

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

Civil Revision No.818 of 2018.
Decided on:-February 07, 2018.

Ranjit Singh.

.....Petitioner.

Versus

Jagdeep Kaur.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Satbir Rathore, Advocate
for the petitioner.

HARI PAL VERMA, J. (Oral)

Notice of motion.

At this stage, Mr. Chanderkant Thakur, Advocate has put in appearance and filed power of attorney on behalf of the respondent, which is taken on record.

Prayer in this petition filed under Article 227 of the Constitution of India is for quashing the impugned order dated 08.01.2018 (Annexure P-5) passed by learned Additional Civil Judge (Senior Division), Mukerian, whereby in a petition filed under Section 13-B of the Hindu Marriage Act, 1955 (for short, the Act) by the parties jointly for dissolution of marriage by way of a decree of divorce with mutual consent, the application for waiving off the cooling period of six months was dismissed.

It is the admitted case of the parties that they were married on 13.04.2012 according to Hindu rites and rituals, but due to differences in their

temperament and habits, the marriage could not succeed. Therefore, they jointly filed a petition on 26.08.2016 under Section 13-B of the Act seeking dissolution of marriage with mutual consent. But the said petition was dismissed as withdrawn on 20.03.2017 as the terms and conditions mutually agreed between the parties could not be fulfilled. The differences continued between the parties and accordingly, a fresh petition seeking divorce by way of mutual consent under Section 13-B(1) of the Act was filed by the parties on 08.01.2018.

On the first date of hearing i.e. 08.01.2018, statements of the parties were recorded, wherein they have resolved to dissolve the marriage with mutual consent and a compromise deed Ex.P1 was attached with the divorce petition.

Learned counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court in ***Amardeep Singh Versus Harveen Kaur 2017(4) RCR (Civil) 608*** to contend that in the petition seeking divorce with mutual consent, the period mentioned in Section 13-B(2) of the Act is not mandatory, but directory and it is open to the Court to exercise its discretion in the facts and circumstances of each case, where there is no possibility of parties resuming cohabitation and there are chances of alternative rehabilitation. Reliance has also been placed upon ***Anju Garg Versus Vikas Garg 2015(2) RCR (Civil) 524***, ***Kunal Sudhir Sangani Versus Ishita Sangani 2015(2) RCR (Civil) 278*** and judgment of this Court in ***CRM-M-46935 of 2017*** titled as ***Bhupinder Singh and others Versus State of Haryana and another*** decided on 18.12.2017.

On the other hand, learned counsel for the respondent states that since the petition under Section 13-B(1) of the Act has been filed by the parties jointly, the respondent has no objection in case the statutory period of six months is waived off, enabling the matrimonial Court to pass a decree of divorce.

I have heard learned counsel for the parties.

There is no dispute that the marriage between the parties was solemnised on 13.04.2012 and it is on account of some temperamental differences, the parties could not stay together as husband and wife and a petition under Section 13-B of the Act was filed by them on 26.08.2016, though it was subsequently withdrawn on 20.03.2017. The withdrawal of earlier petition is based on certain terms and conditions having not been complied by the parties. Now, the parties have filed another petition seeking divorce by way of mutual consent with the averments that they have been residing separately since May, 2015 with a prayer for waiving off the cooling period of six months.

Taking into consideration the fact that the parties are already in litigation as the earliere petition was filed by them on 26.08.2016 though withdrawn, but it is established that they are not living together as husband and wife in proper atmosphere. Even otherwise, learned counsel for the respondent-wife has not contested the petition and has rather stated that it is after a long debated decision, the parties have decided to approach the civil Court so as to get a decree of divorce by way of mutual consent.

Therefore, in view of law laid down by the Apex Court in *Amardeep Singh Versus Harveen Kaur’s case (supra)*, the present petition is allowed and the mandatory period of six months is waived off. The trial Court shall accordingly pass an appropriate order.

February 07, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No