Madras High Court
Indumathi vs Krishnamurthy on 20 July, 1998
Equivalent citations: 1999 (1) CTC 210, (1998) IIIMLJ 435
Bench: S Subramani
ORDER

1. This revision petition is filed by respondent in Marriage O.P.No.146 of 1997, on the file of Family Court at Pondicherry.

2. Petition for divorce under Section 13(1)(iii) of the Hindu Marriage Act was filed by the husband, hereinafter called the respondent, on 29.9.1997. In fact, the marriage between petitioner and respondent took place only on 4.9.1997, i.e., within a few days of marriage, petition for divorce was filed. Along with that petition, respondent did not file an application seeking leave of the Court to entertain the application. But, such an application was filed on 8.10.1997. In that application under Section 14(1) of the Hindu Marriage Act, he alleged certain reasons and also mentioned the hardship and injury which he will suffer if he has to wait for a period of one year from the date of marriage. Both the main petition for divorce as well as the I.A. for exemption under Section 14(1) of the Act were numbered and summons were also issued to the petitioner by order of Court on 27.10.1997.

3. In this revision, petitioner challenges the procedure followed by the Family Court in issuing summons when the application under Section 14(1) of the Act was not ordered, and it is further contended that without grant of leave in I.A., the main petition ought not to have been numbered. It is the further case of the petitioner that when the Statute prohibits entertaining of the petition for divorce for a period of one year from the date of marriage, without grant of leave, respondent is not entitled even to institute the proceeding. It is the further case of petitioner that the bar under Sec. 14(1) of the Act is mandatory.

4. This revision is filed under Art. 227 of the Constitution of India, challenging the jurisdiction of the Family Court in entertaining the main petition for divorce.

5. When the matter came for admission, I ordered notice of motion and also granted interim stay of further proceedings before the Family Court. After receipt of notice through Court, respondent also entered appearance through Counsel.

6. Learned counsel for petitioner, at the time of arguments, submitted that the petition for divorce is premature, and it could be cured only by an order of Court when leave is granted, and only after such an Order is passed, respondent can get a cause of action to institute a petition for divorce. It is the contention of learned counsel that such an order must precede the institution, and that is a condition precedent. Otherwise, a petition for divorce can be entertained only after a period of one year.

7. As against the said contention, learned counsel for respondent submitted that the petition under Section 14(1) read with Proviso is only directory and non-compliance of the said Section will not entail dismissal of the petition. If at all leave is required, that defect also can be cured by applying

Proviso to Sec. 14(1) of the Act. Learned counsel submitted that institution of petition for divorce is not a bar, and the wording in Section 14(1) of the Hindu Marriage Act only deals with entertaining of the petition which means that the Court shall not enter into the merits of the case till the expiry of one year. Learned counsel further submitted that on a proper reading of Proviso to Sec. 14(1) it will be clear that even the merits could be gone into before the expiry of one year, and if it is ultimately found that divorce a could be granted, that shall take effect only after one year from the date of marriage. Various other provisions of the Hindu Marriage Act were also brought to my notice by learned counsel to contend that institution of such a proceeding is never prohibited under the Hindu Marriage Act. Learned counsel submitted that the purpose of fixing this period of one year is intended only for the purpose of bringing about reconcilement between the parties, if possible. There is no purpose in prohibiting the respondent from instituting the proceeding and asking to wait for one year before instituting a proceeding.

8. None of the learned counsel for both parties brought to my notice any decision of this Court except the one reported in Meganatha Nayagar v. Shrimathi Susheela, . The applicability of this decision will be considered in a later portion of this Order.

9. Before going to the question of law, it is better to extract Section 14 of the Hindu Marriage Act. It reads thus:-

"14. No petition far divorce to be presented within three years of marriage- 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 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."

10. In a recent judgment of the Honourable Supreme Court reported in Martin & Harris Ltd. v. VIth Additional District Judge and others, , Their Lordships considered what is meant by the word 'entertained', 'institution', 'filing', etc., and what is the difference of these words in legal parlance.

