

123 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-2247-2024

Date of Decision: 18.04.2024

Gurpreet Singh

...Petitioner

And

Kulwinder Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Sanjeev K.Virk, Advocate for the petitioner.

GURBIR SINGH, J. (Oral)

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is for issuance of direction to the learned court of Principal Judge, Family Court, Paghwara, District Kapurthala to decide application dated 05.01.2024 filed by the petitioner for waiving off the waiting period of six months expeditiously in petition under Section 13-B of the Hindu Marriage Act (for short, "HMA") for the Dissolution of Marriage by way of decree of divorce by way of mutual consent.

2. In brief the facts as culled out from the petition are that the marriage between the parties took place on 12.03.2021 at Gurudwara Sahib, Village Hardaspur, Tehsil Phagwara, District Kapurthala. After the marriage, they lived and cohabited as husband and wife but no child was born out of the said wedlock. The parties have been residing separately from each other since April 2021 and have not joined the company of each other. In spite of their best efforts they are not able to adjust with each other and the marriage of the parties has irretrievably broken and as such, they have filed a joint petition under Section 13-B of HMA. Parties have already got

their statements recorded at the first motion before the Family Court.

3. Learned counsel for the petitioner has argued that the parties have lived together as husband and wife only for about 01 month and have been residing separately since April, 2021 and since then no cohabitation has taken place between them. There is no chance of reconciliation. The parties have genuinely settled their differences including alimony and petitioner is ready to handover remaining compromised amount as agreed, to petitioner No.1/wife so stipulated period of six months as prescribed under Section 13(B)(2) of HMA may be waived off. Reliance is placed on cases ***Smt. Roopa Reddy Vs. Prabhakar Reddy, AIR(1994) Karnataka 12***; an authority of Karnataka High Court, ***Sapinder Kaur Vs. Rajdeep Singh Saggu, 2022(1) RCR (Civil) 512***, an authority passed by a Coordinate Bench of this Court. ***Abhay Chauhan Vs. Ms. Rachna Singh, 2005(4) RCR (Civil) 820***, authority of Delhi High Court ***and K.Omprakash Vs. K.Nalini, AIR(1986) Andhra Pradesh 167***, an authority of Andhra Pradesh High Court.

4. I have heard the submissions of learned counsel for the petitioner.

5. In the facts of the case, reliance can be placed on the judgment of Hon'ble Supreme Court in ***Amardeep Singh Versus Harveen Kaur, 2017(4) RCR (Civil) 608*** whereby six factors are required to be considered before waiving off the statutory period under Section 13(B)(2) of HMA. Said factors are quoted below:-

- (i) How long parties have been married?
- (ii) How long litigation is pending?
- (iii) How long they have been staying apart?
- (iv) Are there any other proceedings between the parties?

- (v) Have the parties attended mediation/conciliation?
- (vi) Have the parties arrived at genuine settlement which takes care of alimony, custody of child or any other pending issues between the parties?

6. In the case in hand, the parties have only resided together for a period of about one month. They are now residing separately for more than three years. The petitioner No.1 is to return to Italy where he is residing. They have settled all their disputes. Under such circumstances, there is hardly any chance of their reconciliation. Waiting for six months period for second motion would only increase their agony and may adversely affect their future.
7. Considering the facts and circumstances of the case, statutory period of six months as required by Section 13(B)(2) of HMA is waived off. The parties shall appear before the concerned court on 25.04.2024. The concerned court may record statement on the same day or within two weeks thereof and then dispose of the petition for divorce on the basis of mutual consent in accordance with the law.
8. The revision petition stands disposed of accordingly.

18.04.2024
renu

(GURBIR SINGH)
JUDGE

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