

**PRINCIPAL JUDGE, FAMILY COURT, JAMMU**

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File Nos. Civil Misc/5562/2024  
Case Nos. 68/2024  
CNR No. JKJM020042602024  
Date of Institution: 29.05.2024  
Date of Order : 02.08.2024

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Taranjeet Singh

Vs.

Gaganjot Kaur

**Through: Adv. Lawnya Sharma for the petitioner/applicant.**

**In the matter of :-** Application under section 14 of Hindu Marriage Act for granting leave to file petition under section 13 of the said Act before elapsing of one year before the date of marriage.

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**Coram:**

**Ajay Kumar Gupta**  
**JO Code: JK00084**

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**ORDER**

1. The applicant/petitioner has filed petition u/s 13 HMAct on the grounds as stated in the petition.
2. Alongwith the main petition, the petitioner has also filed an application under section 14 of HMAct 1955 seeking leave to file the petition under section 13 of the said Act before elapsing of one year before the date of marriage on the grounds that marriage of the parties was solemnized on 03.12.2023 at Jammu according to Sikh rites and ceremonies and from this marriage no issue has born. The marriage was a dowry less and prior to the marriage the petitioner and his family were assured by the respondent's family herself that she is happy with the match and she will act in a manner becoming of a good wife. However from the first day of the marriage the attitude of the respondent towards the petitioner was very hostile and cruel and she was reluctant to cohabit with the petitioner on one pretext or the other. The petitioner tried many times to come to the understanding with the respondent, but of no avail. The respondent in response not only abuse the family member of the

petitioner, but also told them that she does not like the petitioner and her marriage was solemnized without her consent and that she wanted to lead an independent life without any interference from any side.

3. It has been further pleaded that the respondent has ascertained to the petitioner and his family members that her parents were adamant for getting her married and under their pressure she was forced to marry with the petitioner, however, she wanted to live a unmarried life for the foreseeable future or at least get married to a rich man. In the month of February 2024 the respondent left his matrimonial home without informing the petitioner or his family members and despite efforts to locate the respondent there has been no communication or contact from respondent. The petitioner thereafter filed a missing report on 11.02.2024 before the police Post Parade, Jammu vide DDR No. 09 dated 11.02.2024 and the petitioner was informed by the police that the respondent has been found at Gwalior. She gave a statement to the police expressing her unhappiness with the marriage because it was forced upon her by her family and now she does not wish to continue in that marriage. The petitioner than filed an application for seeking a status report alongwith the final report in the missing report filed by the petitioner alongwith any statement recorded by the police.
4. In reply to this application the police post Parade filed a report in which they have stated that the respondent was in Gurugram, Haryana. When the police alongwith the real uncle of the petitioner, namely Harvinder Singh went to Gurugram, Haryana they found that the respondent had left for Gwalior, Madhya Pradesh. The police then went to Gwalior, Madhya Pradesh and told the respondent to come back to Jammu , however the respondent totally denied this upon which the police took the respondent to Madhoganj Thana for questioning in Gwalior, alongwith her friend, namely Ranjeeta Harash. In her statement she stated that he has left her husband of her own will and refused to return with the police. From her statement to the police, it is evident that the respondent was not kidnapped instead she chose to leave her husband and stay with her friend for employment and travel purposes and due to this

act of the respondent, the petitioner and his family has been left humiliated and in despair, while the respondent is living a life of enjoyment with her friend in Gwalior. The petitioner deserves to be set free of this cruelty especially in the light of facts and circumstances stated in the accompanying petition u/s 13 HM Act and those stated in this application. Finally prayed that the application of the petitioner be allowed for grant of permission to file the Divorce petition within one year of marriage.

5. Retreating the pleadings Ld. Counsel for the petitioner has argued that the respondent left her matrimonial home without informing the petitioner or his family members and despite efforts to locate the whereabouts of respondent there has been no communication or contact from the respondent. On filing the missing report, the respondent was found at Gwalior where she gave a statement to the police expressing her unhappiness with the marriage because it was forced upon her by her family and now she does not want to continue in that marriage. It is further argued that the respondent was found with one friend namely Ranjeeta Harash at Gwalior, Madhya Pradesh and told the police that she has left the matrimonial home on her own without the consent of her husband. The act of the respondent has caused great humiliation and insult in the society and the act of the respondent has put him in the position of exceptional hardship and on the other hand the same is of exceptional depravity on the part of the respondent, Further contended that the application may be allowed and permission may be granted to file the petition for divorce within one year of marriage.

