order dated 22.09.2022 passed by the Family Camp Court,

Derabassi is hereby set aside.

(RITU BAHRI)
JUDGE

21.10.2022
Divyanshi

(NIDHI GUPTA)
JUDGE

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