

2025:PHHC:033570-DB



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

FAO-1278-2025 (O&M)

Date of decision: 24.02.2025

PRABHJOT KAUR

.....Appellant

Versus

VIKRAM SINGH

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. Ramandeep, Advocate for the appellant.

SUDHIR SINGH, J.

CM-3833-CII-2025

For the reasons stated in the application, the same is allowed and the delay of 15 days in filing the appeal is condoned, subject to all just exceptions.

FAO-1278-2025

Challenge in the present appeal is to the judgment and decree dated 23.10.2024 passed by learned Additional Principal Judge, Family Court, Patiala, Camp Court Samana (for short the 'Family Court'), whereby the petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act') was allowed and the marriage between the parties was dissolved by decree of divorce on the ground of mutual consent.

2. Challenge is also to the order dated 23.10.2024 vide which an application filed by the appellant-wife for withdrawal of her consent was dismissed.

3. The aforesaid petition under Section 13-B of the Act had been filed by the parties for dissolution of their marriage by way of a mutual consent. The first motion statements of the parties were recorded on 17.07.2024. Thereafter, an application for waiving off the statutory period of six months was allowed vide order dated 29.08.2024. On the said date itself, the second motion statements of the parties were recorded whereafter, the case was fixed for consideration and pronouncement of the order for 11.09.2024. The appellant filed an application on 11.09.2024 for withdrawal of her consent, which was dismissed by learned Family Court, vide an order of even date i.e., 23.10.2024. The marriage between the parties, as noticed above was dissolved by a decree of divorce dated 23.10.2024 by mutual consent.

4. Learned counsel for the appellant has vehemently argued that the appellant-wife had moved an application for withdrawal of her consent for grant of divorce by mutual consent well before the pronouncement of the judgment and decree and, therefore, the impugned order whereby such application has been dismissed by learned Family Court is untenable in the eyes of law. It is also argued that as a consequence thereof, the impugned judgment and decree is also liable to be set aside. It is further argued that as per the settled law, any of the parties to the petition under Section 13-B of the Act

can move an application for withdrawal of his/her consent before the pronouncement of the judgment and decree and, thus, the impugned order and the judgment and decree passed by the learned Family Court, are liable to be set aside. Reliance is placed upon the judgment of the Hon'ble Supreme Court in Smt. Sureshta Devi Vs. Om Parkash 1991(1)PLR 411.

5. We have heard the learned counsel for the appellant and have also gone through the impugned judgment & decree and the impugned order passed by the learned Family Court.

6. The only question that arises for consideration by this Court is whether the impugned judgment & decree and the order passed by learned Family Court, require any interference.

7. There is no debate regarding the settled decision of law as regards the withdrawal of the consent by any of the spouses in respect of the petition filed under Section 13-B of the Act prior to pronouncement of the judgment and decree to be passed by the concerned Court. However, in the instant case, it may be noticed that the petition for divorce by mutual consent was filed on 10.07.2024. The first motion statements were recorded on 17.07.2024. The case was adjourned to 22.01.2025 for second motion statements. However, on 29.08.2024 the parties had filed an application for waiving off the period of 06 month on the ground that there were many marriage proposals for the appellant-wife and there was much haste on the part of the persons giving said proposals. The appellant-wife had placed on record her air tickets to show urgency of moving the

application to contend that that she along with her son were shifting to Canada on 09.09.2024. The said application was allowed on 29.08.2024 itself and on the same very date the second motion statements of the parties were also recorded and then the matter was adjourned to 05.09.2024 for consideration and pronouncement of the judgment and decree. However, on the said date i.e., 5.09.2024 the Presiding officer of the Family Court was on leave and the matter was adjourned to 11.09.2024, but the appellant-wife had moved the aforesaid application for withdrawal of her consent in the petition under Section 13-B of the Act, alleging that she had been compelled by the respondent-husband to compromise the matter with him and that she had signed the said petition under the compelling circumstances. It was further asserted by the appellant that she wanted to join the society of her husband and to live in her matrimonial house. The learned Family Court has noticed the factual position in detail and observed that when the application for waiving off six months period was allowed, the assertions of the appellant-wife regarding the marriage proposals received by her and her moving to Canada along with the minor son were also noticed. It was, thus, found that if she had been compelled to sign the papers of the divorce petition and record her first motion statement, there was no occasion for her to move an application for waiving off the six months period. It was also found that after moving the application for withdrawal of her consent, she had also filed a petition under Section 9 of the Act and Section 144 Bharatiya Nagarik Suraksha Sanhita against the respondent-husband despite the fact that she had undertaken in the

divorce petition that she would not initiate any proceedings against the respondent-husband.

8. We find that the application for withdrawal of the consent by the appellant-wife had been filed with a *mala fide* intention just to harass the respondent-husband. The stand of the appellant-wife in the said application that she had been compelled to sign the divorce petition by making a statement at the time of first motion statement under the compelling circumstances, does not hold the ground for more than one reason. Firstly, the appellant-wife had given reasons in the application seeking waiving off six months period which were regarding the marriage proposals being received by her and further her moving to Canada. Secondly, the said application had been moved only at the time when the case was fixed for pronouncement of the judgment and decree. This clearly shows that the appellant-wife had filed the application for withdrawal of her consent after concocting the grounds for that and with a deliberate and willful motive and object to harass the respondent-husband. The judgment of the Hon'ble Supreme Court in Smt. Sureshta Devi's case (supra) has no applicability to the facts of the present case as in the instant case, the very conduct of the appellant-wife does not entitle her to any relief and as observed hereinabove, the application filed by her was with a *mala fide* intention.

9. In view of the above, we do not find any illegality or perversity either in the judgment & decree or the order passed by the learned Family Court.

10. No other point has been urged.
11. Finding no merit in the present appeal, the same is hereby dismissed.
12. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[SUKHVINDER KAUR]
JUDGE

24.02.2025
himanshu

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