That was a case where a landlord filed a petition for eviction of a tenant before expiry of three years from the date of its purchase. The eviction petition was filed under the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972. Relevant portion of Section 21 of that Act reads thus:-

"21. Proceeding for release of building under occupation of tenant- (1) The prescribed authority may, on an application of the landlord in that behalf, order the eviction of a tenant from the building under tenancy or any specified pan thereof if it is satisfied that any of the following grounds exists namely

(a) and (b) omitted.

Provided that where the building was in occupation of a tenant since before its purchase by the landlord, such purchase being made after the commencement of this Act, no application shall be entertained on the grounds mentioned in clause (a) unless period of three years has elapsed since the dale of purchase and the landlord has given a notice in that behalf to the tenant not less than six months before such application, and such notice may be given even before the expiration of the aforesaid period of three years." (Rest of the Section omitted as unnecessary).

Commenting on the same, at page 743, Their Lordships held thus:-

"...The stage at which the Court has to consider whether grounds mentioned in clause (a) are made out by the plaintiff or not will be reached when the Court takes up the application for consideration on merits. It has to be kept in view that applications for possession filed under Section 21(1) of the Act are not placed admission before the prescribed authority. Once they are filed they are to be processed for being decided on merits after issuing notices to the parties concerned. Therefore, when the application reaches final hearing on merits, the authority has to sift the grounds on which the application is based and if it finds that the application is based, amongst others, on the grounds mentioned in clause (a), it has to ascertain whether three years period has expired since the date of the purchase of the property by the plaintiff/landlord and if the period of three years is found to have expired, then the grounds mentioned in clause (a) would become alive for consideration of the "authority. If not, the said grounds would not be entertained for consideration. Thus, the word 'entertained' mentioned in the First Proviso to Section 21(1) in connection with grounds mentioned inclause (a) would necessarily mean entertaining the ground for consideration for the purpose of adjudication on merits and not at any stage prior thereto as tried to be submitted by learned Senior Counsel Shri Rao... ...." (Italics supplied) And, finally, in para 10, Their Lordships, after following their earlier decisions, held thus:-

"Learned Senior Counsel Shri Rao for appellant invited our attention to a decision of this Court in the case of Kiran Singh v. Chaman Paswan, for submitting that a decree without jurisdiction is a nullity and such an objection to it can be raised even in execution proceedings There cannot be any dispute on this legal proposition. However, the question is whether decree passed by the prescribed authority under Section 21(1)(a) of the Act can be said to be a nullity at all. As we have seen above the decree of the trial Court was passed much after the expiry of the three years from the date on

