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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CR-2722-2024 (O&M)
Date of decision:27.05.2024

Pushap Singh

... Petitioner

Vs.

Anmoldeep Kaur

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Digvijay Nagpal, Advocate for the petitioner.

Mr. Vedant Setia, Advocate for the respondent.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed under Article 227 of the Constitution of India for quashing of order dated 10.04.2024 (Annexure P-1) passed by the Principal Judge, Family Court, Mansa, whereby the application filed by the parties for waiver of the statutory period of six months for recording of statements in second motion was declined.

2. The relevant facts for adjudication of the present *lis* are that marriage of the parties was solemnized on 12.11.2017 as per Hindu Rites and Ceremonies in the presence of relatives and friends of the parties. No child was born out of such wedlock. Due to temperamental differences, matrimonial dispute arose between the parties and they started residing separately since 02.04.2022. The parents and other respectables tried to resolve the dispute between the parties, but the parties could not resolve their differences. So they agreed to dissolve their marriage with mutual consent



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and filed petition under Section 13-B of the Hindu Marriage Act on 16.03.2024. The statements of the parties in the first motion were recorded before the Additional Principal Judge, Family Court, Mansa on 19.03.2024 and the next date was fixed as 24.09.2024. Thereafter, the parties moved an application for waiving of statutory period of six months after the first motion statement which was declined vide the impugned order dated 10.04.2024 (Annexure P-1). Hence, the present revision petition has been filed by the petitioner.

3. Learned counsel for the petitioner has contended that the impugned order passed by the Court below is erroneous as the waiting period under Section 13-B of the Hindu Marriage Act, 1955 is not mandatory but is directory in nature. It is open to the Court to exercise its discretion in facts and circumstances of each case. He has further contended that Section 13-B (2) of the Hindu Marriage Act is procedural and the discretion to waive the period is guided discretion by considering the interest of justice where there is no chance of re-conciliation. He has argued that the parties have settled all their disputes and have shown their inability to live together. He has submitted that there is no chance of reunion and the waiting period will only prolong their agony.

4. It has been held by the Apex Court in **Amardeep Singh Vs. Harveen Kaur, 2017 (4) RCR 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*



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there are chances of alternative rehabilitation.”

5. 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 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.

6. Keeping in view the above, the instant revision petition is allowed and the impugned order dated 10.04.2024 (Annexure P-1) is set aside. Parties are directed to appear before the Family Court concerned on 31.05.2024 for recording of their statements in the second motion for proceeding further in the matter in accordance with law.

7. Pending application(s), if any, shall also stand disposed of.

27.05.2024
harjeet

(SUKHVINDER KAUR)
JUDGE

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |