

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 2726 of 2020

Date of Decision:28.01.2021

Poonam

.....Petitioner No.1

AND

Sunil Kumar

..... Petitioner No.2

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ram Bilas Gupta, Advocate
for petitioner no.1.

Mr. Rajesh Bansal, Advocate
for petitioner no.2.

LISA GILL, J(Oral).

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

Challenge in this petition is to order dated 14.12.2020, Annexure P-1, passed by the learned Principal Judge, Family Court, Kurukshetra, dismissing the application for waiver of six months statutory period for recording of their statements at second motion in terms of Section 13B(2) of the Hindu Marriage Act, 1955 (for short 'Act')..

It is submitted that petitioners have filed a petition under Section 13-B of the Act for dissolution of their marriage, which was solemnized on 21.04.2008. Parties are stated to be living separately since January 2009 and there is no chance whatsoever of their living together.

Learned counsel for the parties submit that learned Principal Judge, Family Court, Kurukshetra, has wrongly observed that agony of the parties would not increase, in case, six month statutory period is not waived and neither are the facts sufficient to draw a conclusion that marriage between the parties cannot succeed or that efforts at mediation have failed.

Statements of the parties at first motion were recorded on 23.11.2020 and at second motion are to be recorded on 26.05.2021.

I have heard learned counsel for the parties as well as the parties, who have joined Court proceedings through video conference in terms of order dated 12.01.2021 passed in this petition.

Husband and wife, both in one voice have stated that there is no possibility whatsoever of their living together. It is also not in dispute that they have been living separately since January 2009 i.e., eight months after their marriage which took place on 21.04.2008. More than 11 years have since passed. It is apparent that all efforts at mediation and conciliation to reunite the parties have failed. It was thus decided that they would file petition under Section 13-B of the Act. It is a matter of record that no child is born out of this wedlock. Parties have submitted that all differences between them now stands settled and issues regarding maintenance, permanent alimony etc., have also been finalized. Moreover, rehabilitation of the parties, is also a possibility.

Hon'ble Supreme Court in **Amardeep Singh Vs. Harveen Kaur, 2017 (4) RCR (Civil) 608** in respect to waiver of statutory period under Section 13-B (2) of the Act has observed as under:-

“18. Applying the above to the present situation, we are of the view that where the Court dealing with a matter is satisfied that a case is made out to waive the statutory period under [Section 13B\(2\)](#), it can do so 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.”

Keeping in view the facts and circumstances of the case, order dated 14.12.2020, Annexure P-1, passed by the learned Principal Judge, Family Court, Kurukshetra, is set aside and statutory period is waived. Consequently, statements of the parties at second motion be recorded on 08.02.2021 instead of 26.05.2021. Accordingly, present petition is allowed.

28.01.2021

s.khan

[LISA GILL]
Judge

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