which the respondent/landlord purchased the property. To recapitulate, the property was purchased on 30.6.1985 while the decree of the trial court is dated 23.5.1990. In fact the trial court had taken up the application for consideration of the aforesaid grounds more than three years after 20.12.1985 from 1988-89 onwards. Consequently it must be held that the application for possession on the grounds under Section 21(1)(a) was entertained by the trial Court after the expiry of three years from the date of purchase of the suit property by the respondent/plaintiff. Hence it cannot be said that the said decree was a nullity being without jurisdiction. On the same reasoning, therefore, reliance placed by learned Senior Counsel, Shri Rao, for the appellant on the decision of this Court in the case of Chitranjilal Shrilal Goenka v. Jasjit Singh, , cannot be of any avail to him as in the said case this Court reiterated the very same principle that contention about a decree "passed by a court without jurisdiction on the subject-matter or on the grounds on which the decree is made goes to the toot of its jurisdiction of by a court which lacks inherent jurisdiction is to be treated as one cause by a coram nor judice. Learned Senior Counsel for the appellant also invited our attention to a decision of a Constitution Bench of this Court in the case of Charan Lal Sahu v. K.R. Narayanan, , wherein S.C. Agrawal, J., speaking for the Constitution Bench held in para 31 of the Report that Rs.10,000 are quantified as costs to be paid by the petitioners and it was directed that no petition filed by wither of the petitioners-in-person shall be entertained in this Court till the amount of costs imposed is paid. Relying on these observations, learned Senior Counsel for the appellant submitted that in the aforesaid decision, the Constitution Bench employed the term 'entertained' as meaning 'institute'. It is difficult to appreciate this contention. This Court in that case was not concerned with the question as to when an application can be said to be entertained. The statutory scheme with which we are concerned in the present case was not on the anvil of consideration in the aforesaid case. Therefore, even assuming that the direction in the aforesaid decision must contain instruction to the office of this Court not to permit filing of such election petitions without payment of costs, the same cannot be considered to be a decision on the question with which we are concerned on the scheme of the Act. Learned Senior Counsel Shri Rao for the appellant, then invited our attention to two decisions of this Court in the case of Lakshmiratan Engineering Works Limited v. Assistant Commissioner (Judicial) I, Salestax, and Hindustan Commercial Bank Limited v. Runnu Sahu, . In Lakshmiratan Engineering, this Court was concerned with the meaning of the word 'entertained' mentioned in the proviso to Section 9 of the U.P. Salex-tax Act, 1948. Hidyathullah, J. speaking for the Court, observed in the light of the statutory Scheme of Section 9 of the said Act that the direction to the court in the proviso to Section 9 was to the effect that the Court shall not proceed to admit to consideration an appeal which is not accompanied by satisfactory proof of the payment of the admitted tax. In the case of Hindustan Commercial Bank, the term 'Entertained' as found in the Proviso to Order 21, Rule 90, Code of Civil Procedure (CPC) fall for consideration of the Court. Hedge, J., speaking for a Bench of two learned Judges of this Court in this connection observed that the term 'entertained' in the said Provision means 'to adjudicate upon' or 'to proceed to consider on merits' and did not mean 'initiation of proceedings'. The aforesaid decisions in our view, clearly show that when the question of entertaining an application for giving relief to a party arises and when such application is based on any grounds on which such application has to be considered, the provision regarding 'entertaining such application' on any of these grounds would necessarily mean the consideration of the application on the merits of the grounds on which it is based .. .." (Italics supplied) From the above decision, it is clear that the word 'entertained' used in Section 14(1) of the Hindu Marriage Act does not bar the institution of a proceeding.

11. Further question that arises for consideration is, what is the scope of 'leave' as contemplated in the Proviso. Whether a petition for divorce is liable to be dismissed on the ground that leave has not been obtained or application for leave has not been filed before instituting the proceeding. From a reading of the Proviso, it is clean that no specific order is contemplated on such application. Why I am coming to the said conclusion is that it provides for pronouncing a decree subject to the condition that the decree shall not have effect until expiry of period of one year. Of course, the said words in the Proviso relate to leave obtained by misrepresentation or concealment of fact. If the Court comes to the conclusion that leave has been obtained by misrepresentation or by concealment of facts, it is really a fraud on Court. It follows that there was no such an order as leave. Even in such cases, a decree is passed granting divorce with a condition that it shall not take effect until after expiry of one year from the date of marriage. From the above provisions, it is clear that the entire procedure for filing a divorce petition must be complied with within short time. Leave obtained by misrepresentation or fraud, as I said earlier, is a void order. If in such cases a decree could be passed for divorce subject to the above conditions, I do not think it makes a difference when a person comes to Court without a prayer for leave. He has not committed any fraud on Court, nor is there any misrepresentation by him. He may not be in a worse position than a person who commits fraud. Section 23-A of the Hindu Marriage Act should also he read along with Section 14 of the Act. Section 23-A of the Act provides that 'in any proceeding for divorce or judicial separation or restitution of conjugal rights, the respondent may not only oppose the relief sought on the ground of petitioner's adultery, cruelty or desertion, but also make a counter-claim for any relief under this Act on that ground, and if the petitioner's adultery, cruelty or desertion is proved, the court may give to the respondent any relief under this Act to which he or she would have been 'entitled if he or she had presented a petition seeking such relief on that ground'. (Italics supplied) Suppose the petitioner herein filed a petition for restitution of conjugal rights (which can be filed at any time after the marriage), Section 23-A of the Act gives the respondent a right to file counter-claim if he wants any relief under this Act. The provisions of Civil Procedure Code are made applicable to the proceedings under Section 23-A. A counter-claim under Order 8, Rule 6-A, C.P.C. has to be filed when the defendant delivers his defence or at any rate before the time limit for delivering the defence has expired. When summons is issued, that gives the date on which respondent has to deliver his defence and to appear before Court. In cases where petition for restitution of conjugal rights is filed by wife within a month from the date of marriage, it is entertained by the Family Court and summons is issued to the husband to deliver his defence, and he may file a counter-claim under Section 23-A, which includes a relief for divorce also. In that case, the period of one year is hot insisted upon. A counter-claim, for all purposes, is an independent claim though for convenience, it is tried along with the claim put forward by the opposite party.

