

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR-1396-2020

Date of Decision: 05.03.2020

Vikas Saini

... Petitioner

Versus

Ravneet Kaur Gill

... Respondent

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. Vikas Kuthiala, Advocate,  
for the petitioner.

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**RAJIV NARAIN RAINA, J.(Oral)**

1. This petition has been filed invoking Article 227 assailing the order dated 14.2.2020 by the Additional District Judge, Mohali exercising powers of the Family Court in a petition filed jointly by Vikas Saini son of Sh. K.C. Saini (husband) and Ravneet Kaur Gill (wife) dismissing their application for waiver of statutory period of six months for divorce by mutual consent presented under Section 13-B of the Hindu Marriage Act, 1955 (for short 'HMA'). They want dissolution of marriage by decree forthwith.

2. When this matter came for hearing for the first time on 14.2.2020, this Court directed the parties to appear in person in Court. They both are present today. In response to the query of the Court whether they would like to part ways today itself they have expressed desire to declare them divorced immediately. They both are *ad idem* that after a marriage of

14 years, of which period the couple have lived separately since October, 2014, they and their families are more than convinced that there is no hope left or any possibility of parties resuming cohabitation.

3. They assert that there is no scope left for a reconciliation of their differences. They do not want any mediation. They are their own mediators for which they need no external help as it would be an empty formality. Accordingly, I have ruled out any last attempt in the mediation centre annexed to this court. The marriage has not brought forth any issue and that takes care of many problems which could have arisen, had there been a child born to the marriage.

4. The learned Family Court has dismissed the application, refusing to waive the minimum statutory period of six months specified in Section 13B(2) by adopting the line of the thinking that there is nothing to suggest that the parties to the petition have ever made any effort through Court for getting their matter settled or through Mediation and Conciliation before filing the present petition.

5. There can be no doubt that the first effort by the Court under the HMA is for attempting reconciliation, but it is not true that in all cases effort is required to be made through Court alone or through the process of mediation if it is otherwise satisfied that it would be mutually beneficial to them and their respective families to avoid such recourse which may bring nothing concrete except wastage of time when the minds are set in one direction.

6. Both are educated adults who have decided to part ways and it is not for the court to put any obstruction on their freedom when that is the

path they have consciously chosen to follow. The learned Family Court has noticed the law in Amardeep Singh vs. Harveen Kaur, 2017(8) SCC 746 (SC) but has not understood the true philosophy of the judgment which was a great and pragmatic step forward by the Supreme Court to serve conditions which may justify waiver of the statutory period of six months' moratorium specified in the HMA. Five years of irreconcilable differences and the separation they have lived with and my interaction with them in court which shows them to be self assured, that this is sufficient for me to reasonably conclude that there is no likelihood of success in the marriage when it has broken down and their hearts are split asunder turning it into empty shells for each other.

7. The Supreme Court has advised in the judgment (supra) courts to remain open and alive to exercise their discretion in the given facts and circumstances of each case where there is found not a shimmer of possibility of retrieval of marriage, then they may abridge the time period to make way for divorce. Mr. Vikas Saini is 43 years old while Ms. Ravneet Kaur Gill is 39. Both are old enough to know what they are doing.

8. Having interacted with them in Court and having asked them to speak their mind out freely in court if they want, I have no doubt left from the resolute stands they have quietly taken in a dignified manner without a trace of rancour in their faces against each other. Their demeanour in Court supports my view with their informed decision and deserves to be honoured without going through the rituals in Section 13B (2) of the HMA.

9. It would hardly serve any useful purpose to remand the case to the learned Family Court to pass a fresh order [an option I had] for the

reason that it has exercised its discretion in a particular manner which although is not illegal but which has not appealed to this Court on the facts having talked to both in Court and, therefore, I would not like to embarrass that court by remanding the case for passing a fresh order, since this Court exercises concurrent power to do so, and to do so today itself.

10. Besides, remitting the matter to the Family Court would further waste time in Mohali, to save which, this petition apparently has been filed to obtain speedy relief. That course would also defeat the very purpose of this urgent petition to which third party interest is not involved. The public have no concern with this petition or society their marriage, as it is a personal matter. Neither is this an adversarial litigation as both parties are on the same page of which position this court is satisfied after speaking to them. The marriage of the parties was solemnized under the Hindu law and are governed by the provisions of the HMA.

11. They have no subsisting financial claims against each other. Or if they have, I assume them amicably settled among themselves. There is no visible acrimony between them to permanently split for their own personal good as they must have reflected on the move before approaching the Family Court and before coming to this Court and even presently before me. The court is satisfied about their bona fides and free consent of the parties in their final decision. They are happy to part ways. May God bless them.

12. Accordingly, this petition is allowed. The impugned order is set aside. The balance period of six months is waived. The present petition is treated as the second motion petition. The marriage between the parties is

dissolved by granting a decree of divorce. The couple shall henceforth no longer be called husband and wife.

13. Decree of divorce by dissolution of marriage be prepared by office, to take effect from today.

(RAJIV NARAIN RAINA)  
JUDGE

05.03.2020  
Satyawar

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|---------------------------|--------|
| Whether speaking/reasoned | Yes    |
| Whether reportable        | Yes/No |