

CR-72 of 2021 (O&M)

Date of Decision: 18.01.2021.

Sombir

...Petitioner No.1

And

Preeti

...Petitioner No.2

CORAM: HON'BLE MR JUSTICE ARUN MONGA

Present : Mr. Sunil Saharan, Advocate
for the petitioners.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

1. This is a petition filed under Article 227 of Constitution of India seeking to set aside the order dated 22.12.2020 (Annexure P-2), passed by Principal Judge, Family Court, Hisar, whereby, application for waiver of statutory period of 06 months filed in a joint petition under Section 13-B of the Hindu Marriage Act, has been dismissed. Reliance is placed on the guidelines laid down by Supreme Court in case titled as “Amardeep Singh v. Harveen Singh”¹.

2. Succinctly, brief facts of the case are that marriage of the parties was solemnized on 12.12.2018 at Jhajjar according to Hindu Rites. The parties cohabited as husband and wife at Hisar. No child was born out of the said wedlock. Due to temperamental differences, both the parties started living separately since August, 2019.

3. There being no chance of reconciliation, despite efforts, the parties, therefore, filed a joint petition for dissolution of their marriage by way of mutual consent, under Section 13-B of HMA before the Family Court on 13.10.2020. All the disputes pertaining to their matrimonial life were settled between the parties. At the time of first motion hearing of the case on

13.12.2020, their statements were also recorded and the case was adjourned to 19.04.2021 for second motion hearing. Meanwhile, re-marriage of petitioner No.2 was also on the cards, but the same could not be finalized due to pendency of mutual consent petition for divorce jointly filed by the petitioners. Resultantly, both the parties moved an application for waiver of statutory period of six months, which has been dismissed by the Family Court vide impugned order dated 22.12.2020 (Annexure P-2).

4. Learned counsel for the petitioners submits that the Court below has not appreciated the facts and circumstances of the case, in the right perspective, while declining waiver of the period of 6 months. Once the parties have amicably consented to part their ways, they cannot be forced to wait for another six months, is the contention. Counsel relies on judgment rendered by Supreme Court in case titled as “Amardeep Singh v. Harveen Singh (supra)”, to contend that given the peculiar circumstances of the case, both the petitioners ought to have been exempted from the period of six months for recording their second statement. The joint application filed by them ought to have been allowed in terms of the judgment, *ibid*.

5. I have heard learned counsel for the petitioners and have gone through the case file.

6. Keeping in view the averments made in the petition and in view of the ratio in Amardeep Singh’ case (supra), I am of the view that the approach adopted by the Court below, to insist waiting period of six months for second motion, was uncalled for. The marriage between the parties has irretrievably broken. They have decided to part their ways amicably. Opportunity to live their lives in the manner they like, including remarriage, cannot be denied. In the peculiar facts herein, insisting to wait to another six months would result in adding to their woes. Consequently, the revision petition is allowed. The order

dated 22.12.2020 (Annexure P-2) is set-aside. The Principal Judge, Family Court, Hisar shall entertain the joint petition filed by the petitioner and the respondent under Section 13-B of HMA by waiving off six months period and proceed with the petition by recording the respective statements of parties and dispose of the petition on merits, in accordance with law.

January 18, 2021
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No