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

FAO-6014-2023 (O&M)

DATE OF DECISION: 07.11.2023

RAMNIK KAUR @ RAMNEEK KAUR

....APPELLANT

VERSUS

HARVINDER PAL SINGH

....RESPONDENT

**CORAM : HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Yash Paul Khullar, Advocate, for the appellant.

Mr. Gurmeet Singh Bajwa, Advocate and
Ms. Ishpreet Sandhu, Advocate, for the respondent

SUDHIR SINGH, J.

1. Heard learned counsel for the appellant and learned counsel for the respondent.
2. The appellant has come up in appeal against the order dated 18.09.2023 passed by the Principal Judge, Family Court, Faridabad, whereby an application under Section 14 of the Hindu Marriage Act, 1955 (for short the 'Act') for waiving off mandatory period of one year was dismissed and consequently the petition under Section 13-B of the Act seeking dissolution of marriage by way of mutual consent has also been dismissed.

3. A perusal of the impugned order shows that marriage of the parties was solemnized on 26.03.2023 according to Hindu rites and rituals at Faridabad, Haryana. Both the parties are living separately since 10.04.2023. Ultimately, they filed a joint petition under Section 13-B of the Act seeking decree of divorce by way of mutual consent. Along with the said petition, they also filed an application under Section 14 of the Act with a prayer that mandatory period of one year before filing the petition under Section 13-B of the Act be waived off. However, the Family Court, Faridabad finding no exceptional circumstances causing an exceptional hardship to the appellant dismissed the said application as well as petition under Section 13-B of the Act.

4. As per the facts of the case, marriage between the parties was solemnized on 26.03.2023. At the time of marriage, the appellant-Ramnik Kaur was 27 years of age and the respondent- Harvinder Pal Singh was 28 years of age. Since 10.04.2023, the parties are residing separately from each other and marriage was never consummated between the parties. The parties are young and of marriageable age. They have already settled all their claims as to *Istridhan*, maintenance, permanent alimony and rights of property with their own consent out of Court in every manner whatsoever and there shall be no claim over any right, title and interest in the property of each other as well as their parents and neither shall any litigation be filed against each other.

5. Shri Yash Paul Khullar, learned counsel for the appellant has placed reliance on the judgment of ***Mandeep Kaur Bajwa v. Chetanjeet Singh Randhawa***, reported in **2015 (40) RCR (Civil) 198** as well as on ***Manpreet Kaur v. Gagandeep Singh*** (FAO-3897-2022 (O&M) decided on 15.12.2022) to argue that in the aforesaid case considering the marriageable age of the parties as well as the

fact that the parties had lived together as husband and wife for about 3-4 months after marriage, their application filed under Section 14 of the Act for waiving off the mandatory period of one year to present the petition under Section 13-B of the Act before expiry of one year was allowed. The parties therein were granted a decree of divorce by mutual consent under Section 13-B of the Act.

6. After hearing the arguments advanced by learned counsel for the parties, the sole issue which arises for our consideration is whether this is a fit case for grant of permission for filing of divorce petition before the lapse of one year since the date of marriage in terms of Section 14 of the Act ?

7. In order to answer this issue, it would be apt to reproduce Sections 13-B and 14 of the Act which read as under :-

13-B. Divorce by mutual consent. (1) Subject to the provisions of this Act a petition for dissolution of marriage by a decree of divorce may be presented to the district court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 1976 (68 of 1976) on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

(2) On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (1) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime, the court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.

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.”

8. Thus, proviso to the Section 14 of the Act lays down that in case of exceptional hardship to the appellant or of exceptional depravity on the part of the respondent, if it appears to the Court, the time of one year can be reduced/ waived-off. At this stage, we find it relevant to refer to discuss the judgement of a Coordinate Bench of this Court in the case of *Mandeep Kaur Bajwa supra* where a similar application under Section 14 of the Act had been dismissed by Family Court and the parties were not allowed to present the petition under Section 13-

B of the Act before expiry of one year of the marriage. In that case, the parties had lived together as husband and wife for a period of three months after marriage whereafter the appellant had moved to Canada. Both the parties were young and keeping in view that they were of marriageable age and had settled all matters and claims between them mutually, condonation of the period of one year was held to be appropriate and the parties were granted a decree of divorce by mutual consent under Section 13-B of the Act.

9. In a judgement of similar nature by a Coordinate Bench of this Court in *Manpreet Kaur supra*, marriage between the parties was solemnized on 13.02.2022. Soon after three months of the marriage, they separated from each other. Considering the factum that both parties were of young age and there was settlement of all matters pertaining to permanent alimony (past, present and future maintenance) and that no dispute as to any claims was left between the parties, their application filed under Section 14 of the Act for waiving off the mandatory period of one year of the marriage to present the petition under Section 13-B of the Act was admitted and allowed. Thus, the parties were granted a decree of divorce by mutual consent under Section 13-B of the Act.

10. Coming to the case at present, immediately after the marriage, the parties could not adjust due to different temperaments and ideologies which led to strained relations between them. They stayed together as a couple for 15 days only. Both the parties are young and of marriageable age who wish to move ahead and settle in life. Furthermore, all matters and claims have been already settled by the parties mutually on 10.04.2023. Neither there is any child from the wedlock in question nor there is any reasonable probability of a reconciliation between the parties.

11. Therefore, in view of the discussion made herein above and decisions referred above, we are of the considered opinion that this is sufficient ground to allow their application filed under Section 14 of the Act for waiving off the mandatory period of one year.

12. As such, the impugned order dated 18.09.2023 is set aside. The application filed under Section 14 of the Act stands allowed and permission is granted to file a divorce petition within one year of the date of marriage. The parties to appear before the Principal Judge, Family Court, Faridabad, on **29.11.2023** for further proceedings under Section 13-B of the Act.

13. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present matter.

(SUDHIR SINGH)
JUDGE

(SUMEET GOEL)
JUDGE

07.11.2023
Dharamvir/vs

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