

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

108-CR-659-2021 (O&M)
Date of Decision: 17.03.2021

Jatinder Singh

... Petitioner

VS.

Lakhbir Kaur

... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Deepak Arora, Advocate for the petitioner

Mr. GS Rawat, Advocate for the respondent

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of restrictions due to outbreak of COVID-19 pandemic.

The prayer in this civil revision petition filed by Jatinder Singh *inter alia* is to set aside the impugned order dated 12.03.2021 (P2) passed by the ld. Additional Principal Judge, Family Court, Gurdaspur vide which ld. Court has refused to exercise its jurisdiction pertaining to condoning the period of 6 months as provided under Section 13-B(2) of the Hindu Marriage Act, 1955 on the ground that “*the requisite conditions to waive off the statutory period of six months are not attracted in the case in hand*”.

Learned counsel for the petitioner submits that the parties have already settled their respective issues and material circumstances coming in the way of the petitioner.

The learned Family Court has now adjourned the case to 17.09.2021 for recording statements of the parties in the second motion.

It is averred that the petitioner solemnized marriage with the respondent on 14.02.2014. One girl child was born out of the said wedlock on 15.10.2015 who is presently in the custody of the respondent-wife. It is further submitted that the parties are living separately since 01.11.2016 and there is no chance of reconciliation and therefore the parties have now settled to dissolve their marriage.

Learned counsel for the petitioner has placed reliance upon the judgment of this Court passed in **CR-2199-2020 (Sangeeta Singh vs. Pardeep)** decided on 02.09.2020 wherein recourse was taken to the Hon'ble Supreme Court judgment in **Amardeep Singh vs. Harveen Kaur (2017) 8 SCC 746**. The relevant extracts of **Sangeeta Singh's** case is reproduced as under:-

“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 reunite 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.

xxxx xxxx xxxx
xxxx xxxx xxxx

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.”

Counsel for the petitioner submits that the petitioner had been living abroad and now the family members have fixed the marriage of the petitioner as on 19.03.2021 and as such all rituals are going on.

Counsel for the respondent submits that respondent-wife has no objection if the prayer is allowed and final decree pertaining to the divorce after condoning the due period of 6 months as per Section 13-B of the Act is passed by the Family Court.

Keeping in view the yardstick laid down by the Hon'ble Supreme Court in **Amardeep Singh** as also the peculiar circumstances narrated by the petitioner, this revision petition is allowed; the order dated 12.03.2021 (P2) passed by the ld. Additional Principal Judge, Family Court, Gurdaspur is set aside and consequently, it is directed that the statutory waiting period of 6 months shall be duly waived off. The parties are at liberty to approach the ld. Additional Principal Judge, Family Court, Gurdaspur for advancement of their case on the strength of this order and seek appropriate orders.

So ordered.

17.03.2021

Vvishal

1. Whether speaking/reasoned?

2. Whether reportable?

(Girish Agnihotri)
Judge

Yes/No

Yes/No