

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.2500 of 2020

Date of decision: 12.11.2020

Veena Rani

..... Petitioner No.1

V/s.

Surjeet

..... Petitioner No.2

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Amit Choudhary, Advocate, for the petitioners.

Sanjay Kumar, J.(Oral)

This revision, arising under Article 227 of the Constitution, was jointly filed by a wife and husband aggrieved by the refusal of the jurisdictional Family Court to waive the statutorily stipulated period of six months for grant of a divorce by mutual consent.

The petitioners got married on 11.10.2018 as per Hindu rites and customs. They however started living apart from 13.10.2018 itself, that is, just two days after the marriage. Earlier, they filed a petition in HMA No.720 of 2019 on the file of the learned Principal Judge, Family Court, Fatehabad, under Section 13-B of the Hindu Marriage Act, 1955 (for short, 'the Act of 1955') seeking a decree of divorce by mutual consent. However, the second petitioner herein, viz, the husband, seems to have had second thoughts leading to withdrawal of the petition on 24.10.2019. Thereafter, the first petitioner herein, viz, the wife, filed a regular divorce petition under Section 13(1)(i)(a) of the Act of 1955 before the Family Court at Fatehabad.

However, during its pendency, the petitioners seem to have come to a consensus with regard to dissolving their marriage. The first petitioner accordingly withdrew the divorce petition filed by her on 24.09.2020.

The petitioners then filed a fresh petition before the learned Principal Judge, Family Court, Fatehabad, viz, HMA No.461 of 2020, seeking dissolution of their marriage by way of a mutual consent divorce under Section 13-B of the Act of 1955. Their first motion statements were recorded by the Court on 24.09.2020 and the matter was adjourned to 25.03.2021 for recording their second motion statements.

While so, the petitioners sought waiver of the statutory waiting period and asked for recording of the second motion statements on an earlier date. By order dated 15.10.2020, the learned Principal Judge, Family Court, Fatehabad, disallowed their plea. Hence, the present revision.

Perusal of the order under revision demonstrates that the learned Principal Judge, Family Court, Fatehabad, was aware of the legal position that the statutory waiting period of six months is not mandatory, in the light of the judgment of the Supreme Court in '**Amardeep Singh V/s. Harveen Kaur**' [2017 (8) SCC 746]. However, the learned Judge was of the opinion that as the second petitioner, the husband, had second thoughts during the pendency of the first mutual consent divorce petition, it would be appropriate that the statutory waiting period elapse before recording the statements of the parties on second motion.

The vacillating conduct of the second petitioner-husband supports the opinion expressed by the Family Court, but it must be remembered that the petitioners stayed together for a mere two days after

their marriage and have been living apart since October, 2018. The lapse of two years since their separation clearly shows that there is no possibility of re-conciliation at this stage. It may also be kept in mind that when marital relations sour, ego issues are liable to crop up between the spouses leading to attempts at one-upmanship between them. This could account for the turn of events in the first case.

The very fact that the petitioners have filed two divorce petitions earlier speaks for itself. That being so, insisting upon the expiry of the statutory waiting period of six months does not serve the intended purpose of hoping for a re-conciliation between the spouses. As the first petitioner-wife is keen on getting remarried immediately, putting her through the motions at this stage does not serve any purpose.

The revision is accordingly allowed, setting aside the order dated 15.10.2020 (**Annexure P-6**) passed by the learned Principal Judge, Family Court, Fatehabad, and holding that this is a fit case for grant of waiver of the statutory waiting period. The petitioners are at liberty to approach the learned Principal Judge, Family Court, Fatehabad, for advancement of their case for recording their second motion statements forthwith and for necessary further steps to be taken thereafter.

There shall be no order as to costs.

(SANJAY KUMAR)
JUDGE

12.11.2020

rakesh

whether speaking/non speaking : Yes/no

whether reportable/non reportable : Yes/no