

2024.PHHC.121871-DB



117

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

FAO-4379-2024 (O&M)

Date of Decision: September 13, 2024

Alisha

....Appellant No.1

versus

Aashish

.... Appellant No.2

**CORAM: HON’BLE MR. JUSTICE SUDHIR SINGH
HON’BLE MR. JUSTICE JASJIT SINGH GILL**

Present:- Mr. Lakhwinder Singh Mann, Advocate and
Mr. Hardeep Singh, Advocate for the appellants.

SUDHIR SINGH, J. (ORAL)

First appeal herein, *inter alia*, is against the impugned order dated 23.08.2024 passed by the Principal Judge, Family Court, Hoshiarpur (for short ‘Family Court’), whereby an application of the parties seeking permission to condone/waive off of statutory period of six months for recording of second motion statement, has been dismissed.

2. Learned counsel for the appellants submits that the marriage between the parties was solemnized on 15.05.2023 as per Hindu rites and rituals. There is no child from the said wedlock. From beginning of the marriage, on account of temperamental differences, there used to remain quarrel between the appellants, and they started residing separately since 10.06.2023 i.e., between less than one month of the marriage. Many efforts were made by the relatives, respectables and friends of the appellants to

reconcile the matter between them. The appellants themselves as well, did their best to cohabit together again, but everything landed unsuccessful. Learned counsel further submits that after living separately for more than one year, the appellants had filed a petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'HM Act') seeking dissolution of their marriage by a decree of divorce on the basis of mutual consent. Accordingly, first motion statement was recorded on 15.07.2024 before the learned Family Court, and the main petition under Section 13-B of the HM Act was fixed for 17.01.2025, for recording of second motion statement.

2.1. Learned counsel further submits that during pendency of the petition under Section 13-B of the HM Act before learned Family Court, the appellants moved an application seeking condonation/waiving off of statutory six months period for recording of second motion statement, on the ground, *inter alia*, that parents of appellant No.1 seek to marry their daughter once again with one Neeraj Rattu, residing in Greece, in the first week of November, 2024, since the said boy is coming to India.

2.2. Learned counsel submits that vide impugned order dated 23.08.2024, learned Family Court has wrongly dismissed the aforesaid application, and put the petition under Section 13-B of the HM Act, on 17.01.2025, the date already fixed therein, for recording of second motion statement of the parties.

2.3. Learned counsel submits that there are no chances of reunion/reconciliation between the parties and all the efforts/exercises have become futile, by praying waiving off of statutory period of six months for recording of second motion statement, parents of appellant No.1 seek

alternative rehabilitation of their daughter, given her marriageable age, by getting her married to another person, in the month of November, 2024.

Learned counsel further submits that provision of Section 13-B(2) of the HM Act is not mandatory, but directory in nature, and learned Family Court ought to have allowed the application, and waived off statutory period of six months for recording second motion statement.

3. We have heard learned counsel for the appellants and perused the case file carefully.

4. Perusal of the case file reveals that cordial relationship, if any, between the parties, lasted for less than one month as they got married on 15.05.2023, and had started residing separately since 10.06.2023. Now, the parties are separated from each other for more than one year. All the efforts to reconcile between the parties by their relatives, respectables and friends, and even by parties themselves as well, stated to have been futile. Parents of appellant No.1 seek alternative rehabilitation of their daughter as they intend to get her married once again with another person, in the month of November, 2024. Keeping in view the period of separation, futile exercise of reconciliation between the parties, the mutual consent of the parties to live separately and chances of alternative rehabilitation, we are of the view that it is a case of exceptional circumstances, where the application of the parties seeking waiving off of statutory period of six months deserves to be allowed.

5. Further continuation of status of marriage between the parties will only give rise to agony to the parties, when all the efforts to reconcile their marriage are stated to have failed, and the parties themselves have decided to part ways and move on in their respective lives ahead. The

provision of Section 13-B(2) of the HM Act is not mandatory, but directory in nature.

6. In the premise, we are of the considered opinion that there are sufficient grounds to allow application of the parties for waiving off of the statutory period of six months for recording second motion statement keeping in view the aforesaid facts and circumstances of the present case.

7. As such, the impugned order dated 23.08.2024 is set aside. The application of the parties for waiving off the statutory period of six months for recording second motion stands allowed. The parties are directed to appear before the learned Family Court, on 30.09.2024 for further proceedings in the petition under Section 13-B of the Act.

8. Appeal stands allowed, accordingly.

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

(SUDHIR SINGH)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

September 13, 2024
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No