

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

CR-1040-2023 (O&M)

Date of decision: 15.02.2023

Baneet Sachar

...Petitioner

Versus

Sonia

...Respondent

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

Present: Mr. Deepak Arora, Advocate for the petitioner.

Ms. Gurkanwal Kaur, Advocate for the respondent.

H.S. MADAAN, J.

Under challenge in this revision petition is the order dated 30.01.2023, passed by the Court of Addl. Principal Judge, Family Court, Amritsar, vide which said Court had dismissed the prayer of the parties for waiving of period of six months.

Briefly stated facts of the case as pleaded in this revision petition are that petitioner No.1 Sonia was married with petitioner No.2 Baneet Sachar on 12.05.2017 as per Hindu religious rites at Amritsar. Thereafter, they started residing together. The marriage was consummated and petitioner No.1 Sonia gave birth to a female child namely Ruhi who is in care and custody of her father presently. The spouses could not pull on together and are residing separately since 29.10.2021. They have settled their dispute amicably inasmuch as

petitioner No.1 has received a sum of Rs.2 lacs from petitioner No.2 towards her claim for maintenance present, past and future. They have decided to withdraw the cases filed by them against each other and not to file any such cases in future. They are residing separately for a period of more than one year before filing of the petition. Therefore, by way of filing a petition for divorce by mutual consent, they prayed that their marriage be dissolved.

On presentation of petition in the Court, their statements on first motion were recorded on 21.11.2022, and thereafter, the case was adjourned to 22.05.2023. However, the petitioners filed an application dated 23.01.2023 in the Court contending that since everything has been settled between both the petitioners and nothing is due towards each other, furthermore minor child is living with petitioner No.2 and he has got good opportunity to remarry and there is no chance of their reconciliation, therefore, waiting period of second motion be waived off.

That application was dismissed by the trial Court, vide impugned order dated 30.01.2023, leaving the petitioners aggrieved and they have approached this Court by way of filing the present revision petition.

I have heard learned counsel for the parties besides going through the record and I do not see any reason to interfere with the impugned order passed by the trial Court. The trial Court has taken into consideration the judgment passed by the Apex Court in case

Amardeep Singh Vs. Harveen Kaur, 2017(3) DMC 277, which has been supplied by learned counsel for the petitioner before this Court also and then rejected the request. The operative part of the order is being reproduced as under for ready reference:-

“8. The very object of giving of six months period for the second motion statement under Section 13-B of the Hindu Marriage Act was to give parties an opportunity to save their matrimonial home and to make a last effort for reconciliation. The parties to the present petition had got married on 12.5.2017 and they claim to be residing separately since 29.10.2021. Parties to the petition have a minor daughter aged hardly three years. The future of the child would be at stake incase parties to the petition are permitted to dissolve their marriage without making any effort in a span of six months. Finding that any hasty decision would not be to the benefit of the petitioners and their minor child and there being scope of reconciliation between the parties, this application of the applicants stands dismissed. File be got attached with the main file and main file be put up on the date already fixed.”

The Apex Court in judgment Amardeep Singh (supra) has observed that the trial Court can waive off statutory period of six months considering various factors including the statutory period of six months specified in Section 13-B(1) of the Hindu Marriage Act, in addition to the statutory period of one year under Section 13-B(1) of the Hindu Marriage Act of separation of parties already over before the first motion itself.

In this case, the parties claim to be residing separately w.e.f. 29.10.2021 whereas the divorce petition had been filed on 21.11.2022 when their statements were recorded on first motion and the case was adjourned to 22.05.2023. The petitioners could have requested the Court to waive off that period at that very time instead of letting the case being adjourned to a date beyond the period of six months for recording their statements on second motion. As per judgment of the Apex Court, the trial Court is not bound to waive off period of six months in every eventuality but under certain conditions which were not to be there before the trial Court.

I do not see any illegality or infirmity in the impugned order which might have required interference by this Court while exercising revisional jurisdiction. The revision petition is found to be without merit and is dismissed accordingly.

15.02.2023

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No