

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

Sr. No.269

C.R. No.4819 of 2018

Date of decision: 20.08.2018

Daljit Kaur

....Petitioner

versus

Jaswinder Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Rajesh Kumar Dadwal, Advocate
for the petitioner.

Mr. Vinod Kumar, Advocate
for the respondent.

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DEEPAK SIBAL, J. (Oral)

The instant petition has been filed to challenge therein order dated 05.05.2018 passed by the Additional District Judge, Hoshiarpur (for short – 'the Trial Court') whereby the application filed by the petitioner for waving off the statutory period of six months under Section 13B(2) of the Hindu Marriage Act, 1955, has been dismissed.

In pursuance to the notice issued by this Court, Mr. Vinod Kumar, Advocate, has put in appearance on behalf of the respondent and submits that he has no objection if the present petition is allowed.

A perusal of the order impugned in the present proceedings shows that no reasons have been assigned by the Trial Court to dismiss the application filed by the petitioner. On this short ground alone, the impugned order is set aside and the matter is remitted back to the Trial Court for deciding the petitioner's application afresh in accordance with law.

It is further directed that while considering the petitioner's application, the Trial Court shall keep in mind the following observations made by the Hon'ble Apex Court in **Amardeep Singh versus Harveen Kaur - (2017) 8 SCC 746:-**

“19. Applying the above to the present situation, we are of the view that where the Court dealing with a matter is satisfied that a case is made out to waive the statutory period under Section 13B(2), it can do so after considering the following :

- i) the statutory period of six months specified in Section 13B(2), in addition to the statutory period of one year under Section 13B(1) of separation of parties is already over before the first motion itself;*
- ii) all efforts for mediation/conciliation including efforts in terms of Order XXXIIA Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Courts Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts;*
- iii) the parties have genuinely settled their differences including alimony, custody of child or any other pending issues between the parties;*
- iv) the waiting period will only prolong their agony*

The waiver application can be filed one week after the first motion giving reasons for the prayer for waiver. If the above conditions are satisfied, the waiver of the waiting period for the second motion

will be in the discretion of the concerned Court.

20. Since we are of the view that the period mentioned in Section 13B(2) is not mandatory but directory, it will be open to the Court to exercise its discretion in the facts and circumstances of each case where there is no possibility of parties resuming cohabitation and there are chances of alternative rehabilitation.”

Keeping in view, the nature of the application and the urgency in the matter, it is directed that the petitioner's application shall be decided within 15 days from the date of receipt of a certified copy of this order.

**(DEEPAK SIBAL)
JUDGE**

August 20, 2018
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No