

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

**116**

**FAO-3747-2023 (O&M)**

Date of Decision: 24.08.2023

Manisha Nagar

....Appellant

V/s

Abhinay Chaprana

....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Amit Choudhary, Advocate,  
for the appellant.

Mr. Kamal Chaudhary, Advocatae, for the respondent.

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**RAJ MOHAN SINGH, J. (Oral)**

This appeal has been preferred against the order dated 31.05.2023, passed by the Principal Judge, Family Court, Faridabad, dismissing the application under Section 14 of the Hindu Marriage Act, 1955 (in short to be referred to as "the Act"), filed by both the parties for waiving off the mandatory period of one year for filing a petition under Section 13-B of the Act.

Though the present appeal has been filed by showing the husband as respondent but before the Family Court, both the parties filed their joint petition by labelling the wife as petitioner No.1 and husband as petitioner No.2.

In deference to the order dated 18.07.2023, respondent has appeared along with his counsel.

The marriage was solemnized between the parties on 28.11.2022 according to Hindu rites and ceremonies at Faridabad. After the marriage, the parties resided together till 06.12.2022, i.e. only for 8 days. No cohabitation could take place. Since 06.12.2022, both the parties are living separately. Due to temperamental differences, relations between the parties became strained and the same have again aggravated. Now they were reached at the stage of no return. Appellant is living in her parental house and so as the respondent. Appellant is aged about 25 years, whereas respondent is aged about 26 years. Physical separation took place on 06.12.2022 and the marriage was not consummated.

For filing a petition under Section 13-B of the Act before expiry of period of one year, the requirements in terms of Section 14 of the Act have to be complied with. For ready reference, it would be relevant to reproduce Section 14 of the Act, 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.”

Learned counsel for the parties jointly argued that it is a case of exceptional hardships and depravity and the mandatory period of one year can be condoned in order to enable the parties to seek timely divorce and undertake their future pursuits. Both the parties are of marriageable age and therefore, proviso to the aforesaid Section, i.e. existence of exceptional hardship or exceptional depravity is squarely satisfied.

In the petition under Section 13-B of the Act, the parties can put their terms and conditions of settlement to the satisfaction of each other.

Learned counsel for the parties jointly rely upon a decision of this Court in ***Shivani Yadav vs. Amit Yadav*** (FAO-658-2021, decided on 06.08.2021), wherein the mandatory period of one year was condoned keeping in view the total period of stay in the matrimonial house and the respective age of the parties. In the said case, the divorce was granted between the parties in terms of Section 13-B of the Act and the said case arose from the order by which prayer for mutual divorce was declined on the ground that petition under Section 13-B of the Act was filed even before expiry of the mandatory period of one year.

Learned counsel for the parties also rely upon ***Mandeep Kaur Bajwa vs. Chetanjeet Singh Randhawa, 2015 (40) RCR (Civil) 198*** and ***Vishnudas H. Vs. Nil, OP(FC).No.219 of 2020***, decided by the Kerala High Court on 27.07.2020 on the premise that the continuation of marriage in the facts and circumstances of the present case, would be more traumatic than dissolution of marriage as the parties have lived together only for 8 days.

Living together for such a short period would satisfy the test of exceptional hardship as contemplated in proviso to Section 14(1) of the Act.

For the reasons recorded hereinabove, we deem it appropriate to set aside the order dated 31.05.2023 and allow this petition.

Consequently, the petition filed by the parties under Section 13-B of the Act before the Family Court stands revived.

**(RAJ MOHAN SINGH)**  
**JUDGE**

**(HARPREET SINGH BRAR)**  
**JUDGE**

**August 24, 2023**  
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