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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of Decision: July 19, 2023

Ruvaldeep Kaur

...Petitioner

Versus

Gurjeet Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

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

Mr. Mukesh Yadav, Advocate,
for the respondent.

SANJAY VASHISTH, J.

1. Present revision petition is directed against the order dated 22.05.2023 (Annexure P-3), passed by the Court of learned Additional Principal Judge, Family Court, Camp Court, Moonak, in HMA Case No. 29 of 2023, instituted on 27.03.2023, vide which, application for waiving of the period of six months for grant of divorce by way of mutual consent, under Section 13-B of the Hindu Marriage Act, 1955 (hereafter referred to as 'the 1955 Act'), has been dismissed.
2. Learned counsel for the petitioner-wife relies upon the judgment passed by Hon'ble Apex Court in the case of Amardeep Singh v. Harveen Kaur, (2017) 8 SCC 746.
3. Notice of motion.
4. Mr. Mukesh Yadav, Advocate, puts in appearance on behalf of the

respondent-husband and submits that he is possessed with complete paper book and is also ready to address his submissions. He has also filed his Vakalatnama, which is taken on record. Registry is directed to tag the same at appropriate place in the paper book.

5. Learned counsel for the respondent submits that since there is a joint divorce petition, by way of mutual consent, filed by petitioner and respondent, he has no objection if the statutory period of six months, under Section 13-B (2) of the 1955 Act, is waived off and the impugned order dated 22.05.2023 (Annexure P-3), is set aside by this Court.

6. However, on the basis of the consent given by the respondent solely, present petition cannot be allowed, as the deliberation on the issue of law involved in the present petition is required to be addressed.

7. After hearing learned counsel for the parties and perusing complete record appended with the petition, some facts are required to be elaborated. Marriage between petitioner and respondent was solemnized on 08.03,2022 at Gurdawara Guru Teg Bahadar Sahib, Patran, District Patiala, according to Sikh rites, by way of *Anand Karaj* ceremony. After marriage, both the parties lived together at Village Toganpur, Tehsil Derabassi, District S.A.S. Nagar (Mohali), and cohabited with each other as husband and wife. However, no child was born out of the said wedlock.

8. Within three days of the marriage, relations between petitioner and respondent got strained and resultantly they both started living separately w.e.f. 10.03.2022. Despite making best of the efforts by the parents and relatives

from both the sides, bitterness in their relations could not be diluted. Ultimately, it was realised that petitioner and respondent both cannot live together under one roof, and it was decided that their marriage be got dissolved as the same has reached to the stage of no chance of reconciliation.

9. After taking a final call, a compromise was also effected. As per the compromise, petitioner-wife has already received all her articles from respondent through Special Power of Attorney, and no other claim is left pending, requiring any decision in future time. Resultantly, a divorce petition, under Section 13-B of the 1955 Act, was instituted in the Court of Principal Judge, Family Court, Moonak, on 27.03.2023 (Annexure P-1). Thereafter, an application for waiving off the cooling period of six months was moved on 15.05.2023. In the application, it was also mentioned that petitioner-wife has already found a suitable match for her, with whom she intends to marry. However, said marriage could not be performed, till the pendency of divorce petition in regard to the first marriage. However, the said request for waiving off of the period was not accepted and the application was dismissed by learned Trial Court, vide impugned order dated 22.05.2023 (Annexure P-3). Hence, present revision petition.

10. In the case of **Amardeep Singh (supra)**, Hon'ble Apex Court has held that *'the condition of cooling off period of six months' is directory in nature and not mandatory*. It is further held that the object of Section 13-B of the 1955 Act is to enable the parties to dissolve their marriage by way of mutual consent, if the same had irretrievably broken down; to enable them to

rehabilitate again; that the cooling off period was to safeguard against a hurried decision but if there was otherwise no possibility of reconciliation, the same could be waived; the object of Section 13-B of the 1955 Act was not to perpetuate a purposeless marriage or to prolong the agony of the parties; and that when the Court was satisfied that there was no chance of reconciliation, the Court should not be powerless in enabling the parties to have a better option.

The dictum of Hon'ble Apex Court has also been followed and reiterated by this Court in the case of Anilesh Yadav v. Swati Yadav (CR No. 6356 of 2018, decided on 24.09.2018). Somewhat similar views were also expressed by this Court in the case of Niti Arora v. Rohit Vij, 2009 (2) R.C.R. (Civil) 457.

11. While applying the spirit of the judgments in the cases of Amardeep Singh (supra), Anilesh Yadav (supra) and Niti Arora (supra) in the facts and circumstances of the case in hand, it is found that after marriage, which was solemnized on 08.03.2022, both the parties stayed together only upto 10.03.2022. Thus, practically speaking both of them stayed together only for two days and thereafter, started living separately from each other. After one year of the marriage and separation, divorce petition, under Section 13-B of the 1955 Act was instituted on 27.03.2023, whereas application for waiving off cooling period of six months was instituted on 15.05.2023, which was dismissed vide impugned order dated 22.05.2023, by the learned Trial Court.

12. Present petition also came up for hearing today, i.e. on

19.07.2023. From the averments made in the mutual divorce petition it is also clear that all the articles have already been received back by the petitioner-wife from respondent-husband, and they have also entered into a compromise. Another fact which emerges from the mutual divorce petition is that respondent-husband is residing in Australia, and is ready for recording of his statement by way of Video Conferencing/calling, as the Court directs.

13. This Court has also gone through the averments made in the joint application for *waiving off cooling period of six months*. It has been pleaded by the petitioner-wife that she has already found a suitable match for her, to whom she intends to marry. However, till the subsistence of marriage in question, she is unable to settle her life again. Thus, with respect to the finding given by the Trial Court in regard to the making of no effort for rejoining of each other's company by both the parties, success of such efforts seems to be practically impossible in a situation where one of the party has almost decided to restart the life with some third person. Undoubtedly, both the parties, i.e. petitioner-wife and respondent-husband herein, are at the very young stage of their life and seems to be well educated and matured, who lived as husband and wife just for 2-3 days (even less than 100 hours).

14. Presently, both of them are living separately for the last about 1 years 4 months and 10 days. This Court is well conscious of the legal issue that at least a period of one year and six months in total should be completed from the date of marriage, including one year after separation of their company. However, applying of this principle would be of no use once it is expressed by

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the petitioner-wife and also realised by this Court through application for waiving off period of six months, that she has found a match for herself and already decided to restart her life by marrying with said third person.

Thus, my views are fortified with the ratio of the judgment of Hon'ble Apex Court in **Amardeep Singh's case**, as also views expressed by this Court in the cases of **Anilesh Yadav (supra)** and **Niti Arora (supra)**.

15. As a result of the above discussion, impugned order dated 22.05.2023 (Annexure P-3), passed by learned Additional Principal Judge, Family Court, Camp Court, Moonak, is set aside. Learned Trial Court is directed to waive off the statutory period as envisaged under Section 13-B(2) of the 1955 Act. However, Trial Court would satisfy itself regarding compliance of the term or condition, if any, to be fulfilled between the parties. Accordingly, present **revision petition is allowed and disposed of.**

(SANJAY VASHISTH)
JUDGE

July 19, 2023

Pk Kapoor

Whether Speaking/Reasoned: **YES/NO**

Whether Reportable: **YES/NO**