

IN THE HIGH COURT OF PUNJAB AND HARYANA ATCHANDIGARH

CR-1930-2021

Date of Decision: September 23, 2021

GURMEET KAUR

..... Petitioner no.1

And

GURDIP SINGH

..... Petitioner no.2

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Parunjeet Singh, Advocate
for the petitioners.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

This revision petition has been filed by Gurmeet Kaur and Gurdip Singh, challenging order dated 24.08.2021 (Annexure P-3), passed by the learned Principal Judge, Family Court, Ludhiana, wherein their application for waiver of statutory period of 6 months under Section 13(B) of the Hindu Marriage Act, 1955, has been rejected.

Parties duly identified by their counsel have joined proceedings through video conferencing and submit that there is no possibility of their living together. They have been residing separately since the year 2017. Despite various attempts towards mediation & conciliation, they could not cohabit with each other. Therefore, they decided to part ways. One daughter born out of the wedlock, it is stated, is in the custody of petitioner no.1 and she would retain her custody to which petitioner no.2/husband has

no objection. The entire matter, it is submitted, has been settled between them and in case of waiver of the period of six months is not allowed, it would prolong the agony and impact further settlement between the parties.

Having heard learned counsel for the petitioners and the petitioners themselves through video conferencing, it is apparent that there is no possibility of resumption of cohabitation between the parties, who have been admittedly living separately since July 2017. Petitioner Gurmeet Kaur has specifically stated that all the matters including maintenance and custody of the minor daughter stand settled. Both the husband and wife have also expressed in no uncertain terms that despite earnest efforts by relatives and others, reconciliation between them is not possible.

The Hon'ble Supreme Court in ***Amardeep Singh Vs. Harveen Kaur, 2017(4) RCR (Civil) 608***, has observed that a Court can waive the statutory period, under Section 13-B(2) of the Hindu Marriage Act, after considering the following:-

- 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 XXXIIA Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Courts 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;*
- iv. *The waiting period will only prolong their agony.*

It is specifically observed that the period mentioned in Section 13(B)(2) of the Act, 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 parties resuming co-habitation and there are chances of alternate rehabilitation.

In the present case, there is no possibility of any reconciliation between the parties and it is apparent that despite efforts, reconciliation is not possible. Differences between the parties including that of alimony and custody of the child have admittedly been settled. Needless to say, the waiting period would necessarily prolong the agony of both the husband and wife. Present case falls within the guidelines as laid down by the Hon'ble Supreme Court in *Amardeep Singh's* case (Supara). Accordingly, order dated 24.08.2021 (Annexure P-3), passed by the learned Principal Judge, Family Court, Ludhiana, is set aside and statutory period of 6 months is waived.

Petitioners are directed to appear before the learned Principal Judge, Family Court, Ludhiana, on 05.10.2021. Learned Principal Judge, Family Court, Ludhiana, would record statements of both the petitioners at second motion on the said date or within 15 days thereafter subject to its convenience and take appropriate action.

Petition is accordingly disposed off.

23.09.2021

Sunil

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(LISA GILL)
JUDGE