

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

**Civil Revision No.1563 of 2021 (O&M)
Date of Decision: August 16, 2021**

Sukhjeet Kaur

.....Petitioner No.1.

AND

Gurvir Singh

.....Petitioner No.2.

CORAM:- HON'BLE MR. JUSTICE G. S. SANDHAWALIA

Present: Mr. Mohd. Salim, Advocate
for the petitioners.

(The proceedings are being conducted through video
conferencing, as per instructions)

G.S. SANDHAWALIA, J.(Oral)

Both the petitioners i.e. Wife and husband are aggrieved against the order of the Family Court, Camp Court, Malerkotla dated 20.07.2021 (Annexure P-6), whereby the application for waiving off the mandatory period of six months has been rejected. The reasoning given is that in the judgment by the Apex Court in ***Amandeep Singh v. Harveen Kaur 2017 (4) RCR (Civil) 608***, it has been held that where there are no chances of reconciliation, six months period cannot be waived off except in exceptional circumstances and the parties are thus aggrieved by the impugned order.

Counsel for the petitioners submits that the joint statement on first motion was recorded on 20.05.2021 in the petition filed under Section 13-B of Hindu Marriage Act on the ground that husband is residing abroad in Houston TX (USA) since 2019. The parties are living separately since

then and three children, which were borne out of the wedlock remained with the husband. The same is clear from the statement of the wife Sukhjeet Kaur, recorded on 20.05.2021. Same terms and conditions have been incorporated in the statement of husband, who had put in appearance through special power of attorney. It is submitted that in such circumstances, the application has been filed on account of proposal of marriage of petitioner No.1-wife received and praying that the mandatory period of six months be waived off.

The facts of the case would go on to show that the parties have settled the matter and are mature to the extent that first petitioner is 34 years old and petitioner No.2 is 35 years of age and had been blessed with 3 children. It is not disputed that the husband is also staying abroad for the last more than two years and they are staying separately since then and even they have settled regarding the children. In such circumstances, further waiting period will only prolong the proceedings and it is a fit case to exercise the jurisdiction of this Court in waiving off the mandatory period of six months. The said judgment in *Amandeep Singh v. Harveen Kaur (supra)* has not been appreciated in its real sense by the Family Court. The relevant portion reads as under:-

“16. The object of the provision is to enable the parties to dissolve a marriage by consent if the marriage has irretrievably broken down and to enable them to rehabilitate them as per available options. The amendment was inspired by the thought that forcible perpetuation of status of matrimony between unwilling partners did not serve any purpose. The object of the cooling off the period was to safeguard against a hurried

decision if there was otherwise possibility of differences being reconciled. The object was not to perpetuate a purposeless marriage or to prolong the agony of the parties when there was no chance of reconciliation. Though every effort has to be made to save a marriage, if there are no chances of reunion and there are chances of fresh rehabilitation, the Court should not be powerless in enabling the parties to have a better option.”

Accordingly, the impugned order is not sustainable, accordingly, the same is set aside. Family Court concerned shall take up the application again and dispose of the main case within a period of 10 days on receipt of certified copy of this order.

Present civil revision stands allowed accordingly.

August 16, 2021

Sachin M.

(G. S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*