



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FAMILY COURT APPEAL NO. 51 OF 2024

Nikita Rupam Katte and another .. Appellants

Versus

Nil .. Respondent

Shri Abhishek C. Deshpande, Advocate for the Appellants.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 05 AUGUST 2024.**

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard.

2. This appeal is directed against the judgment and order dated 11.07.2024 passed by the Judge, Family Court, Aurangabad in Civil Misc. Application No. 12 of 2024, which was filed U/Sec. 14 of the Hindu Marriage Act (hereinafter referred as to the 'Act' for the sake of brevity and convenience).

3. Appellants jointly filed application U/Sec. 14 of the Act seeking waiver of period of one year for filing petition U/Sec. 13-B of the Act for dissolution of marriage. Their marriage was solemnized on 28.11.2023. They filed application U/Sec. 14 of the Act along with petition U/Sec. 13-B on 19.01.2024, before Family Court, Aurangabad. Application was rejected by the impugned judgment and order.

4. Application has been rejected on the ground that as no case was made out showing extraordinary hardship as contemplated by the proviso to Section 14(1) of the Act. The grounds pressed into service for waiver of one year period were found to be usual or common.

5. Learned counsel for the appellants submits that couple cohabited only for 24 days and have been residing separately from 24.12.2023, they are of marriageable age and are having strong differences and unable to wait for statutory period to seek dissolution of marriage. It is further contended that even the marriage has not been consummated. He relies on the judgment of the Karnataka High Court **dated 10 August 2023 in Misc. First Appeal No. 3125 of 2023, judgment dated 06.08.2021** passed by the Punjab and Haryana High Court in the matter of **Shivani Yadav Vs. Amit Yadav in F.A.O. No. 658 of 2021 and judgment dated 15.10.2018** passed by the Division Bench of this Court at Nagpur in the matter of **Dipti Vinay Rajwani Vs. Vinay Kanhaiyalal Rajwani in F. C. A. No. 54 of 2018.**

6. We have gone through the contents of the application filed U/Sec. 14 of the Act. The couple appears to have stayed together for 24 days only. They are working at different places and residing separately from 24.12.2023. They are under obligation to make out a case of exceptional hardship or exceptional depravity as contemplated by Sec. 14(1) of the Act. We do not find any such case is made out from the contents of the

application. Following circumstances which are pressed into service would fall short to grant relief :

- (i) Marriage was not consummated,
- (ii) Cohabitation was of 24 days only,
- (iii) Both applicants are of marriageable age,
- (iv) Attempts of conciliation have failed,
- (v) Likely to face mental agony and prejudice to future life/career, if they are dragged to litigation,
- (vi) They are working at different places and they are separate since 24.12.2023.

7. We find no perversity or illegality in rejecting application. All aspects are dealt with by the learned Judge, Family Court by assigning reasons. Appellants are unable to show any ground to interfere with the discretion exercised by the Judge, Family court. We are of the considered view that no interference is called for in the impugned order.

8. The judgments cited by the appellants before us were rightly considered by the Judge, Family Court. The facts of cited judgments are distinguishable. The mandatory requirement of Section 14(1) of the Act for exercising jurisdiction has not been dealt with by the learned Single Judge of Karnataka High Court. In the matter of **Shivani Yadav Vs. Amit Yadav** (supra), the Punjab and Haryana High Court was dealing with exceptional circumstance of couple having cohabited for 02 days and they were below 24 years of age. In that case unprecedented situation

of Covid – 19 was prevailing when they presented application before the Family Court. Hence we are not persuaded by the judgment in the matter of **Shivani Yadav Vs. Amit Yadav** (supra).

9. In the matter of **Dipti Vinay Rajwani Vs. Vinajy Kanhaiyalal Rajwani** (supra), application was filed by wife for waiver of period of one year and it was rejected without even issuing notice to her husband. In the present matter, it was joint application by the appellants. We do not find that judgment passed in the matter of **Dipti Vinay Rajwani Vs. Vinajy Kanhaiyalal Rajwani** (supra) is of binding precedent. It is not made applicable to the case in hand.

10. We have all sympathies for the appellants especially when they are of marriageable age, residing separately and working at different places. Already more than 7 months are over since the date of the marriage. They can file a petition U/Sec. 13-B of the Act surely within 4 and half months. Considering this aspect of the matter, we are not inclined to interfere.

11. Family Court appeal is dismissed. There shall be no order as to costs.

[**SHAILESH P. BRAHME, J.**] [**MANGESH S. PATIL, J.**]