

CR-1978-2024 (O&M)

- 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

128

CR-1978-2024 (O&M)

Date of Decision: 16.05.2024.

Palwinder Singh

...Petitioner No.1.

And

Baljinder Kaur

....Petitioner No.2.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Rahul Garg, Advocate and
Mr. Atinderpal Singh, Advocate
for the petitioners.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 21.02.2024 (Annexure P1), passed by learned Principal Judge, Family Court, Amritsar, vide which application filed by the petitioner for waiver of the statutory period of six months for recording the statements of second motion, was dismissed.

2. The brief facts relevant for adjudication of the present revision petition are that the marriage of petitioners No.1 and 2 was solemnized on 20.12.2012 according to Hindu rites and ceremonies at Amritsar and out of their wedlock one child was born on 01.10.2017. It has been averred that due to incompatibility and indifferent temperaments, relations between the parties could not remain cordial and both are residing separately since

CR-1978-2024 (O&M)

- 2-

16.10.2019. The differences between the parties could not be resolved despite best efforts and they decided to dissolve their marriage by seeking a decree of divorce by mutual consent. It has been averred that petition under Section 13-B of Hindu Marriage Act, was filed by both the petitioners on 01.12.2023 and they have already got recorded their statements in the first motion before the Family Court on 03.12.2023. The date of recording the second motion statements was 01.07.2024. It has been alleged that both the parties have settled all their disputes regarding maintenance, permanent alimony etc. and now nothing is to be paid at the time of recording of second motion statements. It has also been alleged that parents of petitioner No.2 have found a suitable match for her and they wanted to marry her as soon as possible. But as the date for recording second motion statement has been fixed for 01.07.2024, so they could not perform her marriage. It has been alleged that petitioner No.1 is already settled abroad and both the petitioners want to settle in their lives, so they want to wave off the period of six months for recording the statement in the second motion. The application for waving of the statutory period was moved before the Family Court and the said application was dismissed by the said Court vide impugned order dated 21.02.2024. Hence, the petitioners have knocked the doors of this Court by way of filing the present revision petition.

3. Learned counsel for the petitioner has contended that the Court below has failed to consider that marriage between the parties has already become purposeless. There is no chance of reconciliation and reunion because every effort to save their marriage have already been made by the

CR-1978-2024 (O&M)

- 3-

families of the parties. He has further contended that they have settled all their disputes and have shown their inability to live together and both the petitioners are already residing separately for the last more than 4 ½ years.

4. I have heard learned counsel for the petitioner and have gone through the relevant record.

5. It has been held by the Apex Court in **Amardeep Singh Vs. Harveen Kaur, 2017 (4) R.C.R. 608** that “ *Since we are of the view that the period mentioned in Section 13b(2) is not mandatory but directory, it will be open to 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.* ”

6. So in view of the ratio of law laid down by the Apex Court in the aforesaid case and also taking in view the fact that due to incompatibility and indifferent temperaments, the relations between the parties could not remain cordial and both the parties are adamant that there is no chance of reunion between them, it will be appropriate if the statutory period of six months for recording of second motion statement is waived, as the waiting period will only prolong the agony of the parties.

7. Keeping in view the above, the instant revision petition is allowed and the impugned order dated 21.02.2024 (Annexure P-1) is set aside. Parties are directed to appear before the learned Principal Judge, Family Court, Amritsar on 29.05.2024 for recording of their statements in the second motion for proceeding further in the matter in accordance with law.

CR-1978-2024 (O&M) - 4-

7. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

16.05.2024.
komal

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