12. In a Divisions Bench decision of the Calcutta High Court reported in Rabindra Nath Mukherjee v. Iti Mukherjee @ Chatterjee, 1991 (II) D.M.C. 227 : 95 (1991) C.W.N, 1085, this legal position was elaborately considered. Paragraph 6 onwards is relevant for our purpose. Paragraphs 6 to 16 read thus:-

"The expression "entertain", however, as pointed out by the Supreme Court in (2) Laxmiratan Engineering Works, and in (3) Hindustan Commercial Bank, , may not necessarily mean receiving or accepting the plaint or the petition, or the initiation of the proceeding, but may mean "adjudicate

upon" or "proceed to consider on merits". Therefore, if the relevant expression in Section 14(1) was "it shall not be competent for any Court to entertain any petition ..... unless one year has elapsed since the date of the marriage", I would have held that all that is necessary is the expiry of one year, not necessarily before the presentation of the petition; but before the date on which the Court adjudicates thereon or proceeds to consider on merits. But the express user of "the word "presentation" in the expression "unless on the date of the presentation of the petition one year has elapsed since the date of the marriage" nakedly stands in the way of such a construction and I regret my inability to delete the words "on the date of presentation of the petition" by any amount of judicial activism.

7. But the reasons that are weighing with me for holding these provisions to be directory and thus to require substantial compliance only, and not to be mandatory warranting strict adherence on pain of rejection or dismissal, are as hereunder.

8. The period of three years, as originally enacted by the Legislature, has now been reduced to one year only by the Amendment Act of 1976. That, in my view, clearly indicates that the Legislature itself has been convinced that the period provided for "fair trial" to marriage was unduly long and required circumscription.

9. If the Legislature considered this "fair trial rule" to be of that great importance and of that paramount necessity for the stability of marriage to make it mandatory, it would have inserted similar provisions in the other matrimonial legislations also by way of later amendments. It may be noted that the Legislature has amended rather extensively the Parsi Marriage & Divorce Act, 1936 but without inserting any such analogous provision. If the Legislature really intended the provisions to be that mandatory, it would have a fortiorari inserted such provisions in the other matrimonial legislations, with Article 14 of the Constitution mandating equal protection of laws and Article 15 interdicting any discrimination on the ground of religion. If Hindu Marriages and Special Marriages warranted protection of "fair trial rule", the Christian or the Parsi marriages cannot be discriminated by denial of such protection.

10. The Proviso to Section 14(1) would also indicate that the provisions requiring intervention of one year between the date of marriage and the date of presentation for petition for divorce are not that mandatory. The proviso provides for leave to the parties by the Court to present petition before the expiry of such period on the ground that the case is of exceptional hardship to the petitioner or of exceptional depravity on the pan of the respondent. But the proviso proceeds to provide that at the trial "if 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 the expiry of one year from the date of marriage...". Now a leave obtained by supperesio veri or suggestio falsi should be treated as vitiated to the extent of being non est and the Proviso, therefore, provides that "the Court may dismiss the petition" but without prejudice to any petition which may be brought after the expiry of one year as aforesaid. But since the Court may also decree the petition only with the rider that the decree shall not be operative before one year from the date of the marriage, the petition, though filed before the prohibited period of one year, and that too on

misrepresentation or concealment, stands fully legalised and regularised and the prohibition that the decree shall not be effective until one year from the date of marriage may itself become of no practical effect or utility as in contested divorce cases, a decree is seldom available before that period, notwithstanding the directive in sec. 21-B(2) of the Act.

