

114.

2024:PHHC:000026

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

CR-6768-2023

Date of decision: 04.01.2024

Sahil Kumar

... Petitioner No.1

And

Uma Devi

... Petitioner No.2

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. S.K. Choudhary, Advocate, for petitioner No.1.

Mr. G.S. Bhinder, Advocate, for petitioner No.2.

GURBIR SINGH, J.

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 30.10.2023 passed by learned Principal Judge, Family Court, Pathankot, whereby the application moved by petitioner No.1-husband and petitioner No.2-wife for waiving off a period of six months in a petition filed under Section 13-B of Hindu Marriage Act (for short, "HMA"), has been dismissed.

2. In brief the facts as culled out from the petition are that the marriage between the parties took place on 06.02.2022 at Pathankot. 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 since 17.06.2022. Petitioner No.2 lodged an FIR against petitioner No.1 and his father. Petitioner No.1 approached this Court

for grant of anticipatory bail and the matter was referred to the Mediation and Conciliation Centre of this Court wherein it was settled on 23.03.2023 (Annexure P-4) and the parties had agreed to withdraw all their cases. A petition for quashing of FIR has also been filed. 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 on 09.08.2023.

3. Learned counsel for the petitioners has argued that the parties have lived together as husband and wife only for about 4 months and have been residing separately for the last more than 1 year. There is no chance of reconciliation. The parties have withdrawn all the litigations, so stipulated period of six months as prescribed under Section 13(B)(2) of HMA may be waived off. Reliance is placed on cases ***Mamta Versus Alok, 2018(1) W.L.N. 6***, an authority of Rajasthan High Court, Jaipur Bench (DB); ***Sri. Malatesh Versus Smt. Lata @ Chandrakala, 2022(4) KCCR 3775***, an authority of Karnataka High Court, Dharwad Bench (DB); ***Nav Raj Bhatta and Niranjana, 2019(2) R.C.R. (Civil) 712***, an authority of this Court.

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

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 four months. They are now residing separately for more than one year. They have settled all their disputes and have withdrawn all the litigations. Petition for quashing of FIR has already been filed. Under such circumstances, there is hardly any chance of their reconciliation. Waiting for six months 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 08.01.2024. The concerned court may record statement on the same day

or within a week 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.

(GURBIR SINGH)
JUDGE

January 4, 2024

sanjeev

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No