

2025:PHHC:037529-DB



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

FAO-2896-2020 (O&M)
Date of Decision: 07.03.2025

Savita

.....Appellant

Versus

Mukesh

.....Respondent

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

Present:- Mr. Ajit Sihag, Advocate,
for the appellant.

SUDHIR SINGH, J.

Challenge in the present appeal is to the judgment and decree dated 17.09.2020 passed by the Principal Judge, Family Court, Camp Court, Hansi (for short 'the Family Court'), whereby the joint petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act') filed by the parties was allowed and the marriage between the parties was dissolved with mutual consent, by a decree of divorce.

2. The aforesaid petition had been filed by the parties jointly, *inter-alia*, pleading therein that their marriage was solemnized on 04.12.2015 as per *Hindu* rites. Out of the said wedlock, one male child was born in the month of September, 2016. However, due to temperamental

differences, their relations became strained and they could not live together as husband and wife. They had been living separately since November, 2017. It was further pleaded that all the efforts for reconciliation between them had failed. Finally, they filed a joint petition under Section 13-B of the Act seeking dissolution of marriage with mutual consent by way of decree of divorce. The said petition was allowed vide impugned judgment and decree dated 17.09.2020.

3. Now, the appellant-wife has filed the instant appeal challenging the impugned judgment and decree on the ground that respondent-husband had obtained the said decree in a pre-planned manner by playing fraud upon her.

4. Learned counsel for the appellant-wife has contended that the appellant-wife is innocent lady. She has studied upto 9th standard in Hindi medium. He has further argued that the appellant-wife was not conversant with the English language. The respondent-husband is a clever person and he had got signed the petition under Section 13-B of the Act by concealing true facts from her. At the time of filing of the divorce petition, she was not aware of the fact that custody of the minor child would be given to the respondent-husband. He has further argued that at the time of recording of first and second motion statements before the learned Family Court, the appellant-wife was kept in dark with regard to the custody of the minor child as well the quantum of permanent alimony of

Rs.2,10,000/-, which is on the lower side. Reposing trust upon the respondent-husband, the appellant-wife had signed all the documents.

5. We have heard learned counsel for the appellant-wife and have also gone through the contents of the petition.

6. Section 19 (2) of the Family Courts Act, 1984 (for short 'The Family Court Act') provides that the consented orders/decrees passed by the Family Court cannot be challenged in appeal. The said Section reads as under:-

19. Appeal.-

[\(1\)](#) xx xx XX

[\(2\)](#) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties or from an order passed under Chapter IX of the Code of Criminal Procedure, 1973:

Provided that nothing in this sub-section shall apply to any appeal pending before a High Court or any order passed under Chapter IX of the Code of Criminal Procedure 1973 before the commencement of the Family Courts (Amendment) Act, 1991”

7. A perusal of the impugned judgment shows that the petition under Section 13-B of the Act filed by the parties was allowed on consensual basis as the appellant-wife herself had made statements twice i.e. on first motion as well as on the second motion, before the Family Court to the effect that she had already received permanent alimony for past, present and future and nothing was due to be paid to her. It was also agreed that the minor child would reside with the respondent-husband (Mukesh) and the appellant-wife would not raise any dispute qua the custody of the son

in future. Both the parties had made such statements without any pressure, coercion and undue influence. Ultimately, on the basis of the statements suffered by both the parties, the impugned judgment and decree was passed by the learned Family Court.

8. Since the impugned judgment was passed on the basis of consent of the parties, no appeal against the said order is maintainable before this Court as per Section 19 (2) of the Family Court Act.

9. In view of the above, the present appeal is dismissed. However, liberty is granted to the appellant-wife to move an appropriate application before the learned Family Court for rederssal of her grievance, if so advised.

10 Pending application(s), if any, shall also stand disposed of.

**(SUDHIR SINGH)
JUDGE**

**(SUKHVINDER KAUR)
JUDGE**

07.03.2025

Ajay Prasher

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>