

HIGH COURT OF CHHATTISGARH AT BILASPUR**WP227 No. 638 of 2021**

1. Gaurav Bansal S/o Shri Laxminarayan Bansal Aged About 25 Years R/o House No. 1/12, Dindyalpuram, New Khursipar, Bhilai, Tehsil And District Durg Chhattisgarh.
2. Smt. Subhi Bansal W/o Shri Gaurav Bansal Aged About 26 Years D/o Shri Babulal Danodia R/o Shiv Medical Shivanandanpur, Post- Vishrampur, Onkarbahara, District Surajpur, Chhattisgarh.

---- Petitioners**Versus**

Nil

---- Respondent

For Petitioners : Mr. Ishan Verma along with Mr. Manharan Lal Sahu, Advocates

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****22.11.2021**

1. Heard on the petition which has been brought aggrieved by the order dated 09.11.2021 passed by the learned Family court Durg dismissing the application filed by both the parties praying to waive off the cooling period of six months as provided under Section 13-B(2) of the Hindu Marriage Act 1955 (hereinafter referred to as 'Act 1955').
2. It is submitted by the learned counsel for the petitioners, that the marriage was solemnized on 29.01.2020 according to Hindu rights and rituals, but because of ideological differences between them, both started living separate from 20.04.2020. The application for divorce on mutual consent was filed by them on 24.08.2021. The learned Court made an attempt to mediate and resolve the dispute between the parties on the same date which failed. Another round of mediation was held on another date i.e. on 22.10.2021 which failed again. The petitioners then moved an application for waiving off period on 08.11.2021 which has been dismissed by the impugned order. It is submitted that in view of the judgment of Supreme Court in the case of **Amardeep Singh vs.**

Harveen Kaur reported in ***2017 (8) SCC 746*** all the requirements have been fulfilled, therefore the learned Family Court should have passed the order in favour of the petitioners. As such, the impugned order is unsustainable and the prayer has been made for grant of relief as prayed.

3. Considered on the submissions. According to the facts present, from the date the parties started living separate the statutory period of one year as required under Section 13-B(1) of the Act 1955 was completed on 19.04.2021. Further the statutory period of six months which is cooling period as provided under Section 13-B(2) of the Act 1955 has also been completed on 19.10.2021. The effort of mediation has failed. Although there is no statement in the application regarding the settlement of disputes, but it is mentioned that the petitioners do not have any child and the counsel who is representing both the parties submits that the respondent wife has made a statement before the Family court that she will not make any demand of alimony or maintenance, hence after considering on these facts and the submission made by the counsel for the petitioners, this petition is disposed off at the motion stage. The requirements as per the direction of the Supreme Court in the case of ***Amardeep Singh*** (supra) are completed, therefore, the application filed by the petitioners stands fit to be allowed. Learned Family court has committed error in passing the order, hence, the impugned order is set-aside. The application filed by the petitioners jointly praying to waive off the cooling period as provided under Section 13-B(2) of the Act 1955 is allowed. The learned Family court is directed to proceed with the case in accordance with the law and dispose off the same at the earliest.
4. Accordingly, the petition stands disposed off.

Sd/-
(**Rajendra Chandra Singh Samant**)
Judge