



C.R.P(MD)No.1681 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 29.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)No.1681 of 2024

1.Sudalai

2.Esakkiammal @ Kalpana

... Petitioners

Vs.

Nil

...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside docket order dated 27.06.2024 passed by the Family Court, Tirunelveli in unnumbered I.A.No..... of 2024 in unnumbered H.M.O.P.No.... of 2024 and direct the Family Court, Tirunelveli to number the petitions.

For Petitioners

: Mr.T.Leninkumar

ORDER

The civil revision petition is filed to set aside the order dated 27.06.2024 passed by the Family Court, Tirunelveli in unnumbered I.A.No.. of 2024 in unnumbered H.M.O.P.No... of 2024.

2. The said original petition is filed under Section 13-B of the Hindu Marriage Act(hereinafter referred to as 'Act' for brevity) to dissolve the marriage



C.R.P(MD)No.1681 of 2024

by mutual consent. The above Interlocutory Application is filed to waive the period of one year under Section 14(1) of the Act. The said petition is now rejected, as against which, the present Civil Revision petition is filed.

3. The learned counsel for the petitioners submits that the trial Court ought to have seen that the proviso to Section 14 enables the Court to grant relaxation and waive of the period in deserving matters. In this case, both the wife and husband are the joint petitioners before the trial Court as well as before the Court. Immediately after the marriage, they have realized that the marriage between them will not work-out and they have already separated and even taken away their respective things, and there is no way that they can reunite, in such circumstances, the period of one year is only going to cause a hardship and there is no purpose in making them to wait. The trial Court ought to have taken these circumstances and ought to have considered that the matter comes within the proviso to Section 14(i) of the Act.

4. The learned counsel also relies upon the judgment of the High Court of Punjab and Haryana made in FAO.No.658 of 2021. In the said case, the parties got married on 15.02.2021 and the petition for divorce by mutual consent under Section 13-B was presented on 25.02.2021 stating that from 17.02.2021, the



C.R.P(MD)No.1681 of 2024

parties are leaving separately. The said contention has been accepted in the said case and the period of one year has been relaxed and the petition was ordered to be taken on file. The learned counsel submits that similar orders can be passed in the instant case also.

5. I have considered the said submission made by the learned counsel for the petitioner and perused the material records of the case.

6. The entire Section 14(1) is extracted hereunder.

“14.(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, 4 [unless at the date of the presentation of the petition one 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 4 [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 1



C.R.P(MD)No.1681 of 2024

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[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 2 [expiration of the said one year] upon the same or substantially the same facts as those alleged in support of the petition .”

[emphasis supplied]

7. The reading of Section 14(1), it can be seen that it is a non obstante clause creating an embargo for any Court to entertain any petition for dissolution of a marriage by a decree of divorce unless one year has elapsed from the date of marriage.

8. In the instant case, the parties got married only on 08.02.2024 and therefore, the period would elapse only on 07.02.2025. Therefore, before that any petition for divorce cannot be entertained. As far as the invocation of the proviso is concerned, the proviso clearly grants exemption that if any Rules are made by the concerned High Court in that behalf and if the application is made as per such Rules, then considering the exceptional depravity, the petition can be entertained. Therefore, it can be seen that the Madras High Court has not framed any such Rules with reference to entertainment of the petition within one year of the marriage under Section 14 of the Act. In the absence of any Rules, no application can be entertained. The judgment of the Punjab and



C.R.P(MD)No.1681 of 2024

Haryana High Court does not consider the said mandate. Therefore, I am unable to follow the said judgment in FAO.No.658 of 2021.

9. Even if the parties are steadfast in their decision, once having married, they have to wait till 08.02.2025 for presentation of their 13-B petition. The purpose of Section 14(1) is that whenever such differences of opinion arises immediately after the marriage, some mandatory period of time should be there, so as to enable the parties to reflect on their decision. When provision has been inserted with a pious purpose of saving the families in India from instant divorces, unless the parties are permitted by any express Rule, which is framed by this Court under the provision, I do not see any compelling circumstance to permit the parties to immediately file the divorce petition on the third month of the marriage. Accordingly, finding no merits, the Civil Revision Petition is dismissed. No costs.

29.07.2024

NCC:Yes/No
Index:Yes/No
Rmk

To
1.The Judge, Family Court, Tirunelveli.



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C.R.P(MD)No.1681 of 2024

D.BHARATHA CHAKRAVARTHY, J.

Rmk

C.R.P(MD)No.1681 of 2024

29.07.2024