

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2199-2020

Date of Decision:-02.09.2020.

Sangeeta Singh

.....Petitioner No.1

Versus

Pardeep

.....Petitioner No.2

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Ms. Parmeet Kaur, Advocate for petitioner No.1.

Mr. Vicky Sharma, Advocate for petitioner No.2.

SANJAY KUMAR, J. (Oral)

The petitioners in this revision sought dissolution of their marriage by way of a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act of 1955'), on the ground of mutual consent. This divorce petition was filed in June, 2020. They filed an application therein to waive the statutory waiting period of six months prescribed under Section 13-B(2) of the Act of 1955. By the order dated 06.08.2020 (Annexure P-8), the learned Additional District Judge, SAS Nagar, Mohali, dismissed the said application. Aggrieved thereby, the couple filed this revision.

It appears that the next date fixed for hearing of the case before the learned Additional District Judge is 05.01.2021.

The petitioners got married in November, 2010 but they have been living separately since January, 2018. According to them, there is no possibility of re-conciliation and they are firm in their resolve to get divorced.

In *Amardeep Singh Vs. Harveen Kaur [2017 (8) SCC 746]*, the Supreme Court held that the waiting period mentioned in Section 13-B(2) of the Act of 1955 is not mandatory and only directory. It was observed that it would be open to the Court to exercise its discretion on the strength of the facts and circumstances of the individual case and waive the statutory period. Broadly, such waiver can be considered if : (i) the statutory period of six months specified in Section 13-B(2), in addition to the statutory period of one year of separation of parties under Section 13-B(1) is already over before the first motion itself; (ii) All efforts for mediation/ conciliation to re-unite the parties have failed and there is no likelihood of success in that direction by further efforts; (iii) the parties have genuinely settled their differences, including alimony, child custody or other pending issues and; (iv) the waiting period will only prolong their agony.

It appears that the petitioners have executed a memorandum of understanding on 10.06.2020 settling all issues and there is no dispute even with regard to the custody of their minor daughter. Further, they are both over the age of 30 and are educated. They would therefore be presumed to know as to what would be in their best interest.

Given the aforesaid circumstances, this Court is of the opinion that this was a fit case for the learned Additional District Judge to exercise his discretion in their favour, in terms of the law laid down by the

Supreme Court, referred to *supra*, and waive the waiting period.

The revision is accordingly allowed setting aside the order dated 06.08.2020 (Annexure P-8) passed by the learned Additional District Judge, SAS Nagar, Mohali in CIS No.HMA-236 of 2020, refusing to waive the statutory waiting period. In consequence, the statutory waiting period of six months shall be duly waived. The parties are at liberty to approach the learned Additional District Judge, SAS Nagar, Mohali, for advancement of their case, on the strength of this order, and seek appropriate further orders.

(SANJAY KUMAR)
JUDGE

September 02, 2020.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.