

Ravi Dubb

.....Petitioner

versus

Neha Atrey

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ashish Soi, Advocate
for the petitioner

Mr. Hurnoor Sidhu Jakhepal, Advocate
for the respondent

Sudhir Mittal, J. (Oral)

The parties to this revision petition seek dissolution of their marriage under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act'). They filed an application dated 07.01.2021 for the said purpose which was followed by application dated 09.03.2021 for waiving the period of six months provided under Section 13-B(2) of the Act but the said application had been dismissed vide the impugned order dated 01.04.2021.

Learned counsel for the parties submit that marriage was solemnized on 07.04.2014. Differences erupted soon thereafter and no child had been born out of the wedlock. This shows that the parties have been estranged for a very long period. Although on the record, they separated w.e.f. 10.09.2019, they have actually been separated for much longer. They have settled all their differences and being mature persons they have evaluated the consequences of their action. There is no possibility of them getting together again and, thus, the learned Principal Judge, Family Court, Ludhiana was in error in not relying upon the judgment passed in *Amardeep Singh vs. Harveen Kaur, 2017(4) RCR (Civil) 608*.

In *Amardeep Singh (supra)* it has been held that the statutory period of six months can be waived by the Family Court in case the parties have already been separated for over 1 ½ years and all efforts for mediation and conciliation have failed. Further, disputes and differences have been genuinely settled and waiting for six months would only prolong their agony. From the facts of this case it is evident that all the conditions aforementioned stand fulfilled. There is no child born out of the wedlock even though marriage was solemnized way back on 07.04.2014. This leads to the inference that the parties have been separated for much more than one year and six months. Further the parties are aged 28 years and 29 years respectively and are mature enough to analyze the consequences of their action. There is nothing on record to indicate that any dispute between them is pending and, thus, the impugned order can not stand scrutiny. The only reason given is that the concerned Court exercises discretion in the matter. This reason is not sufficient for rejecting the prayer for waiver of six months statutory period.

For the aforementioned reasons, the revision petition is allowed and impugned order dated 01.04.2021 is set aside. Statutory period of six months provided under Section 13-B(2) of the Act is waived. The parties are directed to appear before the trial Court on 30.04.2021 at 10.00 a.m. for recording of their statements in support of the second motion.

April 23, 2021

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No