11. A premature petition presented with leave wrongfully obtained is no better, if not worse, than one presented without leave, and if such a tainted petition can nevertheless be decreed, then I am yet to know why premature petition, without any such taint, cannot be similarly decreed. Once the Legislature has been found to have permitted decreeing of a premature petition founded on leave obtained dishonestly, the provision in Section 14(1) prohibiting presentation of petition before the prescribed period cannot be held to be that mandatory to warrant rigid compliance and must be held to be directory which require substantial compliance only. For, to hold otherwise would amount to rule that law favours the dishonest maneuverer and discriminate against the honesterrant.

12. There is yet another way of looking into the matter. While I do not suggest that the Legislature, or even the Judiciary, goes or can always afford to go in a common-sense course, we must, whenever possible, interpret laws in a common- sense way and by importing a little hit of common sense whenever necessary. Now, Section 14(1) does not at all provide for any waiting period for a matrimonial proceeding for judicial separation which can be decreed only on grounds which justify divorce, nor for dissolution of marriage by a decree of nullity under Sec. 11. Now, while pregnancy of the wife per alium at the time of marriage is a ground for nullifying the marriage under Section 11, pregnancy per alium after the date of marriage is a ground for divorce under Section 13 and, therefore, for judicial separation also under Section 10. Judicial Separation is very often a stepping to a divorce and, more often than not, a decree for judicial separation serves, as the foundation for a decree of divorce under Section 13(1)(i) . From the matrimonial point of view, a post-marital per alium pregnancy is obviously more deprecable than a per-marital one and if the aggrieved husband intending to proceed for divorce on the ground of post-marital per alium pregnancy of the wife is still mandatorily required to give a "fair trial" to the marriage for one year, I do not understand why a husband shall be relieved therefrom when he proceeds to sue the wife for Judicial separation on the same ground or to sue the wife for a declaration of nullity on the ground of per alium pregnancy of the wife at the date of marriage.

13. "Then again, under the provisions of Section 23-A, if one spouse sues the other for, say, restitution of conjugal rights or for Judicial separation, the other spouse may not only oppose the relief sought, but may himself or herself claim for any relief, including divorce, on the ground of the suing spouse's adultery, cruelty or desertion. One can, therefore, easily visualise a case where one spouse has sued the other for restitution or judicial separation within, say, a month from the date of marriage and the other spouse on entering appearance within, say, one month thereafter, makes a claim for divorce in the written statement. As at present advised, I have doubts as to whether the provisions of Section 14(1) would stand in the way of such a counter-claim".

14. At any rate, a petition for Judicial separation is not within the ambit of Section 14 and, as already noted, under Section 13A, the Court, in a divorce proceeding on the ground of cruelty, as is the case

before us, may grant Judicial separation. A petition, even though labelled as one for divorce, should not therefore be rejected "on the ground of having been presented before one year from the date of marriage, but the Court should proceed to trial in order to ascertain whether the materials on record would justify a decree for Judicial separation. As the Supreme Court observed in (4) Pratap Singh v. Shri Krishna Gupta, , the tendency of the Courts towards technicalities or formalities are to be deprecated for it is the substance that must count and must prevail and take precedence over form. A party's bona fide right to judicial separation cannot be scuttled in limine solely on the ground that the party, on legal advice or otherwise, brought himself within the prohibition of Section 14(1) by labelling his or her petition as one for divorce.

15. The Division Bench decision of this Court in Smritkana v. Dilip Kumar AIR 1982 Cal. 247, cannot, on a careful reading, be construed to have laid down any contrary proposition, but, on a meaningful reading, would go to support the ratio of my view. There also the Division Bench, after holding the petition for divorce to be not maintainable on the ground of having been filed within about 6 1/2 months from the date of marriage, nevertheless proceeded to consider as to whether a decree of judicial separation could be awarded. It is true that, as already noted, under Section 13A, a decree for judicial separation can be awarded "on a petition for dissolution of marriage by a decree for divorce". If the Division Bench held Section 14(1) to be that mandatory, then it would have had to hold that the petition, as one for divorce, being beyond the competence of the Court, to entertain, there was no legal and proper "petition for dissolution of marriage by a decree of divorce", on which alone a decree for judicial separation should be awarded under section 13-A.

