



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO-5362-2024(O&M)

Date of Decision:-19.11.2024

Bhupinder Kaur

.....Appellant.

AND

Surya Bhan Ram

.....Respondent.

**CORAM:- HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Vikas Bali, Advocate for the Appellant.

SUDHIR SINGH, J.(ORAL)

Appellant-wife has filed the present appeal against the order dated 18.10.2024 passed by the Additional Principal Judge, Family Court, Ludhiana, Camp Court at Khanna (for short 'the Family Court'), whereby the joint application moved by the parties seeking waving off the cooling period under Section 13-B(2) of the Hindu Marriage Act and to further record the statement of the respondent-husband or his attorney through video conference was dismissed.

An application for waiving off the cooling period under Section 13-B(2) of the Hindu Marriage Act, 1955 was filed before the learned Family Court but the same was dismissed with the following observations made in para 5 of the order passed by the Family Court:-

“ In the present case, as per the averments of the petitioners, the marriage between them was solemnized on 24.04.2015. Petitioners have been residing separately, since January, 2024. Perusal of file further reveals that the statements



of the petitioners for the first motion were recorded on 16.09.2024. Taking into account this time frame it is quite clear that period of one and half year between the date of separation and date of recording the statements of the parties for the first motion has not elapsed. Once it is so, then one of the basic condition as laid down by the Hon'ble Supreme Court of India in *Amardeep Singh vs. Harveen Kaur (supra)* that period of one and half year between date of separation and date of recording statements to first motion should have elapsed is not complied with and accordingly the application in hand is dismissed, without expressing any opinion on merits of the case. Now to come up on 17.03.2025, the date fixed already in the main petition for recording statements of petitioners to the second motion .”

Notice of motion.

On the asking of the Bench, Mr. Ravinder Gill, Advocate accepts notice and filed his power of attorney on behalf of the respondent.

Though the present appeal has been preferred by the appellant-wife alone, yet the learned Counsel for the respondent-husband does not dispute the contentions raised by the appellant-wife.

It is worth mentioning that on an earlier occasion, a similar issue had arisen, in which this Court had set aside the order passed by the Family Court vide order dated 3.9.2024 and granted the parties permission under Section 14(1) of the Act to file the petition under Section 13-B of the Hindu Marriage Act before the Family Court, before the expiry of the period of one year of separation. While passing the said order, this Court had relied upon the orders passed in the cases of **Manpreet Kaur Vs.**

Gagandeep Singh (FAO-3897-2022(O&M) Decided on 15.12.2022) and



Mandeep Kaur Vs Rajiv Girdhar 2024(1) PLR 83.

In view of the above, the order dated 18.10.2024 passed by the Family Court, is set aside and considering the joint prayer made on behalf of the parties seeking exemption under Section 14 of the Hindu Marriage Act, the said request is allowed and the Court below is directed to prepone the date from 17.03.2025 and fix a date for recording the second motion statement of the parties in the Ist week of December, 2024 and thereafter the Trial Court shall make an endeavour to finally dispose of the matter before the winter vacations.

With the aforesaid observations, the matter is remanded back to the court below.

Disposed of as such.

(SUDHIR SINGH)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

November 19, 2024
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>