

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

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CR No.401 of 2022 (O&M)
DATE OF DECISION : 21st FEBRUARY, 2022

Rashwinder Kaur

.... Petitioner No.1

And

Narinder Singh

.... Petitioner No.2

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Sumit Saddi, Advocate,
for the petitioners.

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RAJBIR SEHRAWAT, J. (Oral)

This is a revision petition filed under Article 227 of the Constitution of India against the order dated 03.01.2022 passed by the Additional Principal Judge, Family Court, Bathinda (for short, the trial Court), whereby the joint application filed by the petitioners for waiving off the statutory waiting period has been dismissed.

It is submitted by the counsel for the petitioners that the marriage between the parties had gone wrong beyond redemption. Hence, the parties had filed a joint petition under Section 13-B of the Hindu Marriage Act, 1955 before the trial Court; seeking divorce by mutual consent. The statement of first motion was recorded on 14.09.2021. Thereafter, an application was moved by the parties for waiving off the statutory waiting period. The same has been declined by the trial Court on the ground that the application was not filed by the parties within a period of seven days from the date of their first motion statement as per

the judgment of the Hon'ble the Supreme Court rendered in the case of ***Amardeep Singh Vs. Harveen Kaur, 2017 (8) SCC 746***. The counsel has further submitted that there was an FIR No.6 dated 23.01.2020 under Sections 498-A and 406 IPC registered relating to the matrimonial dispute. The application could not be filed within the above mentioned time on account of the pendency of the said FIR. However, since the parties had compromised the entire matter, therefore, even the said FIR has been quashed by this Court vide order dated 07.02.2022 passed in CRM-M-43741-2021. Now, there is no hurdle in dissolving the marriage as such. The petitioners have already completed the period and the conditions as laid down by Hon'ble the Supreme Court in ***Amardeep Singh's*** case (supra). Hence, the trial Court deserves to be directed to waive off the statutory waiting period.

Having heard the counsel for the petitioners and having perused the case file, this Court finds substance in the argument of the counsel for the petitioners. Once the marriage has gone astrayed beyond redemption, then there is no rational for keeping the parties in waiting, particularly, when Hon'ble the Supreme Court in case of ***Amardeep Singh*** (supra) has issued clear guidelines that in such a situation the Court should come to the rescue of the parties and should not make the parties suffer in waiting. It is not even in dispute that the parties have already fulfilled the other conditions as laid down in the above said judgment of Hon'ble the Supreme Court qua the length of time period to be undergone by the parties before getting the divorce. Although, undisputedly, the application could not be moved by the parties within the period of seven days, however, this also was not intentional on the

part of the parties. The pendency of the FIR would have been a constant irritant in the compromise, giving a scope for escalation of the dispute. Now, even that element has been removed and the compromise between the parties has become absolute. Hence, the statutory waiting period deserves to be waived off.

In view of the above, the impugned order dated 03.01.2022 passed by the trial Court is set aside and the present revision petition is disposed of with a direction to the trial Court to take up the application of the parties again and to pass the necessary order qua waiving off the statutory waiting period and to record the second motion statement of the parties.

21st FEBRUARY, 2022
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(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>