Sr. No. 111

2023:PHHC:047432

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.1642-2023 (O&M)
Date of decision: 29.03.2023

Dilbag Singh Petitioner No.1

And

Rajwant Kaur Petitioner No.2

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Hardeep Singh, Advocate,
For both the petitioners.
Petitioners in person.

(**Presence of petitioners marked through video conference**).

***

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 order dated 21.02.2023 (Annexure P-4), passed by Learned Principal Judge, Family Court, (Camp Court), Zira, District Ferozepur, (For brevity, "learned Family Court") whereby application for waiver of statutory period of 06 months filed in a petition under Section 13-B of the Hindu Marriage Act, 1955, was dismissed. Reliance is placed on the guidelines laid down by the Supreme Court in case titled "**Amardeep Singh Vs. Harveen Kaur, 2017 (8) SCC 746**".

2. Succinct facts of the case first.

2.1 Marriage of the parties herein was solemnized on 26.10.2012 at Tarn Taran, according to Sikh Rites and ceremonies. Parties cohabited as husband and wife. However, due to temperamental differences, they started living separately since 07.12.2018.

2.2 Having failed to reconciliate, despite efforts, parties filed a joint petition for dissolution of their marriage by way of mutual consent, under Section 13-B of HMA before learned Family Court. All the disputes pertaining

VANDANA
2023.04.01 11:39
I attest to the accuracy and
authenticity of this order/ judgment

to their matrimonial life have already been amicably settled between parties. At the time of first motion hearing of the case on 20.12.2022, their statements were also recorded and the case was adjourned to 18.07.2023 for second motion hearing.

2.3. During the interregnum of taking up of second motion hearing, both the parties moved an application for waiver of statutory period of six months, which has been dismissed by learned Family Court vide impugned order dated 21.02.2023 (Annexure P-4).

3. Learned counsel for petitioners submits that learned 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. Learned counsel relies on judgment rendered by the Supreme Court in case titled "**Amardeep Singh Vs. Harveen Kaur** (supra)", to contend that given the peculiar circumstances of the case, both 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*.

4. Having personally interacted with the parties through video conference, I am of the view that parties are well aware of their rights and 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 petitioners, with whom as already noted I have interacted and on a Court query petitioner No.2 has confidently stood by her first motion. She reiterates the same stand in person even today as taken in the first motion.

VANDANA
2023.04.01 11:39
I attest to the accuracy and
authenticity of this order/ judgment

5. Both of them seem to have settled their disputes without any duress or pressure with a tranquil state of mental dispensation.

6. Keeping in view the averments made in the petition and in view of the ratio in **Amardeep Singh's case** (supra), the approach adopted by learned Family Court 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 for another six months would result in adding to their woes.

7. Consequently, the revision petition is allowed and order dated 21.02.2023 (Annexure P-4) is set-aside. Learned Family Court shall entertain the joint petition filed by petitioners under Section 13-B of HMA by waiving-off six months' period and proceed with the petition by recording respective second statement of parties and dispose of the petition on merits, in accordance with law. It is expected of learned Family Court to take up the matter on an application moved by parties along with copy of this order.

8. Parties are also at liberty to appear in person or through 'Power of Attorney' before learned Family Court by filing an appropriate application to request taking up of their case.

(ARUN MONGA)
JUDGE

29.03.2023
Vandana

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

VANDANA
2023.04.01 11:39
I attest to the accuracy and
authenticity of this order/ judgment