6. Before moving forward, it will be apt to take into consideration section 14 of the Hindu Marriage Act 1955, which reads as under :-

***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 <sup>31</sup> [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].*

7. From the plain reading of section 14 (1) of Hindu Marriage Act, it transpires that the section begun with a non-obstante clause, but the proviso of the said section changes the nature of the said section and gives power to the court to allow the petitioner/applicant to present the petition for divorce before one year has elapsed, but at the same time, the applicant/petitioner seeking such waiver has to satisfy the court on two conditions i.e. the case of the petitioner/applicant comes within a purview of exceptional hardship to him/her and because of such exceptional hardships, he/she is facing depravity on the part of the non-applicant/respondent. The legislature has inserted the said section with the specific purpose to prevent the hasty recourse to be adopted by the parties coming forward for the dissolution of the marriage and the aim and object of this section as well as the Family Court Act, is to make all the endeavour for reconciliation between the parties to save sacred relations of the parties created by way of marriage because the marriage is always considered as sacred and ritualistic bond between the men and the women, people or the couple often believe in one life, but sometimes the relationship don't actually work as we think because of certain reasons at the initial stages of marriage. Thus, a chance should be given to the parties to adjust in the

relation for better understanding each other to live a successful married life and the hasty decision taken should not be given due weightage.

8. While taking the facts in the light of the above said section it is clear that the respondent from the very first day of the marriage told the petitioner that she was not interested in marriage and the same has been forced upon her and she wanted to lead independent life without any interference from any side. The respondent further told the petitioner that she wanted to marry a rich man and wants to live a unmarried life. From the pleadings it also transpires that the respondent in the month of February 2024 left her matrimonial home without informing the petitioner or his family members and despite efforts to locate the respondent, there has been no communication or contact from respondent. The petitioner thereafter filed a missing report on 11.02.2024 before the police Post Parade, Jammu from where the petitioner came to know that the respondent has been found at Gwalior and she has given a statement to the police expressing her unhappiness with the present marriage as it was forced upon her. It has also come on the record that the statement of the respondent was recorded by the Madhoganj Thana after questioning at Gwalior wherein she told that she is living with her friend Ranjeeta Harsh and has left the matrimonial home on her own and refused to return back to the matrimonial home.
9. The act of the respondent clearly indicates that case of the petitioner comes within the purview of exceptional hardship being faced by the petitioner immediately after commencing of the marriage. The petitioner got married with the respondent with the hope that he will live a peaceful marital life with the respondent but the respondent on the very first day informed the petitioner that her marriage has been forced upon her and she wanted independent life and later on she was found at Gwalior with her friend Ranjeeta Harish.
10. I have also gone through the police report of Police Post Parade, Jammu annexed with the file which was produced when the petitioner lodged a missing report of the respondent. The police report clearly reveals that the on the missing report of one Gaganjot Kour the police went in for her search and

during the search her location was found to be Gurgaon, Delhi. The police went Gurgoan, Delhi to get the respondent, but she was not found there. Thereafter the whereabouts of the respondent was found at Gwalior. The police went there to get her back, however on meeting the respondent, the police asked her to come with them to the matrimonial home but the respondent flatly refused to go with the police team. Thereafter the statement of the respondent was recorded at Madhuganj Police Station where one of her friend Ranjeeta Harish also accompanied her. In her statement the respondent admitted her marriage with the petitioner and thereafter her friendship developed with one Ranjeet Harsh. The respondent clearly stated that she has not been kidnapped by anyone and has come here on her own will and refused to go with the police. Thus it is clear from the statement of the respondent that she left the company of the petitioner on her own and is not willing to live with him. When the wife of a person is not willing to live with him without any fault it is more than an exceptional hardship as he is suffering the mental cruelty without any fault on his part.

11. Keeping in view all the facts and circumstances of the present case, the application of the applicant/petitioner is allowed and he is permitted to file the petition u/s 13 HM Act within the one year of the marriage. The application is accordingly disposed off and shall form part of the main file.

**Announced**

**02.08.2024**

**(Ajay Kumar Gupta)**

**Principal Judge  
Family Court, Jammu**