

Sr. No. 210

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

**CR No.2919-2021
Date of decision: 21.12.2021**

Mehak Chauhan

Petitioner No.1

And

Abhinav Sharma

Petitioner No.2

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr.Sylvester Stephen, Advocate,
for petitioner No.1.

Mr. Naresh Jain, Advocate,
for petitioner No.2.
along with petitioners in person.

ARUN MONGA, J. (ORAL)

This is a joint petition filed by both husband and wife under Article 227 of Constitution of India seeking to set aside an order dated 30.09.2021 (Annexure P-3), passed by Learned Principal Judge, Family Court, Panchkula whereby, application for waiver of statutory period of 06 months filed in a petition under Section 13-B of the Hindu Marriage Act, 1955 has been dismissed.

2. Reliance, inter alia, is placed on the guidelines laid down by Supreme Court in case titled as “**Amardeep Singh v. Harveen Kaur, 2017 (8) SCC 746**”.

3. Succinctly, brief facts of the case first. Marriage of the parties herein was solemnized on 10.02.2019 according to Hindu Rites. The parties cohabited as husband and wife. However, due to temperamental differences, they started living separately since 20.03.2020.

4. Having failed to reconcile, despite efforts, the parties filed a joint petition for dissolution of their marriage by way of mutual consent, under Section 13-B of HMA before the Family Court. All the disputes pertaining to their matrimonial life have already been amicably settled between the parties. At the time of first motion hearing of the case on 23.07.2021, their statements were also recorded and the case was adjourned to 09.02.2022 for second motion hearing.

5. During the interregnum of taking up of the second motion hearing, both the parties moved an application for waiver of statutory period of six months, which has been dismissed by the Family Court vide impugned order dated 30.09.2021 (Annexure P-3). Hence the instant petition.

6. Learned counsel for the petitioners submits that the Court below has not appreciated the facts and circumstances of the case in the right perspective, while declining waiver of the period of 6 months. Once the parties have amicably consented to part their ways, they cannot be forced to wait for another six months, is the contention. Counsel relies on judgment rendered by Supreme Court in case titled as “Amardeep Singh v. Harveen Kaur (supra)”, to contend that given the peculiar circumstances of the case, both the petitioners ought to have been exempted from the period of six months for recording their second statement. The joint application filed by them ought to have been allowed in terms of the judgment, *ibid*.

7. Learned counsel also relies on judgments of the Supreme Court in case titled as *Soni Kumari Vs. Deepak Kumar* decided on **16.09.2015** reported as **2016 (1) R.C.R. (Civil) 52** as well as by this Court in case titled as *Mandeep Kaur Bajwa Vs. Chetanjeet Singh Randhawa (FAO-M-301-2014* decided on **07.01.2015**).

8. Having personally interacted with the parties who is present in person, I am of the view that parties are well aware of their rights. They have very consciously taken steps to mutually part ways in the interest of better future and a happier disposition in life. In the premise, no useful purpose would be served to unnecessarily force them to wait for six months, particularly, when the said wait may turn out to be adversarial qua the future prospects of the co-petitioner wife, with whom as already noted I have interacted and on a Court query she has confidently stood by her first motion. In her own better interest, she has thus consciously chosen to take divorce and even otherwise her marriage is irretrievably broken down.

9. No useful purpose would be served to continue in such a marriage. The co-petitioner husband also endorses her views and has given his consent for grant of mutual divorce by dissolving the marriage. Both of them seem to have settled their disputes without any duress or pressure with a tranquil state of mental dispensation.

10. Keeping in view the averments made in the petition and in view of the ratio in Amardeep Singh' case (supra), the approach adopted by the Court below in the present case, to insist waiting period of six months for second motion, was thus uncalled for. The marriage between the parties has irretrievably broken. They have decided to part their ways amicably. Opportunity to live their lives in the manner they like, cannot be denied. In the peculiar facts herein, insisting to wait to another six months would result in adding to their woes.

11. Consequently, the revision petition is allowed and order dated 30.09.2021 (Annexure P-3) is set-aside. The Principal Judge, Family Court, Panchkula, shall entertain the joint petition filed by the petitioners under

Section 13-B of HMA by waiving off six months period and proceed with the petition by recording respective statements of parties and dispose of the petition on merits, in accordance with law. It is expected of the Family Court to take up the matter on an application moved by the parties along with copy of this order.

21.12.2021
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No