

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

**FAO No.2794 of 2020 (O&M)
Date of Decision: August 25, 2020**

Khusboo Bindra

...Appellant

VERSUS

Akshdeep

...Respondent

**CORAM: HON'BLE MR. JUSTICE S.N.SATYANARAYANA
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. D.S. Patwalia, Senior Advocate, with
Mr. Adityajit Singh Chadha, Advocate,
for the appellant.

Mr. Gurdit Saini, Advocate,
for the respondent.

S.N.SATYANARAYANA, J.

The second petitioner in HMA-342-2020 on the file of Addl. District Judge, SAS Nagar, Mohali, has come up in this appeal in FAO No. 2794 of 2020 in impugning the order dated 30.07.2020 passed on the file of aforesaid Court. The brief facts leading to this appeal are as under:-

The appellant herein is the second petitioner before the District Court. In the said proceedings, the first petitioner Akshdeep is her husband. Their marriage was solemnized on 04.12.2017 at Gurudwara Shri Guru Arjun Dev Singh Sabha, Sunny Enclave, Sector-125, Tehsil Kharar, District

SAS Nagar (Mohali), according to Sikh/Hindu rites. Thereafter it is stated

that, they lived together as husband and wife till January 2019 and that there are no issues to them in the wedlock. It is contended that, certain disputes arose between them, which were not reconcilable, resulting in their marriage being broken irretrievably, hence they started living separately. In the meanwhile, the appellant herein moved over to Malaysia to pursue her education in Medical Science.

It is in this background, both parties mutually agreed to part their ways and to proceed independently in their respective life, seeking decree of divorce by mutual consent. In that behalf, there was a meeting between the parties in the presence of their elders, where the terms of settlement arrived at for seeking decree by mutual consent was reduced in to writing vide, settlement deed dated:18.06.2020. In terms thereof the joint petition seeking decree of divorce by mutual consent was filed under Sec.13-B of the Hindu Marriage Act (for short, 'the Act').

The joint petition filed by them before the District Court, Mohali is in HMA-342-2020. In the said proceedings an application was filed seeking waiver of mandatory period for grant of divorce under Section 13-B of the Act. The said application was taken up for consideration, where the statement of the parties was recorded on first motion which was on 30.07.2020. On the same day their prayer for waiver of mandatory waiting period of six months was rejected. The said order of rejection is subject matter of challenge before this Court in this appeal by the second petitioner Khusboo Bindra.

In this appeal she would contend that the court below has committed gross violation of certain directions and guidelines issued by the

AIR 2017 (SC) 4417. According to her the court below while interpreting Section 13-B (2) of the Act, has not bothered to look into the circumstances under which the said application was filed. It has failed to appreciate that *“the parties have genuinely settled their differences including alimony and that any delay in considering their prayer for annulment of their marriage would adversely affect them”*. The Appellant would further contend that, she is proceeding to Malaysia in the end of this month and in the Covid Pandemic situation, it would be difficult for her to come back after six months for the sake of the joint petition filed by herself and another petitioner Akshdeep. That, if the mandatory waiting period is not waived and if she has to come once again to India, for the said purpose it would adversely affect her studies and also would put her to great inconvenience.

Heard, learned counsel for the parties, perused the order impugned and as well as the grounds urged in this appeal. On appreciation of the same it is observed that, there is infact lapse on the part of learned Additional District Judge, Mohali, in deciding the application of the petitioner for waiver of mandatory period on the first day of motion, instead of granting a week's time to them to move the application for waiver of mandatory period of six months. However, the same is technical in nature and would not adversely affect the rights of the parties.

In fact, the court below has rightly appreciated the difficulty faced by the appellant herein, in not being able to appear before the court on completion of mandatory period of six months. It is in this background it has observed in the order impugned that, the appellant herein after completion of six months need not personally appear before the District

Court, where the petition for decree of divorce by mutual consent is pending. The court below has observed that, it is open for the appellant herein to submit her statement either for pursuing the prayer for decree of divorce or for withdrawal of the petition with an intention to continue the marriage between the parties could be conveyed either through video conference or through any other media without personally coming over to India for the said purpose. .

In the aforesaid circumstance, we are of the considered opinion that the order impugned does not merit interference accordingly this appeal is dismissed. While doing so we further observe that; the appellant herein who is proceeding to Malaysia either by the end of this month or in near future need not personally appear before the learned District Judge, Mohali in HMA-342-2020 on the next date of hearing fixed as 1st of February 2021 to record her statement either to seek decree of divorce by mutual consent or for withdrawal of the petition; she may participate in the said proceedings either through video conference, or through Whatsapp call as observed by the learned District Judge, Mohali in the order impugned.

As the main appeal is dismissed, all the applications pending are rendered infructuous. Therefore, all such applications stand disposed of accordingly.

(S.N.SATYANARAYANA)
JUDGE

(ARCHANA PURI)
JUDGE

August 25, 2020
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No