

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-1519-2021(O&M)

Date of decision:-12.8.2021

Amandip Kaur

...Petitioner

Versus

Bhagat Singh Gill through his special power of attorney Ranjit Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sherry K. Singla, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

Case taken up through video conferencing.

The grouse of the petitioner Amandip Kaur is that she along with her husband Bhagat Singh Gill, impleaded as respondent in this petition, had filed a petition for grant of divorce by mutual consent before Principal Judge, Family Court, Malerkotla, which came up for hearing on 13.7.2021; thereafter an application was filed to waive off the waiting period of six months; however learned Principal Judge, Family Court, Malerkotla vide impugned order had declined the said request observing that there is no exceptional circumstance pointed out by learned counsel for the petitioners for dispensing with the statutory period of six months.

The petitioner is aggrieved by the said order.

Notice of motion.

Mr.M.S. Yadav, Advocate has appeared on behalf of the respondent and accepts notice on his behalf. He has supported the prayer made in this petition contending that no useful purpose is going to be served by adjourning the petition under Section 13-B of Hindu Marriage Act, 1955 to a date for more than six months.

Learned counsel for the petitioner has pressed into service judgment **Amardeep Singh Versus Harveen Kaur, 2017(4) RCR(Civil) 608** wherein it was observed that in a petition for divorce by mutual consent under Section 13-B of Hindu Marriage Act, 1955, the period mentioned in Section 13B(2) is not mandatory but directory and it is open to the Court to exercise its discretion in the facts and circumstances of each case where there is no possibility of the parties resuming cohabitation and there are chances of alternative rehabilitation. In that way, the statutory period can be waived. The factors, which may be taken into consideration for waiving off period of six months have been enumerated in the said judgment, which are as under:

- (i) the statutory period of six months specified in Section 13B(2), in addition to the statutory period of one year under Section 13B(1) of separation of parties is already over before the first motion itself;*
- (ii) all efforts for mediation/conciliation including efforts in terms of Order 32A, Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Court Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts;*
- (iii) the parties have genuinely settled their differences including*

alimony, custody of child or any other pending issues between the parties; and

(iv) the waiting period will only prolong their agony.

Learned counsel for the petitioner has further relied upon judgment passed by a Co-ordinate Bench of this Court in CR-2199-2020 titled **Sangeeta Singh and Pardeep** decided on 2.9.2020 wherein under similar circumstances when the trial Court had refused to dispense with waiting period of six months, this Court had set aside the order, consequently statutory waiting period of six months was waived.

Learned counsel for the petitioner has contended that petitioner Amandip Kaur is aged about 34 years, whereas her estranged husband Bhagat Singh Gill is 53 years old, both of them are residing separately for more than four years; as a matter of fact respondent had left for America after one week of the marriage and the marriage between the parties has broken down irretrievably with no chances of their resuming the cohabitation.

Learned counsel for the respondent does not controvert such contention.

After hearing learned counsel for the parties, going through the record and perusing the judgments referred to by learned counsel for the petitioners, I find that it is a case of broken marriage between the spouses with little chances of their resuming cohabitation and living together. The spouses are stated to have settled all the issues between them in an amicable manner and asking them to wait for a period of six months shall only amount to prolong their agony.

Therefore, the petition is accepted. The impugned order is set aside to the extent of refusing to waive off the statutory period of six months. The parties may approach the Court of Principal Judge, Family Court, Malerkotla by moving an application for preponing the date of hearing and then the Court may pass appropriate order in light of the order passed in this revision petition.

12.8.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No