

MONIKA compromise deed dated 10.11.2023 (Annexure P-1) was executed between
2024.03.18 15:49
I attest to the accuracy and
integrity of this document

the parties, whereby it was settled that the husband and his family would return the jewellery and other articles to the wife and would also pay lumpsum amount of Rs.20,00,000/- as alimony towards past, present and future maintenance and she would not claim anything more in the future. Thereafter, a petition dated 05.12.2023 under Section 13-B of the Act (Annexure P-2) was filed before the Family Court, wherein statement of first motion was recorded. It has been further contended by learned counsel that after recording first statement, instead of dissolving the marriage straightway, vide order dated 06.12.2023 (Annexures P-3 and P-4), it was advised by the Court to the parties to make further efforts for reconciliation in order to save their marriage and in case of failure, to come present on 04.07.2024 for recording of second motion statement.

4. It is further brought to the notice of this Court that in the meanwhile, a suitable matrimonial match for petitioner no.1 was found, who is in hurry to get the matrimonial alliance but due to pendency of the aforesaid divorce petition, the same is not getting finalized and the girl's family is having apprehension that they may skip that match from their hand. So, an application for condonation of remaining period from the mandatory period of six months was moved which was rejected by the Family Court by holding that cooling period of six months should not be waived as it reduces the chances of compromise/settlement between the parties. Learned counsel has further submitted that there are no chances of reconciliation between the parties and when the parties themselves have decided to part their ways by mutual consent, there is no logic to force them to wait for another period of six months. In this regard, he has also placed

reliance on a judgment of Hon'ble Supreme Court in the case of Amardeep Singh vs. Harveen Kaur reported as 2017(4) RCR (Civil) 608, wherein it has been held that the period mentioned in Section 13-B(2) is not mandatory but directory and it is open for the Court to exercise its discretion, in the facts and circumstances of each case where there is no possibility of parties resuming cohabitation and there are chances of alternative rehabilitation, to waive of the statutory period.

5. I have heard the arguments advanced by learned counsel for the petitioners and have also perused the paper book.

6. This is true that the Courts should always try for the best efforts to reunite the parties whenever there are differences between them but on the other hand, when all efforts for mediation or reconciliation fail and the parties themselves decide to rehabilitate alternatively, then there is no use to prolong the matter. Keeping in view the peculiar circumstances of the case in hand, this Court is of the view that the parties have genuinely settled their differences including alimony etc. So, the Court should not insist the parties to wait for another six months as the same would result in increasing their mental agony. No useful purpose would be served by waiting for six months as the parties have right to live their lives in the manner they wish including re-marriage and they cannot be deprived of this right. For reaching this conclusion, I also draw support from judgment of Hon'ble Supreme Court, passed in the case of Amardeep Singh (*supra*).

7. Accordingly, the present revision petition is allowed. The impugned order dated 26.02.2024 (Annexure P-6) is hereby set aside. The

Family Court is directed to proceed in the petition filed by the parties under

Section 13-B of the Act, by waiving off period of six months and proceed further in the petition by recording statements of both the parties in second motion within a period of three weeks positively and dispose of the petition in accordance with law.

March 14, 2024

monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>