16. To go back to the decision of the Supreme Court in Pratap Singh v. Shri Krishna Gupta, , some rules are so important and fundamental that they go to the root of the matter and must be treated as mandatory and any non-compliance therewith would vitiate everything. Some are not that fundamental and even though mandatory in form substantial compliance therewith would be "good enough. In the absence of the 'fair trial' rule in the Indian matrimonial legislation for the Christians, the Parsis, the Muslim women and also in the absence of any such provision even in the Hindu Marriage Act or the Special Marriage Act for matrimonial proceedings for judicial separation and for declaration of nullity, and for the other reasons stated herein before, I have not been able to persuade my self to hold that Sec. 14(1) is that mandatory to warrant rejection or dismissal of the petition presented without rigid and strict compliance thereof, I would rather hold them to be directory to require substantial hut not literal, compliance. This aspect was not considered by the Division Bench in Smritkana v. Dilip Kumar, A.I.R.1982 Cal. 247 but there is nothing contrary either to the view I propose to take." (Italics supplied)

13. The aforesaid decision was followed by another learned Judge of the Calcutta High Court in the decision reported in. Chandrima Guha v. Sumit Guha, 1994 (II) D.M.C 6.

14. From the above legal position, it is clear that even without leave, a petition for divorce could be entertained and no separate Order on an application under Sec. 14(1) granting leave is required. The proviso to Section 14(1) of the Act itself is an answer to the contentions raised by learned counsel for petitioner.

15. In this case, when this defect was noted, petitioner was cautious enough to file an application itself, and the same is pending before the Family Court. Therefore, there is substantial compliance of Section 14(1) of the Hindu Marriage Act.

16. While deciding the question whether the respondent will be entitled to any relief on the petition for divorce, the question of exceptional hardship and exceptional depravity also will have to be considered, and taking into consideration the same, the Court may also give such direction as it may think necessary. If by the time the Court takes up the case merits, one year time has also expired, I think the Court can take note of the subsequent events also. In a case whether a decree could be granted subject to the condition that it will not take effect until one year after the date of marriage, it is also clear therefrom that a decree on merits also could be passed if the court takes up the matter for consideration on merits after a period of one year from the date of marriage. The question of dismissing the petition for divorce also will not arise.

17. Now I come to the decision of this Court reported in Meganatha Nayagar v. Shrimathi Susheela, . There, the question that came for consideration was, whether this Court should interfere in an order granting leave under Section 14 of the Hindu Marriage Act. The question now before us was not the matter in issue in that case. Learned Judge (Ramaswami, J.) was considering the scope of evidence that has to be let in while considering an application under Section 14. It was held in that case that the Court has to decide whether the allegations made in the affidavit filed on the application are such that if proved, they would amount to exceptional hardship or depravity. In fact such finding has to be entered on the basis of the affidavit. Learned Judge was also cautious enough to say that at that time the petitioner is not expected to try a petition in advance. Learned Judge further said that he has not merely decide on the basis of the affidavit filed support of the petition whether exceptional hardship or exceptional depravity has been proved. Learned Judge has also enumerated certain guidelines basing on English decisions as to what is exceptional hardship or exceptional depravity.

18. As I said earlier, the above decision may not have any application to the facts of this case.

19. In the result, I find that there is no illegality in the Order of the Family Court issuing summons to the petitioner. The Family Court is right in entertaining the petition for divorce and also is numbering the same. There is no necessity for passing an antecedent Order before entertaining a petition for divorce. I hold that Section 14(1) is only directory and even if there is any procedural irregularity, that may not be a ground to interfere under Article 227 of the Constitution of India. It may also be noted that even if there is any irregularity in the procedure, unless manifest injustice is shown, the court should not interfere in such cases. Petitioner has miserably failed to prove any manifest injustice. The civil revision petition is dismissed, however, without any order to costs.

20. On receipt of a copy of this Order, Family Court below will consider whether the proceedings will have to be stayed until the period of one year from the date of marriage and thereafter proceed to consider the case on merits. Pending C.M.Ps. are closed.