



In the High Court of Punjab and Haryana at Chandigarh

FAO No. 1976 of 2025 (O&M)

Date of Decision: 22.4.2025

Gurtej Singh Bhatti

.....Appellant

Versus

Avineet Kaur Soch

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Karan Bhardwaj, Advocate
for the appellant.

Mr. Amtiaz Sandhu, Advocate for
Mr. Ishaan, Advocate for the respondent.

SURESHWAR THAKUR, J. (ORAL)

1. The instant appeal is directed against the rendition of an order dated 20.2.2025 by the learned Family Court concerned, whereby rather became dismissed the application filed in terms of the proviso in Section 14 of the Hindu Marriage Act, 1955 (for short 'the Act of 1955') seeking therebys waiver of the elapsing of the mandatory statutory period of one year, inter se, the happening of apposite solemnization and the filing of the instant petition, thus for making well constituted the filing of the joint petition cast under Section 13-B(1) of the Act of 1955.

2. The said waiver was espoused in terms of the proviso, which is carried in Section 14 of the Act of 1955, provisions whereof become extracted hereinafter, whereby in exception to the bestowment of jurisdiction, upon, the learned Family Court concerned, to not entertain any petition cast under Section 13-B of the Act of 1955, thus seeking the dissolution of the marital ties of the estranged partners, through the passing of a decree of mutual consent, unless on the date of presentation of the said



petition, one year has elapsed since the date of solemnization of marriage, rather there is conferment of jurisdiction upon the Family Court concerned, to on exceptional hardship becoming encumbered upon the petitioner, thus to therebys both entertain and allow the said petition.

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.”

3. Before proceeding to adjudicate upon the validity of the passing of the impugned order, it is necessary to bear in mind that prior thereto, the estranged marital couple rather had jointly instituted a Pre Litigation Mediation No. 101 of 2024 before this Court, whereto, Annexure A-3



becomes assigned, whereby both the parties agreed to amicably settle their marital disputes. The photocopy of the said annexure is today signed by the counsels, who represent the contesting litigants.

4. In terms of the relevant covenants carried therein, whereby the estranged marital couple jointly agreed to move a joint petition under Section 13-B of the Act of 1955, for thereby they are seeking the annulment of their marital ties through a decree of mutual consent being rendered, that a joint petition under Section 13-B(1) of the Act of 1955, rather became instituted.

5. Be that as it may, since Section 14 of the Act of 1955, carries a statutory prescription qua one year elapsing inter se the date of solemnization of marriage and the presentation of the apposite petition. Consequently, an application in terms of the proviso carried in Section 14 of the Act of 1955, became instituted, and, thereovers the impugned order became rendered. Resultantly, since then the said statutorily ordained period of time, rather had not elapsed, whereby thus *prima facie* became engendered the statutory bar, both against the entertainment of the petition and obviously against the rendition of the espoused decree.

6. Moreover, a reading of the impugned order reveals, that the learned Family Court concerned, has taken an extremely rigid and strict view, in not endowing the privilege of the proviso engrafted in Section 14 of the Act of 1955, despite, the fact that the estranged marital couple was living separately since their solemnizing marriage on 6.1.2024. Though, within a very short span of time of their solemnizing marriage, they both jointly took to annul their marital ties, through their filing a joint petition cast under Section 13-B of the Act of 1955. Since thereby both consented to



segregate, therebys there was no necessity for the learned Family Court concerned, to rigidly insist, that a period of one year imperatively elapses inter se theirs' solemnizing of their marriage, and theirs' presenting the petition (supra), for therebys becoming rendered a decree for annulling their marital ties by mutual consent..

7. Moreover, the learned Family Court concerned, has remained oblivious to the fact of the present litigants achieving success in Pre Litigation Mediation No. 101 of 2024, therebys the said achieved success was not required to be aborted, through an unnecessary insistence being made by the learned Family Court concerned, qua a period of one year, thus elapsing inter se the solemnizing their marriage and the presentation of the instant petition.

8. The further effect of the said unmindfulness of the learned Family Court concerned, is that, the holistic purpose of the successful Pre Litigation Mediation endeavours, rather being furthered, but being ill pre-empted inasmuch as, despite therebys becoming curtailed the ill effects of the happenings of prolonged procrastinated delays, thus in the contesting litigants making an unnecessary legal combat, before the learned trial Court below, yet in the passing of the impugned order, rather the said avoidable delays rather possibly emerging. The supra tellingly does fall within the scope of the relevant proviso, besides does ipso facto personify qua in case, the apposite rigid insistence is made, rather therebys exceptional hardship would become encumbered upon the litigants. In any case, any rigid application of the ingredients of the proviso, thus to the considered mind of this Court, but does wreck the aspirations of the estranged married couple to live separately, besides throttles their rights to liberate, thus from the



shackles of an unworkable marriage.

9. In consequence, this Court finds merit in the instant appeal, and, after allowing the same, the impugned is quashed and set aside.

10. The parties are directed to appear on 1.5.2025 before the learned Family Court concerned, either personally or through their validly engaged counsels. On the said date, the learned Family Court concerned, shall proceed to, in terms of Annexure A-3, render a decree, thus allowing the joint petition filed under Section 13-B of the Act of 1955, inasmuch as, the learned Family Court concerned, shall proceed to lawfully dissolve/annul their marriage through passing a decree of mutual consent.

11. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

April 22, 2025
Gurpreet

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