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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(121)

CR-5313-2024

Date of decision: - 13.09.2024

Jagdeep Kaur

....Petitioner

Versus

Sukhvir Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Gurbir Singh Sidhu, Advocate,
for the petitioner.Mr. Mohit Threja, Advocate
for the respondent.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India against the impugned order dated 21.08.2024 (Annexure P-1) passed by the Principal Judge Family Court, Barnala in HMA-162 of 2024 dated 03.04.2024 whereby the application for waiver off the 6 months period to record second motion statement in petition under Section 13-B HMA has been dismissed.

2. Learned counsel for the petitioner as well as learned counsel for the respondent have jointly submitted that in the present case, the petitioner and the respondent married on 18.01.2023 and are residing separately since 08.02.2023 and thus, resided together for less than a month. It is further jointly submitted that there was no child born out of



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the wedlock and the marriage has irretrievably broken down and further all the disputes between the parties have already been settled and it has been agreed that Rs.73,00,000/- would be paid on account of permanent alimony and future maintenance, out of which Rs.35,00,000/- has already been paid and the respondent is ready to pay the remaining Rs.38,00,000/- on the date when the second motion will be recorded. It is also stated that the marriage between the petitioner and respondent was a nonstarter and that the parties had made efforts for reconciliation, but the same had failed and the parties are unwilling to live together as husband and wife and no useful purpose would be served by making the parties wait any further and the delay would only prolong their agony. Further reliance in this regard has been placed upon the judgment of the Hon'ble Supreme Court in the case of "**Amit Kumar Vs. Suman Beniwal**" ***Civil Appeal No.7650 of 2021 decided on 11.12.2021*** and the relevant portion of the said judgment which has been highlighted is reproduced as under:-

*"23. It is well settled that a judgment is a precedent for the issue of law that is raised and decided. A judgment is not to be read in the manner of a statute and construed with pedantic rigidity. In **Amardeep Singh v. Harveen Kaur (supra)**, this Court held that the statutory waiting period of at least six months mentioned in Section 13B (2) of the Hindu Marriage Act was not mandatory but directory and that it would be open to the Court to exercise its discretion to waive the requirement of Section 13B(2), having regard to the facts and circumstances of the case, if there was no possibility of reconciliation between the spouses, and the waiting period would serve no purpose except to prolong their agony.*

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28. *In this Case, as observed above, the parties are both*



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well educated and highly placed government officers. They have been married for about 15 months. The marriage was a nonstarter. Admittedly, the parties lived together only for three days, after which they have separated on account of irreconcilable differences. The parties have lived apart for the entire period of their marriage except three days. It is jointly stated by the parties that efforts at reconciliation have failed. The parties are unwilling to live together as husband and wife. Even after over 14 months of separation, the parties still want to go ahead with the divorce. No useful purpose would be served by making the parties wait, except to prolong their agony.

29. *The appeal is, therefore, allowed. The impugned order dated 17th November, 2021 passed by the High Court and the impugned order dated 12th October, 2021 passed by the Family Court, Hissar are set aside.”*

3. It is jointly submitted that the facts of the present case are similar to the facts of the above-said case and in the above-said case, the marriage was a nonstarter and the divorce was granted after a period of about 15 months. In the said case the marriage had been performed on 10.09.2020, the parties had separated on 13.09.2020, the petition under Section 13-B of HMA was filed on 30.09.2021 (1 year 17 days from 13.09.2020), the application for waiver was filed on 12.10.2021 (1 year 29 days from 13.09.2020) and the divorce was granted vide judgment dated 11.12.2021 (1 year 3 months from 13.09.2020). In the present case, it is submitted that although on the date of the application (Annexure P-4) i.e. 16.07.2024 which was filed for waiving off the statutory period, the period of 1 year and 6 months had not elapsed from the date of separation i.e. 08.02.2023, but now the said period of 1 year and 6 months has also elapsed and thus, it is jointly prayed that the impugned order be set aside



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and liberty be granted to the petitioner to file a fresh application for waiving off the statutory period and the Family Court be directed to decide the same in accordance with law after taking into consideration the judgment passed by the Hon'ble Supreme Court in the case of ***Amit Kumar (supra)***.

4. Keeping in view the above-said facts and circumstances and the joint prayer made by learned counsel for the petitioner and the respondent and also keeping in view the law laid down by the Hon'ble Supreme Court in the case of ***Amit Kumar (supra)***, the present revision petition is partly allowed and the impugned order dated 21.08.2024 (Annexure P-1) is set aside. Liberty is granted to the petitioner and the respondent to move a fresh application for waiving off the statutory period to the Family Court. In case the said application is filed, the Family Court is requested to decide the said application, as expeditiously as possible, in accordance with law and after taking into consideration the law laid down by the Hon'ble Supreme Court in the case of ***Amit Kumar (supra)***.

September 13, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes