

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

CR No.2635-2023 (O&M)

Date of decision: 09.05.2023

Gurleen Kaur

Petitioner No.1

And

Karanvir Singh

Petitioner No.2

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Kanwar Pahul Singh, Advocate and
Dr. Rabia, Advocate,
For both the petitioners.
Petitioners in person.
(Presence of petitioners marked through video conference).

ARUN MONGA, J. (ORAL)

This is a joint petition filed by both husband and wife under Article 227 of Constitution of India seeking to set aside order dated 05.04.2023 passed by Learned Additional Principal Judge, Family Court, Amritsar, (For brevity, "learned Family Court") whereby application for waiver of statutory period of 06 months filed in a petition under Section 13-B of the Hindu Marriage Act, 1955, was dismissed. Reliance is placed on the guidelines laid down by the Supreme Court in case titled "**Amardeep Singh Vs. Harveen Kaur¹**".

2. Succinct facts of the case first.

2.1 Marriage of the parties herein was solemnized on 07.03.2021 at Amritsar, according to Sikh Rites and ceremonies. Parties cohabited as husband and wife. However, due to temperamental differences, they started living separately since 17.03.2021.

2.2 Having failed to reconcile, despite efforts, parties filed a joint petition for dissolution of their marriage by way of mutual consent, under

Section 13-B of HMA before learned Family Court. All the disputes pertaining to their matrimonial life have already been amicably settled between parties. At the time of first motion hearing of the case on 18.01.2023, their statements were also recorded and the case was adjourned to 24.07.2023 for second motion hearing.

2.3. During the interregnum of taking up of second motion hearing, both the parties moved an application for waiver of statutory period of six months, which has been dismissed by learned Family Court vide impugned order dated 05.04.2023.

3. Learned counsel for petitioners submits that learned Court below has not appreciated the facts and circumstances of the case in the right perspective, while declining waiver of the period of 6 months. Once the parties have amicably consented to part their ways, they cannot be forced to wait for another six months, is the contention. Learned counsel relies on judgment rendered by the Supreme Court in case titled “**Amardeep Singh Vs. Harveen Kaur** (supra)”, to contend that given the peculiar circumstances of the case, both 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*.

4. Having personally interacted with the parties, petitioner No.1 Gurleen Kaur is present in person while petitioner No.2 has joined through video conference. A question was specifically put to petitioner No.1-wife Gurleen Kaur if she would like to be compensated on dissolution of marriage by mutual consent, she confidently responded that she does not need any money and she is dissolving her marriage for better future and to fulfill her aspirations of successful career in life. She states that she has done B.Sc. Nursing and is fully aware of the consequences and is willing to re-settle as she

has found a good alliance. She states that her family has made all the arrangements to solemnize her second marriage after dissolution of first marriage. In the premise, I am of the view that parties are well aware of their rights and they have very consciously taken steps to mutually part ways in the interest of better future and a happier disposition in life. Consequently, no useful purpose would be served to unnecessarily force them to wait for six months, particularly when the said wait may turn out to be adversarial *qua* the future prospects of petitioners, with whom as already noted I have interacted.

5. Both of them seem to have settled their disputes without any duress or pressure with a tranquil state of mental dispensation.

6. Keeping in view the averments made in the petition and in view of the ratio in **Amardeep Singh's case** (supra), the approach adopted by learned Family Court in the present case, to insist for waiting period of six months for second motion, was thus uncalled for. The marriage between the parties has irretrievably broken. They have decided to part their ways amicably. Opportunity to live their lives in the manner they like, cannot be denied. In the peculiar facts herein, insisting to wait for another six months would result in adding to their woes.

7. Consequently, the revision petition is allowed and order dated 05.04.2023 is set-aside. Learned Family Court shall entertain the joint petition filed by petitioners under Section 13-B of HMA by waiving- off six months' period and proceed with the petition by recording respective second statement of parties and dispose of the petition on merits, in accordance with law. It is expected of learned Family Court to take up the matter on an application moved by parties along with copy of this order.

8. Parties are also at liberty to appear in person or through 'Power of Attorney' before learned Family Court on 18.05.2023.

- 9. In case, ‘power of attorney’ is not received, learned Family Court to record the statements of the petitioners through video conferencing.
- 10. Disposed of in above terms.
- 11. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

09.05.2023
Vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No