

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

**CR NO. 2596 OF 2020 (O&M)
DATE OF DECISION : 07.12.2020**

Kavita Rani

...Petitioner

Versus

Harman Singh Sekhon

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Parunjeet Singh, Advocate,
for the petitioner and the respondent.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

1. This is a petition filed under Article 227 of Constitution of India for setting aside the order dated 19.11.2020 (Annexure P-6) passed by Principal Judge, Family Court, Yamuna Nagar at Jagadhari, 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 Singh*”¹.

2. Succinctly, brief facts of the case are that marriage of the parties was solemnized on 15.04.2017 at Yamuna Nagar according to Sikh Rites and Ceremonies. The parties cohabited as husband and wife at Ludhiana. No child was born out of the said wedlock. However, petitioner No.1 has one daughter namely Prachi from her previous marriage, whose custody is with her. Due to temperamental differences, both the parties started living separately since October, 2017.

¹ 2017 (4) RCR (Civil) 608

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 on 12.11.2020. All the disputes regarding permanent alimony, legal custody of daughter Prachi, jewellery etc. were settled between the parties. At the time of first motion hearing of the case, a sum of Rs.1,85,000/- (out of settled amount of Rs.3,70,000/-) was paid by petitioner No.2 to petitioner No.1 on 12.11.2020, as is evident from a perusal of zimni order of that date. Both the parties moved an application for waiver of statutory period of six months, which has been dismissed by the Principal Judge, Family Court, Yamuna Nagar at Jagdhari, vide impugned order dated 19.11.2020 (Annexure P-6).

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. Harveen Singh(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. I have heard learned counsel for the parties and have gone through the case file.

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 19.11.2020 (Annexure P-6) is set-aside. The Principal Judge, Family Court, Yamuna Nagar at Jagadhari shall entertain the joint petition filed by the petitioner and the respondent 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.

DECEMBER 07, 2020
Shalini/ Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : **Yes/No**

Whether reportable : **Yes/No**