

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7536-2023

Date of Decision: 19.01.2024

Etika

...Petitioner No.1

And

Shubham Billa through SPA Sh. Yogesh Billa (father of petitioner No.2)

...Petitioner No.2

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Maneet Kaushik, Advocate for petitioner No.1.

Mr. Kapish Singla, Advocate for petitioner No.2.

GURBIR SINGH, J. (Oral)

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 22.11.2023 (Annexure P-4) passed by the learned Principal Judge, Family Court, Bathinda, whereby an application moved by petitioner No.1-wife and petitioner No.2-husband 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 07.06.2022 at Kurukshetra. 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 for the last more than one year. In spite of their best efforts they are not able to adjust with each other and 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 24.08.2023 (Annexure P-2).

3. Learned counsel for the petitioners has argued that the parties have lived together as husband and wife only for about 02 months and have been residing separately for the last more than 1 year. There is no chance of reconciliation and at present both the parties have options of new relationship. The parties have genuinely settled their differences including alimony and petitioner No.2/husband is ready to handover remaining compromised amount as agreed, to petitioner No.1/wife so stipulated period of six months as prescribed under Section 13(B)(2) of HMA may be waived off. Reliance is placed on case ***Amit Kumar Vs. Suman Beniwal, SLP (Civil) No.20108 of 2021***, decided on 11.12.2021 and on case ***Amit Vs. Preeti, CR No.3270 of 2021***, decided on 08.02.2022 passed by a Coordinate Bench 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 about two months. They are now residing separately for more than one year. They have settled all their disputes. Under such circumstances, there is hardly any chance of their reconciliation. Waiting for six months period 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 25.01.2024. 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.

19.01.2024
Parveen kumar

(GURBIR SINGH)
JUDGE

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