

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4992-2022

Date of decision:23.11.2022

Amandeep Singh

....Appellant

Vs.

Harpreet Kaur

....Respondent

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

Present: Mr. Sunil Agnihotri, Advocate
for the appellant.

Mr. Vijay Kumar, Advocate
for the respondent.

Ritu Bahri, J. (Oral).

The parties have come up in appeal against the order dated 27.09.2022 passed by the Family Court, Hoshiarpur, Camp Court at Dasuya whereby their application under Section 14 of the Hindu Marriage Act, 1955 for waiving off the mandatory period of one year of separation of parties, has been dismissed due to which their petition under Section 13-B of the Act, 1955 has not been entertained.

A perusal of the order dated 27.09.2022 shows that the marriage between the parties was solemnized on 29.10.2021 according to Sikh rites. Thereafter, respondent lived at the house of appellant at village Dumana only for two months. Soon after marriage, differences cropped up and the respondent returned to her parental home on 05.01.2022 realizing that they cannot live together on account of disparity and different temperaments. Since then, both the parties have been staying separately.

The respondent is staying in her parental home whereas the appellant is

staying in USA presently. There is no child from their marriage. However, the Family Court, Hoshiarpur, Camp Court at Dasuya did not allow their application for waiving off mandatory period of one year of separation and did not entertain 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, the marriage between the parties was solemnized on 29.10.2021. The respondent lived at the house of appellant at village Dumana only for two months. Soon after marriage, differences cropped up and the respondent returned to her parental home on 05.01.2022 realizing that they cannot live together on account of disparity and different temperaments. Since then, the respondent has been staying in her parental home whereas the appellant has been staying in USA. There is no child from their marriage. Both are young and are of marriageable age.

Learned counsel for the appellant has placed on record mutual agreement

dated 14.03.2022 whereby both the parties have settled their dispute.

Since, the couple had stayed together only for about two months and there is no issue from the wedlock, 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 Amandeep Singh is presently staying in USA. His father namely Inderjit Singh, who is the Special Power of Attorney holder and is authorized to make statement on behalf of the appellant, is present in Court today and the respondent Harpreet Kaur alongwith her father Sukhwinder Singh and mother Surinder Kaur is also present in Court today. Both the parties have got their statements recorded, which are taken on record alongwith their adhar card copies. As per the statement of respondent, she stated that as per mutual agreement dated 14.03.2022, she has settled the dispute with the appellant and returned all the belongings to each other. She has already received Rs.2,50,000/- towards full and final settlement from the appellant. She will not claim any right, title in any sort of moveable and immoveable property/properties from the appellant or his family members. She will never claim maintenace after getting decree of divorce by way of mutual consent. She is willing to give divorce to the appellant-Amandeep Singh without any undue pressure and influence. She has no objection if the present appeal is converted into a divorce petition under Section 13-B of the Hindu Marriage Act, 1955. The father of the appellant has also made a statement on behalf of the appellant 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 27.09.2022 passed by the Family Court, Hoshiarpur, Camp Court at Dasuya is hereby set aside.

(RITU BAHRI)
JUDGE

23.11.2022

Divyanshi

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No