

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

124

CR-7576-2023

Date of Decision: 15.12.2023

Shama

....Petitioner

Versus

Kavi Sidhu

....Respondent

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Chetan Bansal, Advocate
for the petitioner.

SANJAY VASHISTH, J.(Oral)

1. Present revision petition has been filed by the petitioner, challenging the order dated 30.11.2023 (Annexure P-3), passed by learned Principal Judge, Family Court, Amrtisar, whereby jointly moved application by the parties for waving of statutory period of 6 months for recording the second motion statement has been allowed by preponing the date from 08.05.2024 to 08.04.2024.

2. Learned counsel for the petitioner submits that marriage of the petitioner and respondent was solemnized on 26.03.2012. Parties are residing separately since, 28.05.2013. Thereafter, for the last ten years, parties have never cohabited with each other and there is no relation of the petitioner and respondent as husband and wife in any manner.

3. He further submits that the mutual divorce petition was instituted on 19.10.2023 and on the same date, first motion statement of both the parties was recorded. Subsequently, in the month of November, 2023, the application was moved for waiving of the six months statutory period for recording of the second motion statement.

Prayer made in the application is reproduced here under:

“ It is, therefore, prayed that waiting period of 6 months may kindly be exempted and secondly/final statement of the parties may kindly be recorded at an early date in the the interest of justice, equity and fair play.”

4. Mr. Bansal, learned counsel for the petitioner submits that very clearly the prayer made in the application was for recording of the second motion statement at the earliest and by preponing the said date from 08.05.2024 to 08.04.2024, very purpose of the Judgment of the Hon'ble Apex Court titled as '**Amardeep Vs. Harveen Kaur**', 2017(8) SCC 746, is not met with.

5. He also points out that parties want earliest disposal of the mutual divorce petition by recording second motion statement and thus, moved a joint application before learned Trial Court. Present petition has been filed by the petitioner alone, due to non-availability of the respondent and respondent also wants the decision of the mutual divorce petition at the earliest.

6. This Court is of the view that avoiding unnecessary agony due to subsistence of marriage, which factually and virtually has turned out to be without any meaning, requires the waiving of the statutory period of 6 months for recording of the second motion

statement in view of the judgment passed by the Hon'ble Apex Court in *Amardeep's* case (supra) .

Therefore, it won't be out of place to observe here that considering the said aspect of the law already laid down, learned trial Court has itself accepted the prayer vide its order dated 30.11.2023. The only grievance of the parties is that it should have been preponed to some earliest date from the time of filing of the application dated 06.11.2023 for waiving of the statutory period of 6 months.

Considering all the facts and circumstances, objective behind the law laid down by the Hon'ble Apex Court in **Amardeep's case (supra)**, the order dated 30.11.2023 passed by learned Principal Judge, Family Court, Amritsar, is modified by directing learned trial Court concerned to fix some date for recording of the second motion statement with concurrence of petitioner and respondent on or before 15.02.2024 subject to the moving of a joint application for preponement of the date of hearing for recording of the second motion statement by the parties within ten days from today.

For information and compliance, copy of the order be also forwarded to the learned District Judge, Amritsar for its further transmission to the Court concerned.

Petition stands disposed of .

December 15, 2023
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[SANJAY VASHISTH]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no