

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-654 of 2021 (O&M)
DATE OF DECISION: 19.04.2021

Smt. Sunita @ Nisha

...PetitionerNo.1

and

Yogesh Kumar

...Petitioner No.2

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Amit Choudhary, Advocate
For the petitioners, who are in person.

ARUN MONGA, J.(ORAL)

1. This is a joint petition filed under Article 227 of Constitution of India for setting aside the order dated 26.02.2021 (Annexure P-3) passed by Principal Judge, Family Court, Fatehabad, whereby application for waiver of statutory period of 06 months filed in a joint petition under Section 13-B of the Hindu Marriage Act, has been dismissed, being not in consonance with the guidelines laid down by Supreme Court in case titled as “Amardeep Singh v. Harveen Kaur”¹ .

2. Succinctly, brief facts of the case are that marriage of the parties was solemnized on 29.01.2001 according to Hindu Rites and Ceremonies. The parties cohabited as husband and wife. The parties were blessed with two children, one male and a female. The son born to the parties unfortunately died. While, the daughter is stated to have been

¹ 2010(4) SCC 393

married and living in matrimonial home. Due to temperamental differences, both the parties started living separately since December, 2015

3. Since there were no chances of reconciliation, therefore, the parties filed a joint petition for dissolution of their marriage by way of mutual consent, under Section 13-B of HMA before the Family Court. All the disputes regarding permanent alimony etc. were settled between the parties. At the time of first motion hearing of the case, a sum of Rs. 2 lakhs (out of settled amount of Rs.5 lakhs) was paid by petitioner No.2 to petitioner No.1, as is evident from a perusal of joint petition (Annexure P-1) filed by the parties. Both the parties moved an application for waiver of statutory period of six months, which has been dismissed by the Principal Judge, Family Court, Fatehabad, vide impugned order dated 26.02.2021.

4. Learned counsel for the parties submits that the Court below has not rightly appreciated the facts and circumstances of the case while not waiving the period of 6 months. According to him, the parties have consented to part their ways and they have been unnecessarily been asked to wait for another six months. He relies on judgment rendered by Supreme Court in case titled as “Amardeep Singh v. HarveenKaur(supra)”, to contend that given the peculiar circumstances of the case, both the petitioners ought to have been exempted from the period of six months for recording their second statement. The joint application filed by them ought to have been allowed in terms of the judgment, *ibid*.

5. Pursuant to the directions issued by this Court, both the parties have joined the proceedings through video conferencing. After interaction with them, I am of the view that their marriage seems to have broken down irretrievably and there is no possibility of any reconciliation between them.

6. Keeping in view the averments made in the petition and in view of law laid down in Amardeep Singh' case (supra), I am of the considered view that the approach adopted by the Court below in insisting the parties to wait for another six months for second motion hearing, is totally uncalled for. The marriage between the parties has irretrievably broken and now they have decided to part their ways, so that they both have an opportunity to live their lives in the manner they like and in the given situation, insistence of the Court below to wait to another six months would result in adding to their woes. Consequently, the revision petition is allowed. The order dated 26.02.2021 (Annexure P-3) is set-aside. The Principal Judge, Family Court, Fatehabad shall entertain the joint petition filed by the petitioners under Section 13-B of HMA by waiving off six months period and proceed with the petition by recording the respective statements of parties and dispose of the petition on merits, in accordance with law.

19.04.2021
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(ARUN MONGA)
JUDGE

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