

HIGH COURT OF CHHATTISGARH AT BILASPUR**WP227 No. 708 of 2019**

Pankaj Parakh, S/o Shri Inderchand Parakh, Aged about 37 years,
R/o House No. D-101, Sector – 5, Devendra Nagar, Raipur, District
Raipur, Chhattisgarh.

---Petitioner

Versus

Smt. Sandhya Parakh, W/o Shri Pankaj Parakh, Aged about 35 years,
Through : C/o Shri Gopal Sultaniya, R/o Marwadi Mohalla, Begusarai,
Bihar.

---- Respondent

For Petitioner : Mr. S.M. Ali, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

19/09/2019

1. Heard.
2. Mr. S.M. Ali, learned counsel for the petitioner submits that the joint application filed by the petitioner as well as the respondent for mutual divorce under Section 13 (B) of the Hindu Marriage Act, 1956 has been adjourned for 04/01/2020 and has not been considered in its proper perspective. He further submits that cooling off period of 6 months can be waived under certain circumstances, therefore, petitioner may be allowed to file suitable application before the family Court and the family Court be directed to consider the said application in accordance with law in light of the decision rendered by

the Supreme Court in the matter of **Amardeep Singh Vs. Harveen Kaur**¹.

3. I have heard learned counsel for the petitioner at length.
4. In the matter of **Amardeep Singh** (supra), the Supreme Court has held as under :-

“Applying the above to the present situation, we are of the view that where the Court dealing with a matter is satisfied that a case is made out to waive the statutory period under Section 13-B(2), it can do so after considering the following :

- i) the statutory period of six months specified in Section 13-B(2), in addition to the statutory period of one year under Section 13-B(1) of separation of parties is already over before the first motion itself;
- ii) all efforts for mediation/conciliation including efforts in terms of Order XXXIIA Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Courts Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts;
- iii) the parties have genuinely settled their differences including alimony, custody of child or any other pending issues between the parties;
- iv) the waiting period will only prolong their agony.

19. The waiver application can be filed one week after the first motion giving reasons for the prayer for waiver.

20. If the above conditions are satisfied, the waiver of the waiting period for the second motion will be in the discretion of the concerned Court.

21. Since we are of the view that the period mentioned in Section 13-B(2) is not mandatory but directory, it will be 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.”

5. Considering the submissions made by learned counsel for the petitioner, learned family Court, Raipur is directed to consider the application filed by the petitioner, if any, in light of the aforesaid decision rendered by the Supreme Court and pass a suitable order therein. It is made clear that this Court has not expressed any opinion on the merits of the matter.
6. With the aforesaid observation/direction, this writ petition stands disposed of. No order as to cost(s).
7. A copy of this order be sent to the concerned family Court by e-mail/fax.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet