

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

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CR No.430 of 2022 (O&M)
DATE OF DECISION : 09th FEBRUARY, 2022

Parul Madaan

.... Petitioner No.1

And

Gaurav Indora

.... Petitioner No.2

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present : Ms. Mannu Chaudhary, 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 08.11.2021 (Annexure P-4) passed by the Principal Judge, Family Court, SAS Nagar, Mohali (for short, the trial Court), whereby the joint application filed by the petitioners for waiving off the cooling period of six months has been dismissed.

It is submitted by the counsel for the petitioners that the marriage of the petitioners has gone wrong irreconcilably. The petitioners, with the effort of the elderly; had made all efforts towards re-union. However, having failed in their efforts, they had agreed to get apart by seeking divorce by mutual consent. Accordingly, a joint petition under Section 13-B of the Hindu Marriage Act, 1955 was filed before the

trial Court. Alongwith that petition, the petitioners had also placed on record the compromise arrived at between the parties which specifically says that the efforts to reconcile have failed. Accordingly, the trial Court had recorded the statement of first motion on 05.10.2021. Thereafter, the application was moved before the trial Court for waiving off the statutory period of six months. The trial Court has rejected the said application by wrongly recording that the petitioners have not made any efforts towards re-union. The counsel has further submitted that; otherwise; the petitioners have fulfilled all the conditions for waiving off the statutory period, as laid down by Hon'ble the Supreme Court in case of '**Amardeep Singh Vs. Harveen Kaur**', [AIR 2017 SC 4417]. Hence, the Court should have allowed the application and should have waived off the statutory period.

Having heard the counsel for the petitioners and having gone through the paper book, this Court finds substance in the argument of the counsel for the petitioners. The parties have filed a joint petition under Section 13-B of the Hindu Marriage Act, seeking divorce by mutual consent. It has also come on record that the parties have been staying separately since 17.03.2020. Hence, it is obvious that the marriage of the parties have gone wrong beyond redemption. This aspect is fortified by the fact that having made efforts to reconcile the situation, the parties have entered into a written compromise and agreed to get the marriage dissolved so as to get apart. Moreover, the conditions laid down by Hon'ble the Supreme Court in case of **Amardeep Singh (supra)** have already been fulfilled in the case of the petitioners. There would not be any justification in forcing the parties to continue the marriage, when

they have already decided to get apart after having made every possible effort to settle their dispute. Hence, the Court below should have waived off the statutory period of six months as per the prayer made by the petitioners.

In view of the above, the present revision petition is allowed. The impugned order dated 08.11.2021 passed by the trial Court is set aside. The trial Court is directed to pass a consequential order of waiving off the statutory period of six months and to record the second motion statement of the parties.

09th 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>