

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

CR No. 6356 of 2018
Date of Decision: 24.09.2018

Anilesh Yadav

.....Petitioner No.1

Versus

Swati Yadav

.....Petitioner No.2

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sanjay Vashisth, Advocate
for the parties.

DEEPAK SIBAL, J. (ORAL)

The present petition has been jointly filed by the husband and wife and is directed against the order dated 29.08.2018, passed by the Additional District Judge, Rewari (for short, the Trial Court), through which an application jointly filed by both the parties to waive off the statutory period of six months as envisaged under Section 13-B (2) of the Hindu Marriage Act, 1955 (for short, the Act), has been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the parties to the present litigation were married on 28.02.2017. However, in just about a month, due to temperamental differences, they separated on 31.03.2017. Thereafter, efforts were made for them to reconcile but when such efforts bore no fruit, through a written compromise dated 22.08.2018 they decided to finally part ways. On the very next day of the compromise i.e. 23.08.2018 a petition under Section 13-B of the Act was filed by them seeking therein divorce by way of mutual consent. In such petition, the parties also filed an

application seeking to waive off the statutory period of six months as envisaged under Section 13-B (2) of the Act, which was dismissed by the Trial Court, occasioning the filing of the present petition.

Mr. Sanjay Vashisth, Advocate, who appears for both the parties, has been heard.

After holding the cooling off period of six months as prescribed under Section 13-B (2) of the Act to be directory, the Hon'ble Apex Court in '**Amardeep Singh VS. Harveen Kaur**' (2017) 8 SCC 746 has held that the object of Section 13-B of the Act was to enable the parties to dissolve their marriage by mutual consent if the same had irretrievably broken down; to enable them to rehabilitate again; that the cooling off period was to safeguard against a hurried decision but if there was otherwise no possibility of reconciliation the same could be waived; the object of Section 13-B of the Act was not to perpetuate a purposeless marriage or to prolong the agony of the parties and that when the Court was satisfied that there was no chance of reconciliation, the Court should not be powerless in enabling the parties to have a better option.

As per directions issued by this Court on 21.09.2018, both the parties came present with whom the issues between them were discussed in detail. Such discussions revealed that they lived together as husband and wife for just about a month and were living separately for the last about one and a half years. During the afore separation period several efforts were made by the elders/family members for them to reconcile which remained futile, leading to a written compromise dated 22.08.2018 through which they decided to finally part ways. As per the compromise all the articles including cash, jewellery etc. which had been given by either party to each

other during the marriage ceremony, have been returned and now nothing remained to be returned by either party. The agreed permanent alimony amounting to ₹17,50,000/- has also been paid to the petitioner-wife by way of a demand draft. The other condition which formed part of the compromise was that the petitioner-wife would pay ₹1,46,00,000/- to the petitioner-husband, after which he would transfer his half share in flat No.6-A, Tower No.3, Hibiseus, Sector-50, Gurugram to the petitioner-wife. This flat as on date is jointly owned by the parties. It is stated before this Court by the petitioner-wife that the payment of ₹1,46,00,000/- would be made to the petitioner-husband within 21 days from today and on the happening of such event, the petitioner-husband undertakes that within one week thereafter, he shall transfer his share of the aforesaid flat in favour of the petitioner-wife. The discussions further revealed that the marriage between them has irretrievably broken down and that there is no chance that they would now reconcile.

The petitioner-husband, who is 30 years of age is MBA from I.I.M. Ahmedabad whereas the petitioner-wife, who is aged 29 years is a Science Graduate in Computer Engineering from Clemson University U.S.A. along with MBA (Entrepreneurship) from Georgia Institute of Technology U.S.A. Thus, they are both well educated, young but mature persons who lived as husband and wife for just about a month and have been living separately for the last nearly one and half years. It is unfortunate that due to differences between them, they have decided to part ways. However, both the parties are young and deserve to explore chances of fresh rehabilitation. The decision to finally part ways has been taken by them after having lived separately for about one and a half years and after several

unsuccessful efforts have been made by them and their family members to reconcile. Thus, such decision cannot be considered to have been taken in a hurry.

Applying the law laid down by the Hon'ble Apex Court in **Amardeep Singh's case** (supra) to the afore facts, the order impugned before this Court is set aside with a direction to the Trial Court to waive off the statutory period of six months as envisaged under Section 13-B (2) of the Act and after the parties have complied with the condition with regard to payment and transfer of the aforesaid flat the Trial Court may proceed with the matter in accordance with law.

The present petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

24.09.2018
sandeep

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