

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

115

CR-2740-2021

Date of Order: 15.11.2021

NIKHIL NARWAL

..Petitioner

Versus

TANU MALIK

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aman Priye Jain, Advocate
for the petitioner.

Mr. Rahul Vats, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

The hearing of the case was held through video conferencing as prayed by the learned counsels.

A young couple appears before this Court with a prayer to waive off the cooling period of six to eighteen months prescribed under Section 13-B of the Hindu Marriage Act, 1955, for recording of statement at the stage of second motion. The Family Court has refused to waive off the same. It has been disclosed that the parties are residing separately since 19.07.2020. The parties state that there was no consummation of marriage. On the intervention of the respectables, a petition under Section 13-B for grant of divorce by mutual consent was filed before the Family Court on 22.07.2021. At the stage of first motion, the statements of the parties were recorded on 23.07.2021. As noted above, the family Court has refused to exercise the discretion.

This Bench has interacted with the parties.

The respondent (wife) is highly educated holding a PhD degree. She is working as an Assistant Professor in an educational institution. She states that there are no chances of reconciliation between them. The petitioner

(husband) is also an Engineering graduate (B.Tech in Electrical Engineering).

He runs his own business. The husband and wife are 27 and 26 years old respectively. They wish to start their life afresh after ending this relationship.

Hon'ble Supreme Court in “*Amardeep Singh Vs. Harveen Kaur, 2017(8) (SCC) 746*”, has held that the period mentioned in Section 13-B(2) of the Hindu Marriage Act, 1955, is not mandatory but directory and it is open to the Court to exercise its discretion in the facts and circumstances of each case.

Keeping in view the facts of the present case, it is considered appropriate to set aside the order passed by the Family Court on 14.10.2021, and waive the period of six months.

The parties are directed to appear before the Family Court for recording their statement in the second motion on 26.11.2021.

The Family Court shall process with the matter in accordance with the law.

All the pending miscellaneous applications, if any, are also disposed of.

November 15, 2021

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**(ANIL KSHETARPAL)
JUDGE**

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