

CO 802 of 2025

**Paromita Ghosh Mandal
vs.
Monojit Mandal**

Mr. Rupayan Deb
Ms. Priya Nandy
...for the parties

This application under Article 227 of the Constitution of India has been filed jointly by the wife and the husband praying for waiving the cooling off period under Section 28 of the Special Marriage Act. By the order impugned, the learned Additional District Judge, 1st Court, Sealdah rejected the said application.

Learned advocate appearing for the parties places reliance upon the decision of the Hon'ble Supreme Court in (2017)8 SCC 746 in the case of *Amardeep Singh vs. Harveen Kaur* and 2021 SCC OnLine SC 1270 in the case of *Amit Kumar vs. Suman Beniwal* in support of his contention that the learned Trial Judge had the power to waive the statutory waiting period of 6(six) months for moving the motion for divorce under Section 28 of the Special Marriage Act. In *Amit Kumar (supra)*, the Hon'ble Supreme Court has culled out certain factors which are to be taken into consideration for exercise of discretion to waive the statutory waiting period.

In view thereof, this Court is of the considered view that the matter should be relegated

to the learned Additional District Judge, 1st Court at Sealdah to take note of the aforesaid decisions and to consider the matter in the light of the aforesaid decisions.

In view thereof, the order dated 25th February, 2025 is set aside. The application under Section 151 of the Code of Civil Procedure dated 25th February, 2025 stands restored to the file of the learned Additional District Judge, 1st Court at Sealdah, who shall after hearing the respective parties pass a reasoned order in the light of the directions contained in the aforesaid decisions.

With the above observations, CO 802 of 2025 stands disposed.

(Hiranmay Bhattacharyya, J.)