

2024:PHHC:100957



[135] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4396-2024

Date of Decision : 06.08.2024

Simranjeet Singh

...Petitioner

versus

Navdeep Kaur

....Respondent

Coram : **HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Bipan Sharma, Advocate for the petitioner.
Mr. Pankaj Khurana, Advocate for the respondent.

PANKAJ JAIN, J. (ORAL)

[1] By way of present revision petition filed under Article 227 of the Constitution of India, order dated 09.07.2024 (Annexure P-1) passed by the Principal Judge, Family Court, S.A.S. Nagar, Mohali, Punjab has been assailed.

[2] As per the facts of the present case, petitioner and respondent entered into a wedlock as per religious customs and ceremonies on 11.11.2022. Owing to the temperamental differences, they separated within 03 months and on 18.02.2023, started staying separately. It is further claimed that with the intervention of elders, both the parties decided to part-ways amicably, as they found that it was not possible for them to live together.

[3] The parties resolved to approach Family Court for dissolution of marriage by filing joint petition under Section 13-B(1) of the Hindu



Marriage Act, 1955. Terms of settlement *inter se* were made part of the petition. The substantive terms of settlement reads as under:-

“7. That it has been mutually agreed that Petitioner No.2 will pay lump sum amount of Rs. 17,54,000/- (Rupees Seventeen Lacs and Fifty Four Thousand only) towards one time settlement for dissolution of Marriage which took place on dated 11.11.2022 between the Petitioners.

8. That it has further been mutually agreed between both the Petitioners that they will file Joint Petition under Section 13-b of Hindu Marriage Act 1955, for dissolution of marriage solemnized, by way of decree of divorce by mutual consent and after the recording of First Motion Statements of both the parties to the petition mentioned above, Petitioner No.2 will pay a sum of Rs.9,00,000/- (Rupees Nine Lac only) as part payment of the settled amount of Rs.17,54,000/- (Rupees Seventeen Lac Fifty Four Thousand only) alongwith gold items which includes 1 (One) Gold Ring, 2 (Two) Gold Karas (Gents Bangle), 1 (One) Kitty Set, 2 (two) set of earrings, 1 (One) Diamond Ring and 1 (one) and 1 (One) Gold Chain. However, Petitioner No.1 will hand over 2(two) Gold Rings and One Mobile Phone Make I-Phone 14 Pro Max 128 GB to the Petitioner No.2. However, the balance amount of Rs.8,54,000/- (Rupees Eight Lac and Fifty Four Thousand only) will be given/paid to the Petitioner No.1 after/on recording of Second Motion Statements of both the parties before the Hon'ble Court.

9. That all the issues of the articles and items with respect to alimony and 'Istridhan' have been mutually agreed and settled between the Petitioners. Nothing remains due to one against the other and neither of the Parties to this Petition shall have any claim of any kind whatsoever in the Present, Past and Future and there shall be no interference by one in the life of the other. Petitioner No. 1 gives up her right to claim maintenance/alimony for herself from the Petitioner No.2 forever. Petitioner No.1 also abandons all claims



against properties of Petitioner No.2. No acrimony subsists among the parties to the instant Petition or their families and relatives.

10. That both the parties to the instant Petition affirm that they will not initiate any legal proceedings, institute any civil or criminal proceedings against each other, or their family members or their relatives in future arising out of this matrimonial alliance. The Petitioner No. 1 undertakes to withdraw the all the cases (if any) filed by her against the Second party or his family members immediately. ”

[4] The petition was filed. Parties appeared and got first motion statement recorded before the Family Court on 30.04.2024. Statements as well as order dated 30.04.2024 have been placed on record as Annexures P-5 to P-7. The parties thereafter approached the Family Court, filing application under Section 13-B (2) of the Hindu Marriage Act, seeking waiver of statutory period of 06 months, the same stands declined by way of impugned order.

[5] Mr. Pankaj Khurana, Advocate, has put in appearance on behalf of the respondent-wife and has admitted the aforesaid facts. He also supports the petitioner and prays for allowing the revision.

[6] I have heard learned counsel for the parties and have gone through the record of the case.

[7] Though, bare perusal of the provision leaves no doubt that the provisioning of period of 06 months is mandatory. However, Apex Court in the case of **‘Amardeep Singh versus Harveen Kaur’, reported as 2017(8) SCC 746** held that in special circumstances, Courts are within their power to



statutory period of 06 months, Supreme Court observed as under:-

“ where the Court dealing with a matter is satisfied that a case is made out to waive the statutory period under Section 138(2), it can do so after considering the following:

- i) the statutory period of six months specified in Section 13B(2), in addition to the statutory period of one year under Section 13B(1) of separation of parties is already over before the first motion itself;*
- ii) all efforts for mediation/conciliation including efforts in terms of Order XXXIIA Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Courts Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts;*
- iii) the parties have genuinely settled their differences including alimony, custody of child or any other pending issues between the parties;*
- iv) the waiting period will only prolong their agony.*

19. The waiver application can be filed one week after the first motion giving reasons for the prayer for waiver.

20. If the above conditions are satisfied, the waiver of the waiting period for the second motion will be in the discretion of the concerned Court.

21. 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."

Applying the aforesaid parameters to the present case, this

Court finds that the present petition needs to be allowed. Both the petitioner



their marriage. The efforts of Mediation and Conciliation could not reunite them and they agreed to part-ways. Though, before first motion, statutory period as provided under Section 13-B (1) and 13-B (2) was not over. However, by now, the same is over.

[8] Petition under Section 13-B of the Hindu Marriage Act was filed, both petitioners again reiterated their stand and expressed resolution to get separated. Both of them are about 30 years and have bright future beyond this present wedlock and further chances of fresh settlement. In the considered opinion of this Court, law would be the last to prejudice their chance to start afresh. Cooling off period of 06 months provided under Section 13-B of the Hindu Marriage Act by the legislature is with the intent to give mediation a chance. Mediation resulted in parties agreeing to part-ways amicably. This is a case where the parties did not live together even for 04 months and have no child. Thus, it won't be in the interest of justice to prolong their ordeal. In view of the above, present petition is **allowed**.

[9] Parties are directed to appear before the trial Court on 14.08.2024 and get their statement of second motion recorded.

[10] This Court is sanguine that the trial Court shall decide the petition expeditiously in accordance with law.

(PANKAJ JAIN)
JUDGE

06.08.2024
'R. Sharma'

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